

TITLE VI. BUSINESS AND OCCUPATION

CHAPTER 600: ALCOHOLIC BEVERAGES

SECTION 600.010: 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.

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

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

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

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

ORIGINAL PACKAGE: Any package sealed or otherwise closed by the manufacturer so as to consist of a self-contained unit and consisting of one (1) or more bottles or other containers of intoxicating liquor or non-intoxicating beer, where the package and/or container(s) describes the contents thereof as intoxicating liquor or non-intoxicating beer. "Original package" shall also be construed and held to refer to any package containing three (3) or more standard bottles of beer.

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

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

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

SECTION 600.015: SALE BY THE DRINK DEFINED

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

SECTION 600.020: LICENSE REQUIRED—CLASSES OF LICENSES

- A. No person shall sell or offer for sale intoxicating liquor or non-intoxicating beer in the City of Bernie without a currently valid liquor license issued by the City. A separate liquor license shall be required for each of the categories and subcategories of liquor sales in which the licensee desires to engage as set forth herein.
- B. *General Licenses.* Any person possessing the qualifications and meeting the requirements of this Chapter may apply for the following licenses to sell intoxicating liquor or non-intoxicating beer:
 - B.1. *Package liquor—malt liquor only:* Sales of malt liquor at retail in the original package not for consumption on the premises where sold. This license may include Sunday sales from 9:00 A.M. to Midnight.
 - B.2. *Package liquor—non-intoxicating beer:* Sales of non-intoxicating beer at retail in the original package not for consumption on the premises where sold.
 - B.3. *Package liquor—all kinds:* Sales of all kinds of intoxicating liquors in the original package at retail not for consumption on the premises where sold, including sales as set forth in Subsections (B)(1) and (2) of this Section.

- B.4. *Liquor by the drink—malt liquor/light wine only:* Sales of malt liquor and light wines at retail by the drink for consumption on the premises where sold, including sales as set forth in Subsections (B)(1) and (5) of this Section.
- B.5. *Malt liquor by the drink:* Sales of malt liquor at retail by the drink for consumption on the premises, which license shall also permit the holder thereof to sell non-intoxicating beer as defined in Section 600.010 of this Chapter and set out in Subsection (6) hereof. This license may include Sunday sales from 9:00 A.M. to Midnight.
- B.6. *Liquor by the drink—non-intoxicating beer:* Sales of non-intoxicating beer at retail by the drink for consumption on the premises where sold, including sales as set forth in Subsection (B)(2) of this Section.
- B.7. *Liquor by the drink—all kinds:* Sales of intoxicating liquor of all kinds at retail by the drink for consumption on the premises where sold, including package sales as set forth in Subsection (B)(3) of this Section.
- C. *Sunday Sales.* Any person who is licensed under the provisions of this Chapter or who otherwise possesses the qualifications and meets the requirements of this Chapter may apply for the following licenses to sell intoxicating liquor or non-intoxicating beer on Sundays between the hours of 9:00 A.M. and Midnight:
- C.1. *Package liquor—all kinds:* Sales of liquor of all kinds in the original package at retail not for consumption on the premises where sold.
- C.2. *Liquor by the drink—restaurant bar:* Sales of liquor of all kinds by the drink at retail for consumption on the premises of any restaurant bar.
- C.3. *Liquor by the drink—amusement place:* Sales of liquor of all kinds by the drink at retail for consumption on the premises of any amusement place.
- C.4. *Liquor by the drink—place of entertainment:* Sales of liquor of all kinds by the drink at retail for consumption on the premises of any place of entertainment.
- D. *Permits.*
- D.1. *Temporary permit for sale by drink.* Any person who possesses the qualifications, meets the requirements and complies with the provisions of Section 600.030(C) below may apply for a special permit to sell intoxicating liquor for consumption on premises where sold.
- D.2. *Tasting permit.* Any person who is licensed to sell intoxicating liquor in the original package at retail under Subsections (B)(3) and (C) of this Section above may apply for a special permit to conduct wine, malt beverage and distilled spirit tastings on the licensed premises; however, nothing in this Section shall be construed to permit the licensee to sell wine, malt beverages or distilled spirits for on-premises consumption.

SECTION 600.030: LICENSE REGULATIONS

A. *Package Sales, Limitations.* No license shall be issued for the sale of intoxicating liquor in the original package, not to be consumed upon the premises where sold, except to a person engaged in, and to be used in connection with, the operation of one (1) or more of the following businesses:

a drug store, a cigar and tobacco store, a grocery store, a general merchandise store, a confectionery or delicatessen store, nor to any such person who does not have and keep in his/her store a stock of goods having a value according to invoices of at least one thousand dollars (\$1,000.00), exclusive of fixtures and intoxicating liquors. Under such license, no intoxicating liquor shall be consumed on the premises where sold nor shall any original package be opened on the premises of the vendor except as otherwise provided in this Chapter or law.

B. Newly-Opened Restaurant Bars Or Amusement Places.

B.1. Any new restaurant bar having been in operation for less than ninety (90) days may be issued a temporary license to sell intoxicating liquor by the drink at retail for consumption on the premises between the hours of 9:00 A.M. and Midnight on Sunday for a period not to exceed ninety (90) days if the restaurant bar can show a projection of annual business from prepared meals or food consumed on the premises of at least fifty percent (50%) of the total gross income of the restaurant bar for the year or can show a projection of annual business from prepared meals or food consumed on the premises which would exceed not less than two hundred thousand dollars (\$200,000.00). The license fee shall be prorated for the period of the temporary license based on the cost of the annual license for the establishment.

B.2. Any new amusement place having been in operation for less than ninety (90) days may be issued a temporary license to sell intoxicating liquor by the drink at retail for consumption on the premises between the hours of 9:00 A.M. and Midnight on Sunday for a period not to exceed ninety (90) days if the amusement place can show a projection of gross receipts of at least one hundred thousand dollars (\$100,000.00) of which at least fifty thousand dollars (\$50,000.00) of such gross receipts are in non-alcoholic sales for the first (1st) year of operation. The license fee shall be prorated for the period of the temporary license based on the cost of the annual license for the establishment.

C. Temporary Permit For Sale By Drink—Certain Organizations.

C.1. The City Clerk may issue a permit for the sale of intoxicating liquor and non-intoxicating beer for consumption on premises where sold to any church, school, civic, service, fraternal, veteran, political or charitable club or organization for sale at a picnic, bazaar, fair or similar gathering. The permit shall be issued only for the day or days named therein and it shall not authorize the sale of intoxicating liquor for more than seven (7) days by any such club or organization.

C.2. If the event will be held on a Sunday, the permit shall authorize the sale of intoxicating liquor and non-intoxicating beer on that day beginning at 11:00 A.M.

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

C.4. No provision of law or rule or regulation of the City shall be interpreted as preventing any wholesaler or distributor from providing customary storage, cooling or dispensing equipment for use by the permit holder at such picnic, bazaar, fair or similar gathering.

D. Operating Hours, Days.

D.1. 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 or non-intoxicating beer 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 upon or about his/her premises, except as otherwise authorized and licensed for Sunday sales. Any person licensed to sell intoxicating liquor or non-intoxicating beer by the drink shall keep a closed place during the aforementioned prohibited times.

D.2. When January first (1st), March seventeenth (17th), July fourth (4th) or December thirty-first (31st) falls on Sunday and on the Sundays prior to Memorial Day and Labor Day and on the Sunday on which the national championship game of the National Football League is played, commonly known as "Super Bowl Sunday", any person having a license to sell intoxicating liquor by the drink may be open for business and sell intoxicating liquor by the drink under the provisions of his/her license on that day from the time and until the time which would be lawful on another day of the week, notwithstanding any provisions of this Chapter to the contrary.

E. *Limitations Of Number Of Licensed Establishments.*

E.1. The number of licenses which shall be issued and outstanding in the City for the sale of intoxicating liquor in excess of five percent (5%) of alcohol by weight at retail in the original package, is hereby set, fixed, and determined at not more than one (1) for each two thousand (2,000) people, as per the most recent Federal decennial census.

E.1.a. Provided, that no person now holding any such license shall be denied a reissuance thereof from time to time because of this Section, unless such license shall be permitted to lapse.

E.2. The number of licenses which shall be issued and outstanding in the City for the sale of intoxicating or non-intoxicating beer at retail is hereby set, fixed, and determined at not more than one (1) for each one thousand eight hundred (1,800) people, or a part thereof, with a minimum of two (2) licenses, residing in the City limits, as per the most recent Federal decennial census.

F. *General License Regulations.*

F.1. Each license issued hereunder shall be conspicuously posted on the premises for which the license has been issued.

F.2. A separate license shall be required for each place of business. Every license issued under the provisions of this Chapter shall particularly describe the premises at which intoxicating liquor may be sold thereunder, and such license shall not be deemed to authorize or permit the sale of intoxicating liquor at any place other than that described therein.

