

**BOARD OF ALDERMEN
SPECIAL MEETING
WORK STUDY SESSION**

**7:00 P.M.
June 24, 2013**

Notice posted on June 21, 2013

Notice is hereby given that the City of Willard, Board of Aldermen will conduct a special work study session at 7:00 p.m. on June 24, 2013 at Willard City Hall, 224 W. Jackson, Willard, Missouri.

The tentative agenda of this meeting includes:

PLEDGE OF ALLEGIANCE

Call the meeting to order

1. Roll Call
2. Discussion of the proposed alcohol ordinance
3. Presentation by Utility Services Representative
4. Discussion of Section 100.200 general penalty minimum fee.
5. Discussion of security system for City properties
6. Discussion of document management options
7. Discussion of the proposed agenda for July 8, 2013
8. Adjourn Meeting

IF YOU HAVE SPECIAL NEEDS, WHICH REQUIRE ACCOMMODATION, PLEASE NOTIFY CITY PERSONNEL AT CITY HALL. ACCOMMODATIONS WILL BE MADE FOR YOUR NEEDS.

REPRESENTATIVES OF THE NEWS MEDIA MAY OBTAIN COPIES OF THIS NOTICE BY CONTACTING:

Dale Duvall
224 West Jackson
Willard, MO 65781

AN ORDINANCE PERTAINING TO PUBLIC HEALTH SAFETY AND WELFARE REGULATING THE SALE AND DISTRIBUTION OF ALCOHOLIC BEVERAGES IN ORDER TO PROMOTE RESPONSIBLE CONSUMPTION, CONTROL ILLEGAL UNDERAGE DRINKING AND ACHIEVE OTHER IMPORTANT POLICY GOALS SUCH AS MAINTAINING AN ORDINARY MARKETPLACE FOR THE SALE AND DISTRIBUTION OF INTOXICATING LIQUOR AND REPEALING TITLE VI; CHAPTER 600; ALCOHOLIC BEVERAGES IN THE MUNICIPAL CODE OF THE CITY OF WILLARD

BE IT HEREBY ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF WILLARD, GREENE COUNTY, MISSOURI AS FOLLOWS:

SECTION 1. That all of Chapter 600 in TITLE VI is repealed in its entirety and a new Chapter 600 is enacted in its place as follows:

TITLE VI. BUSINESS AND OCCUPATION

Chapter 600: ALCOHOLIC BEVERAGES

SECTION 600.005: PURPOSE

Alcohol is, by law, an age-restricted product that is regulated differently than other products. The provisions of this Chapter establish vital regulation of the sale and distribution of alcoholic beverages in order to promote responsible consumption, combat illegal underage drinking, and achieve other important policy goals such as maintaining an orderly marketplace composed of licensed alcohol producers, importers, distributors, and retailers. (RSMo. §311.015, 2007)

SECTION 600.010: DEFINITIONS

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

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

INTOXICATING LIQUOR: Alcohol for beverage purposes, including alcoholic, spirituous, vinous, fermented, malt, or other liquors, or combination of liquors, a part of which is spirituous, vinous, or fermented, and all preparations or mixtures for beverage purposes containing in excess of one-half of one percent (0.5%) by volume. 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 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.

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, where the package and/or container(s) describes the contents thereof as intoxicating liquor. "*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. (RSMo. §§311.020, 311.030, 311.095, 311.096, 311.200, 311.290 (2012))

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. (RSMo. §311.100)

SECTION 600.020:

LICENSE REQUIRED—CLASSES OF LICENSES

- A. No person shall sell or offer for sale intoxicating liquor in the City of Willard without a current 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:

1. *Package liquor—malt liquor only:* Sales of malt liquor at retail by grocers and other merchants and dealers for sale in the original package direct to consumers but not for resale and not for consumption on the premises where sold. This license may include Sunday sales from 9:00 A.M. to Midnight.
2. *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 Subsection (B)(1) of this Section.
3. *Liquor by the drink(resort)—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 (4) of this Section.
4. *Malt liquor by the drink:* Sales of malt liquor at retail by the drink for consumption on the premises. This license may include Sunday sales from 9:00 A.M. to Midnight.
5. *Liquor by the drink (resort):* 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)(2) of this Section.

C. *Sunday Sales.* Except for any establishment that may apply for a license under Section 311.089, RSMo., any person possessing the qualifications and meeting the requirements of this Chapter, who is licensed to sell intoxicating liquor at retail may apply to the City for a special license to sell intoxicating liquor at retail between the hours of 9:00 A.M. and Midnight on Sundays.