F.3. No license issued under this Chapter shall be transferable or assignable except as herein provided. In the event of the death of the licensee, the widow or widower or the next of kin of such deceased licensee, who shall meet the other requirements of this Chapter, may make application and the Clerk may transfer such license to permit the operation of the business of the deceased for the remainder of the period for which a license fee has been paid by the deceased. Whenever one (1) or more members of a partnership withdraws from the partnership, the Clerk, upon being requested, shall permit the remaining partner or partners

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

F.4. In the event any licensee desires to change the location of his/her place of business in the City,

it shall be necessary for him/her to file an application in the same manner as herein provided for an original application, except that no additional fee shall be charged and the amended license, describing the new location, shall be issued immediately upon the approval of the application by the Board. Any change of location of the enterprise prior to issuance of such an amended license shall constitute a violation of this Section.

G. *Druggists May Sell And Physicians Prescribe Liquor.* Any druggist may have in his/her possession intoxicating liquor purchased by him/her from a licensed vendor under a license pursuant to State law, or intoxicating liquor lawfully acquired at the place of acquisition and legally transported into this State and lawfully inspected, gauged and labeled as provided by State law; such intoxicating liquor to be used in connection with the business of a druggist in compounding medicines or as a solvent or preservative; provided, that nothing in this Chapter shall prevent a regularly licensed druggist, after he/she procures a license therefor, from selling intoxicating liquor in the original package but not to be drunk or the packages opened on the premises where sold; and provided further, that nothing in this Chapter shall be construed as limiting the right of a physician to prescribe intoxicating liquor in accordance with his/her professional judgment for any patient at any time or prevent a druggist from selling intoxicating liquor to a person on prescription from a regularly licensed physician as above provided. (CC 1988 §§50.090, 50.230, 50.240)

SECTION 600.035: SALES OF LIQUOR PROHIBITED NEAR SCHOOLS AND CHURCHES

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, or other buildings regularly used as a place of religious worship 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 of liquor within three hundred (300) feet of any school, church or other building regularly used as a 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 this reason. This Subsection shall not apply to a holder of a license issued pursuant to Section 311.090, 311.218, 311.482, RSMo., or to any premises holding a license issued before January 1, 2004, by the Supervisor of Alcohol and Tobacco Control for the sale of intoxicating liquor.

SECTION 600.040: SCHEDULE OF LICENSE FEES

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

G.1.	<i>General licenses.</i>	
	G.1.a. Malt liquor—original package.....	\$ 75.00
	G.1.b.	Non-
	intoxicating beer—original package	22.50
	G.1.c. Intoxicating liquor (all kinds)—original package.....	150.00

G.1.d.	Malt liquor and
light wines—by drink.....	75.00

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	G.1.e. Malt liquor—by drink	\$ 75.00
	G.1.f.	Non-
intoxicating beer—by drink.....		37.50
	G.1.g. Intoxicating liquor (all kinds)—by drink.....	450.00
G.2.	<i>Sunday sales.</i> (Additional fees)	
	G.2.a. Intoxicating liquor—original package	300.00
	G.2.b. Restaurant bars	300.00
	G.2.c.	Amusement
places	300.00	
	G.2.d.	Liquor by the
drink—charitable organizations		300.00
G.3.	<i>Permits.</i>	
	G.3.a. Temporary permit—by the drink for certain organizations (7 days max.)	37.50
	G.3.b.	Tasting permit
	37.50	

Of the license fee to be paid for any such license, the applicant shall pay as many twelfths (12ths) as there are months (part of a month counted as a month) remaining from the date of the license to the next succeeding July first (1st).

No license fee shall be returned to the holder upon sale, transfer or dissolution of the business for which the license was issued. (CC 1988 §50.200)

SECTION 600.045: REVOCATION TO FORFEIT LICENSE FEE

In case of revocation or forfeiture of any license granted and issued under the provisions of this Chapter for cause or otherwise, the City shall in no event return any part of the fee paid for such license. (CC 1988 §50.220)

SECTION 600.050: 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. Each application shall be accompanied by a proper remittance reflecting the appropriate license fee made payable to the City.
- B. *Qualifications.* Neither the applicant nor any officer, director or shareholder of a corporate applicant shall have been convicted of a felony or of any distribution, sale or possession of any

controlled substances or dangerous drugs. The applicant shall present with the application a bona fide sale contract or option duly executed, which may be subject to the applicant obtaining a liquor license, or a bona fide lease duly executed by the lessor, or an option for a lease duly executed, subject to the applicant obtaining a liquor license, covering the property for which a liquor license is requested. If the applicant is a corporation, the petition shall set forth all of the above information with respect

to the managing officer or officers, identifying such officer or officers. The application shall further state the full name of the corporation, its date of incorporation, its registered agent and registered address, the names and addresses of all shareholders of the corporation, and whether said corporation operates any other business or controls or is controlled by any other corporation or business and, if so, the application shall further state the name of such controlled or controlling corporation or business, its registered agent and registered address, and the location of all businesses operated by it and the name and address of any such businesses with a liquor license, whether within or without the City; and the application shall also state if such controlling corporation or any controlled corporation is doing business under a fictitious name, and the address where said business is located. The Board of Aldermen also may request such additional information of an applicant as it may deem necessary for it to make a determination with respect to the issuance of a liquor license.

C. *Hearing On Application.*

C.1. Upon the filing of the application with the Clerk, the Clerk shall fix a date for a hearing before the Board not more than thirty-one (31) days from the date of filing of the application and shall give the applicant written notice of the date of the hearing. The hearing shall be conducted in accordance with Section 600.090 of this Chapter.

C.2. The Board shall approve the application if after the hearing it finds that:

C.2.a. Issuance of the requested license would be in the best interests of the locality of the proposed business;

C.2.b. The applicant is a person of good moral character, a native born or naturalized citizen of the United States of America, a registered voter and a taxpaying citizen of the City;

C.2.c. No license theretofore issued to such applicant to sell intoxicating liquors has been revoked within two (2) years of the date of the application;

C.2.d. The applicant has not been convicted since the ratification of the Twenty-First Amendment to the Constitution of the United States of the violation of any law applicable to the sale of intoxicating liquor, or that such applicant has not employed in his/her business any person whose license has been revoked or who has been convicted of violating the provisions of such law since the date aforesaid;

C.2.e. The applicant 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.

D. Upon approval of any application for a license, the Clerk shall grant the applicant a license to conduct business in the City for a term to expire with the thirty-first (31st) day of December next succeeding the date of such license, unless such license be revoked or suspended for cause before the expiration of such time.

E. Applications for renewal of licenses must be filed on or before the first (1st) day of January of each calendar year. Such renewal application shall be reviewed by the Board at its next meeting. Upon approval of the majority of the Board and payment of the license fee provided herein, the Clerk shall renew the license. In the event that any person residing or conducting businesses within two hundred (200) feet of the applicant's place of business shall file a written protest against the renewal

of such license, the Board shall conduct a hearing on the application for license renewal as provided in Subsection (C) of this Section.

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- F. No license shall be issued for the sale of malt liquor, intoxicating liquor or non-intoxicating beer at retail by the drink, for consumption on the premises in the City, except where the place of such business, according to the application for such license, is to be located within the business district of this City. (CC 1988 §§50.060, 50.090)

SECTION 600.060: MINORS

A. Persons Eighteen (18) Years Of Age Or Older May Sell Or Handle Liquor Or Beer, When.

A.1. Except as otherwise provided in this Section, no person under the age of twenty-one (21) years shall sell or assist in the sale or dispensing of intoxicating liquor or non-intoxicating beer.

A.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.

A.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.

C.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.

C.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 in Section 600.010 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.

SECTION 600.070: MISCELLANEOUS OFFENSES

- A. *Unlawful For Licensed Retailer To Purchase From Other Than Licensed Wholesaler.* 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.
- B. *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.
- C. *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.
- D. *Only Those Liquors Authorized By License To Be Kept On Premises.*
- D.1. 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.
- D.2. Any retailer licensed pursuant to this Chapter shall not:
- D.2.a. Sell intoxicating liquor or non-intoxicating beer with an alcohol content of less than five percent (5%) by weight to the consumer in an original carton received from the wholesaler that has been mutilated, torn apart or cut apart; or
- D.2.b. Repackage intoxicating liquor or non-intoxicating beer with an alcohol content of less than five percent (5%) by weight in a manner misleading to the consumer or that results in required labeling being omitted or obscured.
- E. *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.

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F. *Drinking In Public Places Prohibited.*

F.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.

F.2. No person shall drink or ingest any intoxicating liquor or non-intoxicating beer in or on any public place.

F.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.

F.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.

G. *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.

SECTION 600.080: ADMINISTRATION OF LAW—LICENSE SUSPENSION

A. *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. The hearing shall be conducted in accordance with Section 600.090 of this Chapter.

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

B.1. Violating any of the provisions of either this Chapter, Chapters 311 or 312, RSMo., or any ordinance of the City;

B.2. Failing to obtain or keep a license from the State Supervisor of Alcohol and Tobacco Control;

B.3. Making a false affidavit in an application for a license under this Chapter;

B.4. Failing to keep an orderly place or house;

B.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;

- B.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
- B.7. Selling, giving, or otherwise supplying intoxicating liquor to:
 - B.7.a. Any person under the age of twenty-one (21) years,
 - B.7.b. Any person during unauthorized hours on the licensed premises,
 - B.7.c. A habitual drunkard or to any person who is under or apparently under the influence of intoxicating liquor, or
 - B.7.d. Any person on the licensed premises during a term of suspension as ordered by the Board.
- C. *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.
- D. *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.

SECTION 600.090: HEARINGS UPON SUSPENSION OR REVOCATION OF LICENSES

- A. *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.
- B. *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.
- C. *Witnesses To Be Sworn.* Before any witness shall testify in any such hearing, he/she shall be sworn by the City Clerk to tell the truth and nothing but the truth.
- D. *Decision—Suspension Or Revocation.* If the evidence supports a finding that the license should be revoked or suspended pursuant to Section 600.080 of 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.

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- E. *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 600.100: WARNING SIGN DISPLAYED—LIQUOR LICENSES

- A. Any person who is licensed to sell or serve alcoholic beverages at any establishment shall place on the premises of such establishment a warning sign as described in this Section. Such sign shall be at least eleven (11) inches by fourteen (14) inches and shall read "WARNING: Drinking alcoholic beverages during pregnancy may cause birth defects". The licensee shall display such sign in a conspicuous place on the licensed premises.
- B. Any employee of the Supervisor of Alcohol and Tobacco Control may report a violation of this Section to the Supervisor, and the Supervisor shall issue a warning to the licensee of the violation.

SECTION 600.110: INSPECTOR AND INSPECTIONS OF LIQUOR ESTABLISHMENTS

- A. All liquor establishments shall permit City officials acting in their official capacity to inspect the premises as necessary to insure the business is complying with all applicable regulations and laws.
- B. The business premises must comply with or meet the requirements of the applicable health, zoning, building code, fire and property maintenance ordinances of the City. (CC 1988 §50.280; Ord. No. 856, 2-2-98)

CHAPTER 605: BUSINESS REGULATIONS

SECTION 605.010: LICENSE REQUIRED

It shall be unlawful for any person, firm or corporation to engage in any business or occupation in the City of Bernie without having first applied for and obtained a license to conduct such business or occupation from the City Clerk and without paying the license fee therefor, all as provided for in this Chapter.

SECTION 605.020: LICENSE APPLICATION AND ISSUANCE

All applications for the licenses required herein shall be made to the City Clerk on appropriate forms provided for that purpose by the City. All licenses issued by the City Clerk shall be in such form as is provided by the Board of Aldermen; provided however, that such license shall bear the signature of the Mayor of the Board of Aldermen and the City Clerk, the date of issuance thereof and the date of expiration, as well as any additional information that may be required by the Board of Aldermen.

SECTION 605.030: LICENSE AND OCCUPATION TAXES

- A. There is hereby levied a license tax on each and all of the following businesses and occupations that are now or may be hereafter conducted or engaged within the City of Bernie, Missouri, in the amounts set out as follows:

Occupation or Business	Annual License Tax
Auctioneer	\$25.00 per year or \$5.00 per day
Hawker	\$30.00 per year or \$5.00 per day
Peddler <i>Cross Reference—As to fee for peddler's identification card, see §610.050.</i>	\$15.00 per year or \$2.00 per day
Bank	\$175.00 per year
Pawnbroker	\$50.00 per year
Restaurant operated	\$10.00 per year plus licenses on coin- amusement devices
Hotel, motel, tourist camp or trailer court	\$35.00 per year
Pool hall	\$20.00 per year plus \$5.00 for each table over four (4)
Bowling alley	\$20.00 per year plus \$5.00 for each alley over four (4)

Occupation or Business	Annual License Tax
Real estate agent	\$25.00 per year
Loan company	\$75.00 per year
Loan agent	\$25.00 per year
Money broker	\$50.00 per year
Photographer	\$10.00 per year
Bill poster	\$25.00 per year
Circus	\$100.00 per week or fraction thereof
Moving picture show	\$50.00 per year
Horse or cattle dealer	\$35.00 per year
Stockyard	\$35.00 per year
Mercantile agent	\$25.00 per year
Insurance company	\$50.00 per year
Insurance agent	\$25.00 per year
Express company	\$25.00 per year
Express agent	\$25.00 per year
Telegraph company	\$25.00 per year
Automobile agency or dealer	\$25.00 per year
Public garage	\$25.00 per year
Auto repair shop	\$25.00 per year
Filling station	\$25.00 per year
Soft drink stand	\$5.00 per year
Ice cream stand	\$5.00 per year
Transfer and other vehicles for hire	\$10.00 per year
Traveling store	\$25.00 per year
Blacksmith, welding shop, or grist mill	\$25.00 per year

Cotton gin	\$50.00 per year
Telephone company	\$425.00 per year

- B. *Other Licenses.* All merchants and businesses not covered by the above and foregoing schedules shall be charged a license fee or tax based upon their gross sales, which shall be computed upon the preceding year's business, at the following rates which consist of retail sales only.

On \$10,000.00 or less	\$ 20.00 per year
Over \$10,000.00—Less than \$ 25,000.00	\$ 30.00 per year
Over \$25,000.00—Less than \$ 50,000.00	\$ 50.00 per year
Over \$50,000.00—Less than \$100,000.00	\$ 75.00 per year
Over \$100,000.00—Less than \$150,000.00	\$100.00 per year
Over \$150,000.00—Less than \$200,000.00	\$125.00 per year
Over \$200,000.00—Less than \$250,000.00	\$150.00 per year
Over \$250,000.00—Gross sales	\$175.00 per year

- B.1. In case any person or person, firms or corporations have not been in business or in an occupation for one (1) full year at the time of applying for a license, and such person, persons, firms or corporations elect to obtain a license based upon gross sales, such person, persons, firms or corporations shall pay as a license tax the minimum of twenty dollars (\$20.00) and within five (5) days after the end of the year for which such license is issued shall pay an additional license tax for such first (1st) year's business in an amount equal to the difference between the twenty dollars (\$20.00) paid and the amount shown in the schedule set out above in this Section, which said additional tax shall be in addition to the annual license tax to be paid for the following year's business or occupation.

- B.2. Any person or persons, firms or corporations required to pay an annual license tax to be based upon gross sales as set forth in this Section, then, at the time of making application therefore, such person, persons, firms or corporations shall file a written certificate setting forth the gross sales for the preceding year's business and the amount of the State and Federal sales taxes paid during each year.

- B.3. All music box and coin-operated amusement devices operated by any person or persons, firms or corporations shall be licensed at the full amount. Should any such person or persons, firms or corporations be engaged in more than one (1) business at the same location, the full amount will be paid for the larger amount of the schedules set forth above and additional licenses will be charged at one-half ($\frac{1}{2}$) on the lesser amounts set forth in such schedules for each separate business or occupation. (CC 1988 §§54.010–54.020)

SECTION 605.040: CONTENTS OF LICENSE

Every license shall specifically state the name of the person, persons, firms or corporations to whom it is issued, the amount of the license tax, and the date of the issuance and the term for which it is issued. No license shall authorize any holder thereof to carry on business at more than one (1) place at the same time. (CC 1988 §54.050)

SECTION 605.050: WORKERS' COMPENSATION INSURANCE REQUIRED FOR LICENSE

- A. No license required under the provisions of Chapter 605 of the Code of the City of Bernie shall be issued to any person until such person produces a copy of a certificate of insurance for Workers' Compensation coverage if the applicant for the license is required to cover his/her liability under Chapter 287, RSMo. It is further made a violation of this Section to provide fraudulent information to the City of Bernie.
- B. Nothing in this Section shall be construed to create or constitute a liability to or a cause of action against the City of Bernie in regard to the issuance or non-issuance of any license for failure to provide evidence of Workers' Compensation coverage. (Ord. No. 697 §§1–2, 11-1-93)

SECTION 605.060: PENALTY

Any person who shall make a false certificate as required by Section 605.030(B) of this Code or who shall violate any of the provisions of this Chapter, and the managing officer of any corporation which shall make a false affidavit as required by Section 605.030(B) of this Code or which shall violate any of the provisions of this Chapter shall be guilty of a misdemeanor and upon such conviction shall be fined not less than one dollar (\$1.00) nor more than one hundred dollars (\$100.00) and at the election of the Board of Aldermen of the City of Bernie, the license or licenses of any such person, persons, firms or corporations shall not be issued to such person, persons, firms or corporations unless the majority of the Board of Aldermen vote in favor thereof. Each day that any person or persons, firms or corporations shall continue to operate or engage in any business or occupation without a valid and current license shall be a separate offense. (CC 1988 §54.070)

SECTION 605.070: MERCHANT DEFINED

The term "*merchant*", as used in this Chapter, shall include any and all persons who are now or who shall be hereafter engaged in the retail selling of any and all articles of merchandise. (CC 1988 §54.080)

SECTION 605.080: LICENSE NOT TRANSFERABLE

No license issued under the provisions of this Chapter shall be assignable or transferable but shall apply only to the person to whom same is issued. In the event any licensee, as provided for herein, shall move his/her place of business from one location to another location within the City, said licensee shall submit a statement of the fact of such change to the City Clerk who may transfer such license as to location only. In no event, however, shall such license be transferred from one person to another or from the kind of business or occupation originally licensed to another type of business or occupation.