D. *Permits:*

1. *Temporary permit for sale by drink.* Any person who possesses the qualifications, meets the requirements and complies with the provisions of Section 600.030(B) below may apply for a special permit to sell intoxicating liquor for consumption on premises where sold.
2. *Tasting permit—retailers.* Any person who is licensed to sell intoxicating liquor in the original package at retail under Subsections (B)(2) 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.
3. *Tasting permit—winery, distiller, manufacturer, etc.*
 - a. Any winery, distiller, manufacturer, wholesaler, or brewer or designated employee may provide and pour distilled spirits, wine, or malt beverage samples off a licensed retail premises for tasting purposes provided no sales transactions take place. For purposes of this Subsection (D)(3), a "*sales transaction*" shall mean an actual and immediate exchange of monetary consideration for the immediate delivery of goods

at the tasting site.

- b. Notwithstanding any other provisions of this Chapter to the contrary, any winery, distiller, manufacturer, wholesaler, or brewer or designated employee may provide, furnish, or pour distilled spirits, wine, or malt beverage samples for customer tasting purposes on any temporary licensed retail premises as described in Sections 311.218, 311.482, 311.485, 311.486, or 311.487, RSMo., or on any tax exempt organization's licensed premises as described in Section 311.090, RSMo.
- c. *Any winery, distiller, etc., may provide or furnish distilled spirits, wine or malt beverage samples on a licensed retail premises—when.*
 - (1) Notwithstanding any other provisions of this Chapter to the contrary, any winery, distiller, manufacturer, wholesaler, or brewer or designated employee may provide or furnish distilled spirits, wine or malt beverage samples on a licensed retail premises for customer tasting purposes so long as the winery, distiller, manufacturer, wholesaler, or brewer or designated employee has permission from the person holding the retail license. The retail licensed premises where such product tasting is provided shall maintain a special permit in accordance with Section 311.294, RSMo., or hold a by the drink for consumption on the premises where sold retail license. No money or anything of value shall be given to the retailers for the privilege or opportunity of conducting the on-the-premises product tasting.
 - (2) Distilled spirits, wine, or malt beverage samples may be dispensed by an employee of the retailer, winery, distiller, manufacturer or brewer or by a sampling retained by the retailer, winery, distiller, manufacturer or brewer. All sampling service employees that provide and pour intoxicating liquor samples on a licensed retail premises shall be required to complete a server training program approved by the Division of Alcohol and Tobacco Control.
 - (3) Any distilled spirits, wine, or malt beverage sample provided by the retailer, winery, distiller, manufacturer, wholesaler, or brewer remaining after the tasting shall be returned to the retailer, winery, distiller, manufacturer, wholesaler, or brewer. (RSMo. §§311.090, 311.095, 311.096, 311.293, 2003, 2012; 311.297, 2007, 2011, 2012)

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. Temporary Permit For Sale By Drink—Certain Organizations.

1. Notwithstanding any other provision of this Chapter, a permit for the sale of all kinds of intoxicating liquor, including intoxicating liquor in the original package, at retail by the drink for consumption on the premises of the licensee may be issued to any church, school, civic, service, fraternal, veteran, political or charitable club or organization for the sale of such intoxicating liquor at a picnic, bazaar, fair or similar gathering. The permit shall be issued only for the day or days named therein and it shall not authorize the sale of intoxicating liquor for more than seven (7) days by any such club or organization.
2. If the event will be held on a Sunday, the permit shall authorize the sale of intoxicating liquor on that day beginning at 11:00 A.M.
3. At the same time that an applicant applies for a permit under the provisions of this Subsection, the applicant shall notify the Director of Revenue of the holding of the event by certified mail and by such notification shall accept responsibility for the collection and payment of any applicable sales tax.
4. No provision of law or rule or regulation of the City shall be interpreted as preventing any wholesaler or distributor from providing customary storage, cooling, or dispensing equipment for use by the permit holder at such picnic, bazaar, fair or similar gathering.