SECTION 605.090: TERM OF LICENSE

The term of the licenses issued pursuant to the provisions of this Chapter shall be from July first (1st) of one (1) year to June thirtieth (30th) of the succeeding year. In the event any licensee hereunder shall commence business on or after January first (1st), the City Clerk shall issue such license at the rate of one-half ($\frac{1}{2}$) of the license fee for such six (6) month period of January first (1st) to June thirtieth (30th) or fraction thereof.

SECTION 605.100: RENEWAL APPLICATIONS

All applications for renewal of a license provided for herein shall be filed no later than June first (1st) of each year.

SECTION 605.110: DISPLAY OF LICENSE

Each license issued by the City under the provisions of this Chapter shall be carefully preserved and shall be displayed in a conspicuous place in the place of business authorized to be conducted by said license. If there is no place of business, said license shall be carried on the licensee's person.

SECTION 605.120: PERSONS NOT TO BE CHARGED FOR BUSINESS LICENSE

- A. No person following for a livelihood the profession or calling of minister of the gospel, duly accredited Christian Science practitioner, teacher, professor in a college, priest, lawyer, certified public accountant, dentist, chiropractor, optometrist, chiropodist, or physician or surgeon in this City shall be taxed or made liable to pay any municipal or other corporation tax or license fee of any description whatever for the privilege of following or carrying on such profession or calling, and after December 31, 2003, no investment funds service corporation as defined in Section 143.451, RSMo., may be required to pay any such license fee in excess of twenty-five thousand dollars (\$25,000.00) annually, any law, ordinance or Charter to the contrary notwithstanding.
- B. No person following for a livelihood the profession of insurance agent or broker, veterinarian, architect, professional engineer, land surveyor, auctioneer, or real estate broker or salesman in this City shall be taxed or made liable to pay any municipal or other corporation tax or license fee for the privilege of following or carrying on his/her profession unless that person maintains a business office within the City of Bernie.

SECTION 605.130: REVOCATION OF LICENSE—GROUNDS

Any license issued by the City pursuant to the provisions of this Chapter may be revoked by the Board of Aldermen for any of the following reasons, as well as for any other reasons specified in this Chapter:

1. Any failure to comply with or any violation of any provisions of this Chapter, or any other ordinance of the City regulating the business, occupation or activity licensed, or the Statutes of the State of Missouri by any licensee.
2. Violation of the terms and conditions upon which the license was issued.
3. Failure of the licensee to pay any tax or obligation due to the City.
4. Any misrepresentation or false statement in the application for a license required herein.
5. Failure to display the license required herein.

Revocation of any license shall be in addition to any other penalty or penalties which may be imposed pursuant to these provisions.

SECTION 605.140: REVOCATION OF LICENSE—PROCEDURE

In any case in which a complaint has been made to the Board of Aldermen, or in which the Board of Aldermen have on their own determined that cause may exist for the revocation of a license under the provisions of this Chapter, the following procedures shall be followed:

1. The Board of Aldermen shall set a date for a hearing to consider the question of revocation.
2. At least ten (10) days prior to said hearing, written notice shall be mailed to the licensee, by registered mail, return receipt requested, to his/her last known address as shown in the records of the City Clerk advising the licensee of the time, date and place of hearing and of the reason for considering the revocation of his/her license.
3. During the pendency of this hearing before the Board of Aldermen, the licensee shall be permitted to continue the operation of his/her business.
4. At the hearing set by the Board of Aldermen, the Board of Aldermen shall hear all relevant and material evidence justifying the retention of the license.
5. The licensee may be present in person and/or by his/her attorney and may present evidence.
6. After hearing the evidence presented, the Board of Aldermen shall vote on the issue of whether the subject license shall be revoked.
7. The affirmative vote of a majority of the Board of Aldermen shall be necessary to revoke any license.

SECTION 605.150: PENALTY AND DELINQUENCY

Any person, firm or corporation or co-partnership who shall violate any provision of this Chapter, or who shall exercise or attempt to exercise any of the occupations, trades or avocations, or who shall carry on or engage in or attempt to carry on or engage in any of the businesses for which a license is required in this Chapter in the City of Bernie without first paying the tax herein levied and obtaining a license therefor shall, upon conviction, be deemed guilty of an ordinance violation and shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00). In addition to the above penalties, any person, firm or corporation or co-partnership who is required to take out a license, or any such person whose license has expired and notice has been given by the City Clerk shall, if not paid within ten (10) days after such tax is due pursuant to said notice, pay a penalty of fifteen dollars (\$15.00), and for every fifteen (15) days thereafter fifteen dollars (\$15.00) shall be added as a penalty until the party required to take out such license shall have complied with the provisions regulating licenses in this Chapter. This penalty shall be collected with the license by the City Clerk and paid to the City of Bernie. (CC 1988 §54.090)

CHAPTER 610: PEDDLERS AND SOLICITORS

SECTION 610.010: PURPOSE

This Chapter is designed to:

- .1. Prevent undue annoyance of City residents by peddlers and solicitors;
- .2. Maximize the first amendment rights of peddlers and solicitors, as well as the rights of City residents to be secure in their homes;
- .3. Reduce the opportunity for crime within the City;
- .4. Attempt to provide some assurance to residents of the City that peddlers and solicitors are not burglars and criminals in disguise; and
- .5. Attempt to increase the physical safety of peddlers and solicitors who go from place to place within the City. (CC 1988 §52.010)

SECTION 610.020: PEDDLERS AND SOLICITORS DEFINED

- A. A "*peddler*" is one who, for profit to himself/herself or his/her principal, sells any goods or services or seeks a donation for any cause of a profit-making or commercial character.
- B. A "*solicitor*" is one who solicits for a charitable, political or religious purpose, even if incidental for such purpose there is the sale of some goods or services. (CC 1988 §52.020)

SECTION 610.030: PRESUMPTION

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

- .1. A showing that donations to the organization for which one wishes to solicit is exempt from Federal income taxation under Section 503 of the Internal Revenue Code;
- .2. A showing that the organization for which one wishes to solicit is an organization whose primary purpose is to influence public policy. (CC 1988 §52.030)

SECTION 610.040: IDENTIFICATION CARD REQUIRED

No person shall engage in any act as a peddler or solicitor without first obtaining an identification card in accordance with the provisions herein. Any person who fails to obtain an identification card and acts as a peddler or solicitor within the City limits of the City of Bernie shall be guilty of a misdemeanor. (CC 1988 §52.040)

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SECTION 610.050: FEE

- A. Any person desiring a peddler's identification card shall pay a fee of twenty-five dollars (\$25.00) per card.
- B. There shall be no fee for a solicitor's identification card. (CC 1988 §52.050)

SECTION 610.060: APPLICATION FOR CARD

Any person or organization (formal or informal) may apply for one (1) or more identification cards by completing an application form at the office of the City Clerk. (CC 1988 §52.060)

SECTION 610.070: CONTENTS OF APPLICATION

The applicant shall provide the following information:

- .1. Name of applicant;
- .2. The number of identification cards required;
- .3. A statement as to the type of cards requested;
- .4. If one (1) or more solicitor's cards is requested, information required to overcome the presumption of Section 610.030 of this Chapter;
- .5. If one (1) or more peddler's cards is requested, the fee for each card as provided in Section 610.050 of this Chapter;
- .6. The name and physical description (or in lieu thereof a photograph) of each person for which a card is requested. (The Chief of Police is directed to obtain an instant photographic camera and to offer to any applicant to take photographs for which a reasonable fee not to exceed ten dollars (\$10.00) shall be charged. Instead of providing the physical description, or photograph, the applicant may exhibit a valid driver's license or similar identification for each person for whom a card is requested, and a photocopy of said identification shall be attached to said application.);
- .7. The permanent and (if any) local address of the applicant;
- .8. The permanent and (if any) local addresses of each person for whom a card is requested;
- .9. A brief description of the proposed activity subject to this identification card requirement;
- .10. A statement as to whether or not the applicant has been convicted of any crime and, if so, the nature of the offense and the penalty imposed.
- .11. A statement as to each person for whom a card is requested as to whether that individual has been convicted of any crime and, if so, the nature of the offense and the penalty imposed;

.12. The motor vehicle make, model, year, color and registration number of any vehicle which shall be used in the proposed activity;

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- .13. The permanent name and address of the organization or person (with respect to a solicitor's card) who can provide a prospective donor with more information about the charity for which funds are solicited, and from whom information can be obtained as to the disposition of all funds collected, or (with respect to a peddler's card) of the individual organization to whom complaints can be made for defective merchandise, who is responsible for any breach of warranty, and from whom additional merchandise can be ordered;
- .14. Name and address of person or organization which is intended to receive donations or profits;
- .15. Any other information the applicant wishes to provide. (CC 1988 §52.070)

SECTION 610.080: SPECIAL REQUIREMENTS FOR PEDDLER'S CARD

No person shall be issued a peddler's identification card unless, in addition to the requirements of the preceding Section, or until:

- .1. He/she demonstrates that he/she (or in the case of an agent, his/her principal) has a valid retail sales license issued by the State Director of Revenue as required by Section 144.083, RSMo.;
- .2. He/she, or his/her principal, deposits with the City Clerk a bond in the amount of one hundred dollars (\$100.00) (cash or surety) per card to secure collection and payment to the State Department of Revenue all City sales taxes due and payable by reason of sale made within this City. Said bond shall be forfeited to the City if applicant does not (within ninety (90) days of the expiration or surrender of his/her peddler's card) demonstrate by affidavit or otherwise that said sales taxes have been paid;
- .3. He/she demonstrates either:
 - .3.a. He/she is a licensed itinerant vendor within the meaning of Section 150.380, RSMo.; or
 - .3.b. He/she is exempt from said requirement.
- .4. He/she demonstrates either:
 - .4.a. He/she has a "peddler" license from the County and State as required by Section 150.470, RSMo.; or
 - .4.b. He/she is exempt from said requirement. (CC 1988 §52.080)

SECTION 610.090: ISSUANCE OF IDENTIFICATION CARD

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

- .1. The application is incomplete (in which case the City Clerk will reject the application at the time of its tender or within fifteen (15) minutes thereafter);

.2. The required fee (if any) has not been paid;

- .3. The applicant has been convicted of a felony;
- .4. With respect to a particular card, if the individual for whom a card is requested has been convicted of a felony;
- .5. If any statement upon the application is false, unless the applicant can demonstrate that the falsehood was the result of excusable neglect;
- .6. If the applicant, or if the particular individual for whom an identification card is requested, has had a previous identification card revoked;
- .7. If the applicant, or if a particular individual for whom an identification is requested, has made any false statement regarding the peddling of merchandise or the solicitation of persons under this Chapter of any other municipality. (CC 1988 §52.090)

SECTION 610.100: INVESTIGATION

During the period of time following the application for issuance of one (1) or more identification cards and its issuance, the Chief of Police shall make diligent investigation, as to him/her seems necessary, to determine that the applicant is entitled to the identification as hereinabove stated. The Chief of Police shall cooperate with the applicant, shall inform the applicant of the progress of his/her investigation, and shall use due diligence in conducting his/her investigation. In all cases, the Chief of Police shall work as expeditiously as is reasonably possible to complete his/her investigation in a minimum amount of time. If the Chief of Police has not completed his/her investigation with the working days that is provided in Section 610.090, the identification will nonetheless be issued. (CC 1988 §52.100)

SECTION 610.110: DENIAL

If the City Clerk denies the identification card to one (1) or more persons, he/she shall prepare promptly (and in no event later than two (2) working days after the denial) a written report of the reason for his/her denial which shall immediately be made available to the applicant. The applicant shall be entitled to correct in writing any deficiencies so noted in the report, which corrections or changes when filed shall be treated as a new application. (CC 1988 §52.110)

SECTION 610.120: APPLICANT'S RIGHTS UPON DENIAL OF AN IDENTIFICATION CARD

If an identification card is denied to an applicant, the applicant shall have the option of an immediate hearing in front of any of three (3) tribunals at the applicant's option. At such a hearing the City attorney on behalf of the City Clerk shall be required to demonstrate by the preponderance of the evidence that the applicant is not entitled to an identification card under this Chapter. The applicant may choose to take his/her case before any of the following tribunals:

- .1. The Board of Aldermen at its next regular meeting, or if the next regular meeting is more than ten (10) days from the denial of the identification card, at a special meeting to be held within that ten (10) day period;
- .2. Before the Municipal Court of the City, provided that such a hearing will be scheduled within ten (10) days of the request; or

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- .3. Before the Circuit Court of Stoddard County within the regularly scheduled procedures of the Circuit Court. (CC 1988 §52.120)

SECTION 610.130: HEARING ON APPLICANT'S DENIAL OF IDENTIFICATION CARD—PROCEDURE

If the applicant requests a hearing under Section 610.120(1) and (2), the said hearing shall be held in accordance with the Administrative Procedure Act of the State of Missouri, and review from the decision shall be had to the Circuit Court of Stoddard County, Missouri, on the record. Should applicant decide to forego the administrative hearing, the remedy will be an injunction or declaratory judgment action against the City. (CC 1988 §52.130)

SECTION 610.140: DISPLAY OF IDENTIFICATION CARD

Each identification card shall be (when the individual for whom it was issued is acting as a peddler or solicitor) worn on the outer clothing of the peddler or solicitor so as to be reasonably visible to any person who might be approached by said peddler or solicitor. (CC 1988 §52.140)

SECTION 610.150: VALIDITY OF IDENTIFICATION CARD

An identification card should be valid within the meaning of this Chapter for a period of three (3) months from its date of issuance; thereafter, it shall expire. An applicant with an expired identification card shall be considered as having no identification card whatsoever and will be required to apply for a new card if he/she wishes to peddle or solicit within the City. (CC 1988 §52.150)

SECTION 610.160: REVOCATION OF CARD

Any identification card granted hereunder may be revoked by the Municipal Court after the filing of an information by the prosecuting attorney and a hearing thereon for any of the following causes:

- .1. Any violation of this Chapter by applicant or the person for whom the particular card was issued;
- .2. Fraud, misrepresentation or incorrect statement made in the course of carrying on the activity;
- .3. Conviction of a felony;
- .4. Conducting the activity in such a manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public. (CC 1988 §52.160)

SECTION 610.170: GENERAL PROHIBITIONS

No person having a solicitor or peddler card shall:

- .1. Enter or remain on private property where he/she has reason to believe that the residents thereof have indicated the solicitor or peddler is not welcome;

- .2. Make an uninvited entry into a resident's home;
- .3. Refuse to discontinue his/her message when requested by a hearer to do so, when on private property occupied by the hearer;
- .4. Enter upon any private property knowing or having reason to believe that the owner or occupants do not desire to receive messages from any solicitor or peddler either by a posted sign or otherwise. (CC 1988 §52.170)

SECTION 610.180: CITY RESPONSIBILITIES

Any resident of the City may list his/her property with the City Clerk and direct that his/her property is not to be entered by any solicitor or peddler. This list shall be available for public inspection. Upon the issuance of any solicitor or peddler's license, a copy of the list shall be provided with each card. No card holder may enter the private property nor contact any person so listed. (Such listing shall continue for two (2) years unless listee requests sooner removal, at which time the listing shall be removed unless the listee shall request the same be continued an additional two (2) years). (CC 1988 §52.180)

SECTION 610.190: TIME LIMITS

No person shall solicit or peddle within the corporate limits of this City except within the time limits prescribed in this Section:

- .1. From 9:00 A.M. until 9:00 P.M. Monday through Friday and from 10:00 A.M. until 10:00 P.M. on Saturday and Sunday;
- .2. Notwithstanding Subsection (1) above, no person shall peddle or solicit at any time after sunset on any day unless:
 - .2.a. Is dressed in light colored or reflective clothing;
 - .2.b. Has notified the Chief of Police of his/her intention to solicit after dark. (CC 1988 §52.190)

SECTION 610.200: SPECIAL RESTRICTIONS ON PEDDLERS

- A. No person having a peddler's identification card shall peddle or solicit merchandise:
 - A.1. At any place except within the business district of the City as defined by its zoning ordinances or within twenty-five (25) feet to any non-conforming commercial establishment.
 - A.2. Outside of the area provided in Subsection (1) above unless he/she has a specific oral or written invitation to approach the dwelling.

- B. This Chapter shall not apply to any person who solicits individuals on real estate in which the person or his/her principal has an ownership or leasehold interest. (CC 1988 §52.200)

CHAPTER 615: PUBLIC AMUSEMENTS

SECTION 615.010: CHAPTER DEFINITIONS

As used in this Chapter, and unless otherwise defined or distinctly expressed, the following words and phrases shall have the meanings set out herein:

ADMISSION CHARGE: Any charge or consideration for the right or privilege to any amusement or entertainment, or admission to or entry to any area or facility, where such amusement or entertainment is conducted.

AMUSEMENT OR ENTERTAINMENT: Includes carnivals, circuses and side shows and street fairs for which an admission charge is made.

CIVIC ORGANIZATION: Any not-for-profit organization organized for civic, charitable, benevolent or religious purposes, the majority of members of which are residents of this City, and the purposes of which are primarily for the benefit of the City and its citizens. Political organizations are expressly excluded from being within the definition of such term. (CC 1988 §53.010)

SECTION 615.020: PERMIT REQUIRED

A permit must be obtained in order to conduct any amusement or entertainment within the limits of this City under the provisions of this Chapter. Only a civic organization shall be issued a permit; other amusements or entertainments may be conducted, but only if the same has been licensed under the provisions of Chapter 605 of this Code. (CC 1988 §53.020)

SECTION 615.030: APPLICATION FOR PERMIT

Every civic organization proposing to sponsor or conduct any amusement or entertainment within the City shall apply, through a duly elected officer of the said civic organization, in writing to the City Clerk for a permit to operate such amusement or entertainment.