C. Operating Hours, Days.

1. No person having a license under the provisions of this Chapter shall sell, give away, or permit the consumption of any intoxicating liquor in any quantity between the hours of 1:30 A.M. and 6:00 A.M. on weekdays and between the hours of 1:30 A.M. on Sunday and 6:00 A.M. on Monday except as otherwise authorized and licensed for Sunday sales, and if said person has a license to sell intoxicating liquor by the drink, his/her premises shall be and remain a closed place as defined in Section 600.010 of this Chapter and between the hours of 1:30 A.M. and 6:00 A.M. on weekdays and 1:30 A.M. on Sunday and 6:00 A.M. on Monday, and provided further that where such licenses authorizing the sale of intoxicating liquor by the drink are held by clubs or hotels, this Section shall apply only to the room or rooms in which the intoxicating liquor is dispensed, and provided further that where such licenses are held by restaurants or stores whose business is conducted in one (1) room only and substantial quantities of food and merchandise, other than intoxicating liquor, are dispensed, then the licensee shall keep securely locked during the hours and on the days herein specified all refrigerators, cabinets, cases, boxes and taps from which intoxicating liquor is dispensed.
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.

D. General License Regulations.

1. Each license issued hereunder shall be conspicuously posted on the premises for which the license has been issued.
2. A separate license shall be required for each place of business. Every license issued under the provisions of this Chapter shall particularly describe the premises at which intoxicating liquor may be sold thereunder, and such license shall not be deemed to authorize or permit the sale of intoxicating liquor at any place other than that described therein.
3. No license issued under this Chapter shall be transferable or assignable except as herein provided. In the event of the death of the licensee, the widow or widower or the next of kin of such deceased licensee, who shall meet the other requirements of this Chapter, may make application and the Clerk may transfer such license to permit the operation of the business of the deceased for the remainder of the period for which a license fee has been paid by the deceased. Whenever one (1) or more members of a partnership withdraws from the partnership, the Clerk, upon being requested, shall permit the remaining partner or partners originally licensed to continue to operate for the remainder of the period for which the license fee has been paid without obtaining a new license.
4. In the event any licensee desires to change the location of his/her place of business in the City, it shall be necessary for him/her to file an application in the same manner as herein provided for an original application, except that no additional fee shall be charged and the amended license, describing the new location, shall be issued immediately upon the approval of the application by the Board. Any change of location of the enterprise prior to issuance of such an amended license shall constitute a violation of this Section. (RSMo. §§311.200, 311.290, 311.298, 311.482, 2003, 2011, 2012)

SECTION 600.035: SALES OF LIQUOR PROHIBITED NEAR SCHOOLS AND CHURCHES

- A. No license shall be granted for the sale of intoxicating liquor, as defined in this Chapter, within three hundred (300) feet of any school, church or other building regularly used as a place of religious worship, unless the applicant for the license shall first obtain the consent in writing of the Board of Aldermen, except that when a school, church or place of worship shall hereafter be established within three hundred (300) feet of any place of business licensed to sell intoxicating liquor, the license shall not be denied for this reason. Such consent shall not be granted until at least ten (10) days' written notice has been provided to all owners of property within three hundred (300) feet of the proposed licensed premises.
- B. Subsection (A) of this Section shall not apply to a license issued by the Supervisor of Alcohol and Tobacco Control for the sale of intoxicating liquor pursuant to Section 311.218, RSMo., or to a license issued to any church, school, civic, service, fraternal, veteran, political, or charitable club or organization which has obtained an exemption from the payment of Federal taxes.
- C. Subsection (A) of this Section shall not apply 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. To retain a license under this Subsection, the licensed premises shall not change license type, amend the legal description, or be without a liquor license for more than ninety (90) days. (RSMo. §311.080, 2005)

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:

1. *General licenses.*

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|---|----------|--------|
| a. Malt liquor—original package | \$ 75.00 | |
| b. Intoxicating liquor (all kinds)—original package | | 150.00 |
| c. Malt liquor—by drink | 75.00 | |
| d. Malt liquor and light wines—by drink | 75.00 | |
| e. Intoxicating liquor (resort)—by drink | 450.00 | |

2. *Sunday sales (additional fee).*

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|----------------------------------|--------|--|
| a. Intoxicating liquor at retail | 300.00 | |
|----------------------------------|--------|--|

3. *Permits.*

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|--|-------|-----------------------|
| a. Temporary permit—by the drink for certain organizations (7 days max.) | 37.50 | |
| b. Tasting permit | 37.50 | |
| c. Caterers | 15.00 | per each calendar day |

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). (RSMo. §§311.180, 311.200, 311.220, 2003; 311.293, 2012)

**SECTION 600.045: TEMPORARY LOCATION FOR LIQUOR BY THE DRINK,
CATERERS—PERMIT—FEE REQUIRED**

- A. The City may issue a temporary permit to caterers and other persons holding licenses to sell intoxicating liquor by the drink at retail for consumption on the premises pursuant to the provisions of this Chapter who furnish provisions and service for use at a particular function, occasion or event at a particular location other than the licensed premises, but not including a "festival" as defined in Chapter 316.150 RSMo. The temporary permit shall be effective for

a period not to exceed one hundred sixty-eight (168) consecutive hours, and shall authorize the service of alcoholic beverages at such function, occasion or event during the hours at which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages for on-premises consumption. For every permit issued pursuant to the provisions of this Section, the permittee shall pay to the City an amount as set out in Section 600.040(3)(c) above, or fraction thereof, for which the permit is issued.