- .1. All applicants shall state on their application that they will indemnify the City for any claim resulting from the operation of the amusement or entertainment, and each application shall be accompanied by a certificate of insurance, showing the City as the named insured, covering any damage or liability to the City which may be caused by the operation of the amusement or entertainment, the amount of said insurance to be as required by such rules and regulations, the promulgation of which is hereinafter provided, but in no event to be less than one million dollars (\$1,000,000.00) combined single limit.
- .2. All applicants shall accompany their application with a bond in the amount of one hundred dollars (\$100.00), which bond shall secure the applicant's removing all litter from the site of the amusement or entertainment at its termination.
- .3. The City Clerk may refuse to issue a permit to any amusement or entertainment, the operation of which does not comply with this Chapter, or which has in any previous operation in any

other City or in this City violated the ordinance or requirements of such other City or of this City.

- .4. Upon determination that the proposed amusement or entertainment shall comply with this Chapter, the City Clerk shall issue a permit and shall so notify the applicant. (CC 1988 §53.040)

SECTION 615.040: RULES AND REGULATIONS FOR OPERATION OF AMUSEMENT

Any amusement or entertainment conducted pursuant to this Chapter shall comply with the following rules:

- .1. Hours of operation shall be limited from 8:00 A.M. to 12:00 Midnight.
- .2. Adequate rest room facilities for both sexes shall be provided on the premises of such amusement or entertainment. Such facilities may be of a temporary nature, other than privies.
- .3. All electrical wiring and lighting must be approved by the City Engineer.
- .4. Adequate facilities for the disposal of trash and debris shall be provided on the premises.
- .5. The premises shall be inspected prior to operation by the Chief of Police or his/her designate to determine that the requirements of this Chapter and any other ordinances of the City applicable to public rooms and buildings have been complied with.
- .6. The area or premises where such amusement or entertainment is conducted shall be cleaned and policed after the cessation of such amusement or entertainment and all trash, litter and debris shall be removed. (CC 1988 §53.050)

SECTION 615.050: ADDITIONAL RULES AND REGULATIONS

The Mayor is hereby given authority to establish and promulgate rules and regulations consistent with the terms of this Chapter for the purpose of carrying out and enforcing compliance therewith, and a copy of such rules and regulations shall be on file and available for public examination in the office of the City Clerk. Failure or refusal to comply with any such rules and regulations established and promulgated under this Section shall be deemed a violation of this Chapter. (CC 1988 §53.060)

SECTION 615.060: REVOCATION OF PERMIT

Any permit issued pursuant to this Chapter may be revoked by the Mayor upon his/her determination that the amusement or entertainment is being operated or conducted in violation of this Chapter, or in violation of rules and regulations established and promulgated pursuant thereto, or is so conducted or operated as to endanger substantially the public peace, health, safety and welfare of the citizens of this City. (CC 1988 §53.070)

SECTION 615.070: FEES FOR PERMIT

There shall be no fee for the permit required by this Chapter. (CC 1988 §53.080)

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SECTION 615.080: AMUSEMENTS NOT SPONSORED BY CIVIC ORGANIZATION

Any amusement or entertainment which is not operated, conducted or sponsored by a civic organization may be operated within this City if a license for the same has been obtained under Chapter 605 of this Code. The requirements of Sections 615.030, 615.040 and 615.050 shall apply to such amusement or entertainment. (CC 1988 §53.090)

CHAPTER 620: JUNK YARDS

SECTION 620.010: CHAPTER DEFINITIONS

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

BUSINESS PREMISES OR PREMISES: The area of a junk yard as described in a junk dealer's license or application for license as provided for in this Chapter.

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

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

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

JUNK YARD: A yard, lot or place, covered or uncovered, outdoors or in an enclosed building, containing junk, as defined above, upon which occurs one (1) or more acts of buying, keeping, dismantling, processing, selling or offering for sale any such junk, in whole units or by parts, for a business or commercial purpose, whether or not the proceeds from such act or acts are to be used for charity. (CC 1988 §51.010)

SECTION 620.020: LICENSE REQUIRED

It shall be unlawful for any person to act as a junk dealer or itinerant junk dealer in the City of Bernie, whether personally, by agents or employees, singly or along with some other business or enterprise, without first having obtained a license therefor from the City Clerk in accordance with the provisions of this Chapter. (CC 1988 §51.020)

SECTION 620.030: APPLICATION

- A. An applicant for license under this Chapter shall file with the City Clerk a written application upon forms provided by the City Clerk and pay a fee as hereinafter prescribed.
- B. Said application shall include the junk dealer or itinerant junk dealer's name, residence address and telephone number of applicant; the exact address or location of the place where the business is or is proposed to be carried on; and such other information as the City Clerk may reasonably require. (CC 1988 §51.030)

SECTION 620.040: LICENSE FEES

The fees for licenses required under this Chapter shall be as established from time to time by ordinance of the Board of Aldermen and on file in the office of the City Clerk. (CC 1988 §51.040)

SECTION 620.050: INVESTIGATION—APPROVAL AND ISSUANCE OF LICENSE

- A. Upon receipt of an application for a junk dealer's license as provided for herein, the Chief of Police shall cause an investigation to be made of the applicant's business responsibility and moral character.
- B. If the findings of said investigation are favorable to the applicant, the City Clerk shall within thirty (30) days after the filing of the application and payment of the fee issue a junk dealer's license to the applicant. (CC 1988 §51.050)

SECTION 620.060: LICENSE NOT TRANSFERABLE

No license issued under this Chapter shall be transferred or assigned or used in any way by any person other than the one to whom it was issued. (CC 1988 §51.060)

SECTION 620.070: DURATION—PRORATION AND REFUND OF FEES

All licenses issued under the provisions of this Chapter shall expire on the thirtieth (30th) day of June following the issuance thereof. For a partial year license, the fee shall be prorated quarterly. No license fee shall be returned to the holder upon sale, transfer or dissolution of the business for which the license was issued. (CC 1988 §51.070)

SECTION 620.080: GENERAL OPERATING REQUIREMENTS

The following general operating requirements shall apply to all junk dealers licensed in accordance with the provisions of this Chapter:

- B.1. The license issued pursuant to this Chapter shall be plainly displayed on the business premises.
- B.2. The junk yard, together with things kept therein, shall at all times be maintained in a sanitary condition.
- B.3. No space not covered by the license shall be used in the licensed business.
- B.4. No water shall be allowed to stand in any place on the premises in such manner as to afford a breeding place for mosquitoes.
- B.5. Weeds and vegetation on the premises, other than trees, shall be kept at a height of not more than four (4) inches.

B.6. No garbage or other waste liable to give off a foul odor or attract vermin shall be kept on the premises; nor shall any refuse of any kind be kept on the premises, unless such refuse is junk as described herein and is in use in the licensed business.

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- B.7. No junk shall be allowed to rest upon or protrude over any public property, street, alley, walkway or curb or become scattered or blown off the business premises.
- B.8. Junk shall be stored in piles not exceeding ten (10) feet in height and shall be arranged so as to permit easy access to all such junk for fire-fighting purposes.
- B.9. No combustible material of any kind not necessary or beneficial to the licensed business shall be kept on the premises; nor shall the premises be allowed to become a fire hazard.
- B.10. Gasoline and oil shall be removed from any scrapped engines or vehicles on the premises.
- B.11. No junk or other material shall be burned on the premises in any incinerator not meeting the approval of the Chief of the Fire Department, which approval shall not be unreasonably denied.
- B.12. No noisy processing of junk or other noisy activity shall be carried on in connection with the licensed business on Sunday, Christmas, Thanksgiving, or at any time between the hours of 6:00 P.M. and 7:00 A.M.
- B.13. The area on the premises where junk is kept (other than indoors) shall be enclosed, except for entrances and exits, with a solid vertical wall or fence of a minimum height of eight (8) feet measured from ground level. Entrances and exits shall not be wider or more numerous than reasonably necessary for the conduct of the licensed business. (CC 1988 §51.080)

SECTION 620.090: NON-CONFORMING JUNK YARDS

All junk yards in violation of this Chapter are hereby declared to be public nuisances. However, to allow flexibility and prevent undue hardship, the Board of Aldermen may consent to a schedule by which non-conforming junk yards existing as of the effective date of the passage of this Chapter are brought in compliance within two (2) years, with one-quarter ($\frac{1}{4}$) of the work required for compliance done each six (6) months. (CC 1988 §51.090)

CHAPTER 625: ADULT ENTERTAINMENT

BUSINESS

SECTION 625.010: DEFINITIONS

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

ADULT BUSINESS: Any business:

- .1. That has as a significant purpose the sale, barter or rental of merchandise or media that is intended for use in connection with specified sexual activities or that emphasizes matters depicting, describing or relating to specific sexual activities or specified anatomical areas; or
- .2. That has as one (1) of its business purposes:
 - .2.a. 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
 - .2.b. Providing of services that are intended to provide sexual stimulation or gratification or that allow observation of specified sexual activities or specified anatomical areas or allow participation in specified sexual activities.
- .3. *Adult business:* Includes, but is not limited to:
 - .3.a. Business that provide entertainment including, but not limited to:
 - .3.a.(1) *Adult Entertainment Business:* Any business to which the public, patrons or members are invited or admitted and where "adult entertainment" is provided.
 - .3.a.(2) *Adult Entertainment Business:* Includes, but is not limited to, an establishment with a screen or projection areas where a significant portion of its business is the exhibition to patrons of films, videotapes or motion pictures, where materials are displayed or live performances occur which are intended to provide sexual stimulation or sexual gratification to the patrons or which are distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas and establishments where a significant portion of the 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.
 - .3.b. Businesses that provide services including, but not limited to:
 - .3.b.(1) *Bathhouse:* An enterprise where a significant portion of its business is offering baths and/or showers with other persons present who are nude or displaying specified anatomical areas.

.3.b.(2) *Adult Motel*: An enterprise where a significant portion of the business is offering public accommodations for the purpose of viewing closed-circuit television transmissions, films, movies, motion pictures, video cassettes, video tapes, slides or

other photographic reproductions which are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas and which rents room accommodations for less than six (6) hours at a time.

The term "*adult business*" does not include a properly licensed and operating business located in an area other than a residential area which hosts, stages or otherwise offers "Chippendale" evenings or other similar events (including, but not limited to, the female equivalency of Chippendales) provided such events, in the aggregate, occur no more often than once per quarter of any calendar year.

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 for amusement on a premises:

- .1. Where such exhibition, performance, display or dance is intended to arouse or excite the sexual desires of the entertainer, other entertainers or patrons, or
- .2. If the entertainment involves a person who is nude or in such attire, costume or clothing as to expose specified anatomical areas to view, even if completely and opaquely covered.

CONTAGIOUS AND COMMUNICABLE DISEASES: Those diseases which are set out in the Missouri Statutes and regulations.

EMPLOYEE: Any and all persons, including, but not limited to, managers, entertainers, servers and independent contractors, who work in or at or render any services related to the operation of an adult business.

ENTERTAINER: Any person who provides adult entertainment within an adult business, whether or not a fee is charged or accepted for entertainment.

MANAGER: Any person who manages, directs, administers or is in charge of the affairs and/or conduct of any portion of any activity at any adult business.

MINOR: Any person less than eighteen (18) years of age.

OPERATE: To own, conduct or maintain the affairs of an adult business

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.

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

SERVER: Any person, other than an entertainer, who serves food or drink at an adult business.

SIGNIFICANT PORTION OR SIGNIFICANT PURPOSE:

- .1. Twenty-five percent (25%) or more of the sales or gross receipts, measured in dollars over any consecutive ninety (90) day period, derived from such items or use;

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- .2. Twenty-five percent (25%) or more of the number of sales transactions, measured over any consecutive ninety (90) day period, of such items or use;
- .3. Twenty-five percent (25%) or more of the dollar value of all merchandise displayed at any time attributable to such items;
- .4. Twenty-five percent (25%) or more of all inventory consists of such items at any time;
- .5. Ten percent (10%) or more of the floor area of the business (not including storerooms, stock areas, bathrooms, basements or any portion of the business not open to the public) devoted to such use or items at any time.

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 exposed or in a discernibly erect state even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES: Sexual conduct, including actual or simulated acts of human masturbation; sexual intercourse; or physical contact in an act of apparent sexual stimulation or gratification or seeking to arouse the patron's sexual desires; or any sadomasochistic abuse or acts involving animals or any latent objects or artificial device or inanimate objects in an act of apparent sexual stimulation or gratification or seeking to arouse the patron's sexual desires. (Ord. No. 951 §42.310, 6-2-03)

SECTION 625.020: LICENSE REQUIRED FOR ADULT BUSINESS

- A. It shall be unlawful for any person to:
 - A.1. Operate or maintain an adult business in the City unless the owner thereof has obtained an adult business license from the City, or
 - A.2. Operate such business after such license has been revoked or suspended.
- B. It is unlawful for any employee or owner to knowingly perform any work, service or entertainment related to the operation of an unlicensed adult business.
- C. The failure to post an adult business license in the required manner shall be prima facie evidence that an adult business has not obtained its license. In addition, it shall be prima facie evidence that any employee or owner who performs any business, service or entertainment in an adult business in which an adult business license is not posted as required had knowledge that such business is not licensed. (Ord. No. 951 §42.320, 6-2-03)

SECTION 625.030: LICENSE REQUIRED FOR MANAGERS AND ENTERTAINERS

It is unlawful for any person to:

- .1. Work as an entertainer or manager without first obtaining a license to do so from the City, or
- .2. Work as an entertainer or manager at an adult business after such person's license to do so has been revoked or suspended. (Ord. No. 951 §42.330, 6-2-03)

SECTION 625.040: LICENSE, TERM, CLASSIFICATION AND FEES

- A. All licenses shall be issued for a specific location and shall be non-transferable and license fees shall be non-refundable.
- B. 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 business 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.
- C. 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 by certified or cashier's check or money order and no application shall be considered complete until such fee is paid.
- D. The classification of licenses and fees for each shall be as follows:
 - D.1. Adult business license fee is three thousand dollars (\$3,000.00) per year;
 - D.2. Manager's license fee is five hundred dollars (\$500.00) per year;
 - D.3. Entertainer's license fee is two hundred fifty dollars (\$250.00) per year. (Ord. No. 951 §42.340, 6-2-03)

SECTION 625.050: LICENSE APPLICATIONS

- A. *Adult Business License.* All persons desiring to secure a license to operate an adult business shall make a verified application with the City Clerk which shall be submitted simultaneously with the application for special use permit. All applications shall be submitted in the name of the person(s) 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:
 - A.1. The name, residence address, home telephone number, occupation, date, place of birth and social security number of the applicant.

A.2. The tax identification number and registered agent if the owner is not an individual.

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- A.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.
- A.4. The names, residence addresses, social security numbers and dates of birth 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 officers and directors and stockholders and members who own, directly or indirectly, a twenty-five percent (25%) or more interest in the entity; and if the owner is another type of entity, the same information for all persons who own, directly or indirectly, a twenty-five percent (25%) or more interest in such entity.
- A.5. A statement from the applicant as to whether the applicant, or any officer, manager, director, stockholder, partner, member or other person who owns a twenty-five (25%) or more interest, directly or indirectly, in such entity has had an adult business license of any type revoked or suspended and, if so, the reason for the suspension or revocation and the business activity subjected to the suspension or revocation.
- A.6. A statement from the applicant, each partner, member, stockholder and other owner and/or each manager, officer and director that each such person has not been convicted of, or released from confinement for conviction of, or diverted from prosecution on:
- A.6.a. Any felony or misdemeanor within, whichever event is later, two (2) years immediately preceding the application or five (5) years immediately preceding the application where such felony or misdemeanor 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 municipal ordinances; or
- A.6.b. A municipal ordinance violation within two (2) years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution, or sale of controlled substances or illegal drugs or narcotics.
- A.7. On applications requesting a license to operate a bathhouse or body painting studio, the applicant shall provide for each employee a health certificate from a duly licensed Missouri physician stating that within ninety (90) days prior thereto, the applicant and all other persons working on the premises have been examined and found free of any contagious or communicable disease as defined herein. This shall be a continuing requirement. For each person who is employed, the above-described health certificate shall be submitted to the City Clerk within forty-eight (48) hours of the time such person begins employment.
- A.8. If the applicant is required to be registered with the State, a current certificate of registration issued by the Missouri Secretary of State.
- A.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 Article 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 fifteen (15) working days of the date the application is received by the City Clerk.

- B. *Manager Or Entertainer License.* All persons desiring to secure a license to be a manager 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 or entertainer. All applications shall be submitted on a form supplied by the City Clerk and shall require all of the following information:
- B.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.
 - B.2. The name and address of each adult business where the applicant intends to work as a manger or entertainer.
 - B.3. 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:
 - B.3.a. Any felony or misdemeanor, within, whichever event is later, two (2) years immediately preceding the application or five (5) 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 ordinances; or
 - B.3.b. A municipal ordinance violation within two (2) years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution, or sale of controlled substances or illegal drugs or narcotics.
 - B.4. 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.
- 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 fifteen (15) working days of the date the application was received by the City Clerk.
- C. *Application Processing.* Upon receipt of a completed application for an adult business, manager or entertainer license, the City Clerk shall immediately transmit one (1) copy of the application to the Chief of Police for investigation of the applicant and application. In addition, the City Clerk shall transmit a copy of the application to the City Superintendent. The Chief of Police shall report the results of the investigation to the City Clerk not later than fifteen (15) working days from the date the application is forwarded to the Chief of Police. The City Superintendent shall inspect the structure where the adult business will be conducted for compliance with the requirements and standards of the applicable health, zoning, building code, fire and property maintenance ordinances of the City. The City Superintendent shall report the results of his/her investigation to the City Clerk not later than fifteen (15) working days from the date the application is forwarded to the City Superintendent. Upon receipt of the reports from the Chief of Police and the City Superintendent, the City Clerk shall schedule the application for consideration by the Governing Body at the earliest meeting consistent with the notification requirements established by law, provided the license application for manager or entertainer license shall be approved or disapproved within sixty (60) days from the date the completed application is received by the City Clerk. The applicant shall be notified in writing of the date when the Governing Body will consider the application and shall be afforded an opportunity to be heard at that meeting. (Ord. No. 951 §42.350, 6-2-03)

SECTION 625.060: EXAMINATION OF APPLICATION, ISSUANCE OF LICENSE, DISAPPROVAL

- A. The Governing Body shall examine an application for an adult business license or a manager or entertainer license and shall approve the issuance of a license only if the appropriate license fee has been paid, 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 Governing Body shall show the action taken on the application and if the license is granted, the Governing Body shall direct the City Clerk to issue the proper license. The adult business license and all manager 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 disapproved, 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 Circuit Court of Stoddard County, Missouri, in a manner provided by law. (Ord. No. 951 §42.360, 6-2-03)

SECTION 625.070: LICENSE—INELIGIBILITY AND DISQUALIFICATION

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

- .1. An applicant for an adult business license if one (1) or more of the following conditions exist:
 - .1.a. A special use permit for the adult business has not been issued or has been revoked or suspended;
 - .1.b. The owner or applicant or any business owned, directly or indirectly, in whole or in part by applicant or owner is in violation of any ordinance of the City;
 - .1.c. The applicant knowingly failed to supply all of the information requested on the application;
 - .1.d. The applicant knowingly gave materially false, fraudulent or untruthful information on the application;
 - .1.e. 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;
 - .1.f. 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
 - .1.g. If the applicant is applying for a license to operate a bathhouse or body painting studio and applicant has not produced a health certificate as required herein for all persons working on the premises.

- .2. An applicant for a manager or entertainer license if one (1) or more of the following exists:
 - .2.a. The adult business where the manager or entertainer will perform services does not have an adult business license;
 - .2.b. 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.c. The applicant knowingly failed to provide all of the information required on the application;
 - .2.d. The applicant knowingly gave materially false, fraudulent or untruthful information on the application;
 - .2.e. The applicant has had a manager or entertainer license revoked or suspended in this or any other City during the past five (5) years; or
 - .2.f. The applicant is applying for a license for a manager or entertainer in a bathhouse or body painting studio and has not produced a health certificate as required herein. (Ord. No. 951 §42.370, 6-2-03)

SECTION 625.080: STANDARDS OF CONDUCT

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

- .1. *Identification cards.* Any and all managers and entertainers 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 shall be laminated to prevent alteration.
- .2. *Age restriction.* Only persons twenty-one (21) years of age or older shall be permitted in the premises of any adult entertainment business.
- .3. *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.
- .4. *Exterior display.* No adult business will be conducted in any manner that permits the observation of live performers engaged in any adult entertainment including, but not limited, to an erotic depiction or dance or any material or persons depicting, describing or relating to specified sexual activities or specified anatomical areas from any exterior source by display, decoration, sign, show window or other opening.
- .5. *Nudity prohibited.* No manager, employee or patron in an adult business, other than a licensed bathhouse or an entertainer in a licensed adult business which business does not hold a liquor

license during a performance provided such entertainer is at least six (6) feet from any and all patrons and is on a stage raised at least eighteen (18) inches above the immediate floor level,

shall appear nude, unclothed, in less than opaque attire or in any fashion that exposes to view any specified anatomical area.

.6. *Certain acts prohibited.*

- .6.a. No employee, patron or any other person shall perform any specified sexual activities, 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 ordinance while on the premises of an adult business.
- .6.b. No employee, patron or any other person while on the premises of an adult business shall knowingly touch, fondle or caress any specified anatomical area of another person or simulate such action or knowingly permit another person to touch, fondle or caress any specified anatomical area of such employee, patron or other person or simulate such action whether such specified anatomical areas are clothed, unclothed, covered or exposed.
- .6.c. No employee of an adult business shall be visible from the exterior of the adult business while such person is nude or unclothed or in such attire, costume or clothing as to expose to view any specified anatomical area.
- .6.d. No other entertainer shall solicit, demand or receive any payment or gratuity from any patron or any other person for any act prohibited and no entertainer shall receive any payment or gratuity from any person for any entertainment except as follows:
 - .6.d.(1) While such entertainer is on the stage, a patron may place such payment or gratuity into a box affixed to the stage; or
 - .6.d.(2) 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.
- .6.e. No owner, manager or other person in charge of the premises of an adult business shall:
 - .6.e.(1) Permit alcoholic liquor or cereal malt beverages to be unlawfully brought upon or consumed on the premises;
 - .6.e.(2) Knowingly allow or permit the sale, distribution, delivery or consumption of any controlled substance or illegal drug or narcotic on the premises;
 - .6.e.(3) Knowingly allow or permit any person under the age of twenty-one (21) to be in or upon the premises;
 - .6.e.(4) Knowingly allow or permit any act of prostitution or patronizing prostitution on the premises as prohibited by State law or municipal ordinance; or
 - .6.e.(5) Knowingly allow or permit a violation of this Article or any other City ordinance provision or State law.

- .7. *Signs required.* 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:

REGULATED

THIS ADULT ENTERTAINMENT BUSINESS IS
AND LICENSED BY THE CITY OF BERNIE

ENTERTAINERS ARE:

- 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.
- Not permitted to be nude, unclothed, or in less than opaque attire, costume or clothing so as to expose to view any portion of the breasts below the top of the areola or any portion of the pubic region, buttocks and/or genitals unless in an adult entertainment business which does not hold a liquor license and separated at least six (6) feet from the nearest customer and upon a stage at least eighteen (18) inches above the immediate floor level.
- Not permitted to demand or collect any payment or gratuity from any customer for entertainment, except as follows:

While such entertainer is on the stage, by placing such payment or gratuity into a box affixed to the stage, or

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:

- Not permitted to be upon the stage at any time.
- Not permitted to touch, caress or fondle the breasts, pubic region, buttocks or genitals of any employee, entertainer or patron or engage in solicitation for prostitution.

- .8. *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.

- .9. *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.

.10. *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.

- .11. *Hours of operation.* No adult business may be open or in use between the hours of 2:00 A.M. and 9:00 A.M. on any day other than a Sunday when the business may not be open between the hours of 2:00 A.M. and 12:00 Noon.
- .12. *Facilities necessary.* No adult business license to conduct a bathhouse or body painting studio shall be issued unless an inspection by the City Superintendent or his/her authorized representative reveals that the premises on which the applicant intends to conduct such business complies with each of the following minimum requirements:
 - .12.a. The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given or showers are 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 of personal use of patrons shall be clean and freshly laundered. Towels, clothes 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.
 - .12.b. Toilet facilities shall be provided in convenient locations. A single water closet per sex shall be provided for each twenty (20) or more employees or patrons of that sex on the premises at any one (1) time. Urinals may be substituted for water closets after one (1) water closet has been provided. Toilets shall be designated as to the sex accommodated therein.
 - .12.c. 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.

The City Superintendent 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 ordinance 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. (Ord. No. 951 §42.380, 6-2-03)

SECTION 625.090: 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 manger 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 Article. (Ord. No. 951 §42.390, 6-2-03)

SECTION 625.100: 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 within the premises possesses a current and valid entertainer's license and that such licenses are prominently posted. It shall also be the responsibility of the manager to insure that persons under the age of twenty-one (21) do not enter upon the premises of an adult entertainment business. (Ord. No. 951 §42.400, 6-2-03)

SECTION 625.110: 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. (Ord. No. 951 §42.410, 6-2-03)

SECTION 625.120: SUSPENSION, REVOCATION OR NON-RENEWAL—LICENSE

Whenever the City Clerk has information that:

- .1. The owner of an adult business or a holder of a manager or entertainer license has violated or knowingly allowed or permitted the violation of any of the provisions of this Article or any other ordinance of the Code of the City of Bernie; or
- .2. There have been recurrent violations of provisions of this Article that have occurred under such circumstances that the owner of an adult business knew or should have known that such violations were committed; or
- .3. The adult business license or the manager or entertainer license was knowingly obtained through false statements in the application for such license or renewal thereof; or
- .4. The adult business license or the manager or entertainer licensee knowingly failed to make a complete disclosure of all information in the application for such license or renewal thereof; or
- .5. The owner or any partner, member, manager, stockholder or other person owning an interest in the adult business or any officer or director holding an adult business license has become disqualified from having a license by a conviction as provided herein; or
- .6. If the holder of a manager or entertainer license has become disqualified from having a license by a conviction as provided herein; or
- .7. The adult business for which the license of the manager or entertainer is issued has been suspended or revoked,

then the City Clerk shall make this information known to the Governing Body which, upon five (5) days' written notice to the person holding the license, shall conduct a public hearing to determine whether the license should be suspended or revoked. The Governing Body may pass a resolution setting forth the procedures for the conduct of such hearings. Based on the evidence produced at the hearing, the Governing Body may take any of the following actions:

- .7.a. Suspend the license for up to ninety (90) days;

.7.b. Revoke the license for the remainder of the license year;

- .7.c. 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 ordinance 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; or
- .7.d. Terminate the license. (Ord. No. 951 §42.420, 6-2-03)

SECTION 625.130: 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 Article 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. (Ord. No. 951 §42.430, 6-2-03)

SECTION 625.140: 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 Article. (Ord. No. 951 §42.450, 6-2-03)

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