- B. Except as provided in Subsection (C), all provisions of the Liquor Control Law and the ordinances, rules and regulations of the City, in which is located the premises in which such function, occasion or event is held shall extend to such premises and shall be in force and enforceable during all the time that the permittee, its agents, servants, employees, or stock are in such premises. This temporary permit shall allow the sale of intoxicating liquor in the original package.
- C. Notwithstanding any other law to the contrary, any caterer who possesses a valid State and valid local liquor license may deliver alcoholic beverages, in the course of his/her catering business. A caterer who possesses a valid State and valid local liquor license need not obtain a separate license for each City the caterer delivers in, so long as such City permits any caterer to deliver alcoholic beverages within the City.
- D. To assure and control product quality, wholesalers may, but shall not be required to, give a retailer credit for intoxicating liquor with an alcohol content of less than five percent (5%) by weight delivered and invoiced under the catering permit number, but not used, if the wholesaler removes the product within seventy-two (72) hours of the expiration of the catering permit issued pursuant to this Section. (RSMo. §311.485, 2005, 2011, 2012)

SECTION 600.050: TABLE TAP DISPENSING OF BEER PERMITTED, WHEN

- A. Any person licensed to sell liquor at retail by the drink for consumption on the premises where sold may use a table tap dispensing system to allow patrons of the licensee to dispense beer at a table. Before a patron may dispense beer, an employee of the licensee must first authorize an amount of beer, not to exceed thirty-two (32) ounces per patron per authorization, to be dispensed by the table tap dispensing system.
- B. No provision of law or rule or regulation of the City shall be interpreted to allow any wholesaler, distributor, or manufacturer of intoxicating liquor to furnish table tap dispensing or cooling equipment or provide services for the maintenance, sanitation, or repair of table tap dispensing systems. (RSMo. §311.205, 2012)

SECTION 600.055: 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. 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 thirtieth (30th) day of June next succeeding the date of such license, unless such license be revoked or suspended for cause before the expiration of such time.

D. Applications for renewal of licenses must be filed on or before the first (1st) day of May 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 this Subsection. (RSMo. §311.060)

SECTION 600.060: MINORS

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

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.
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. Delivery of intoxicating liquor away from the licensed business premises cannot be performed by anyone under the age of twenty-one (21) years. Any licensee who employs any person under the age of twenty-one (21) years, as authorized by this Subsection, shall, when at least fifty percent (50%) of the licensee's gross sales does not consist of non-alcoholic sales, have an employee twenty-one (21) years of age or older on the licensed premises during all hours of operation.
3. In any distillery, warehouse, wholesale distributorship, or similar place of business which stores or distributes intoxicating liquor but which does not sell intoxicating liquor at retail, persons at least eighteen (18) years of age may be employed and their duties may

include the handling of intoxicating liquor for all purposes except consumption, sale at retail, or dispensing for consumption or sale at retail. Any wholesaler licensed pursuant to this Chapter may employ persons of at least eighteen (18) years of age to rotate, stock and arrange displays at retail establishments licensed to sell intoxicating liquor.

4. 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 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.

B. Sales To Minor—Exceptions.

1. 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.
2. Any owner, occupant, or other person or legal entity with a lawful right to the exclusive use and enjoyment of any property who knowingly allows a person under the age of twenty-one (21) to drink or possess intoxicating liquor or knowingly fails to stop a person under the age of twenty-one (21) from drinking or possessing intoxicating liquor on such property, unless such person allowing the person under the age of twenty-one (21) to drink or possess intoxicating liquor is his/her parent or guardian, is guilty of an ordinance violation.
3. It shall be a defense to prosecution under this Subsection if:
 - a. The defendant is a licensed retailer, club, drinking establishment, or caterer or holds a temporary permit, or an employee thereof;
 - b. The defendant sold the intoxicating liquor to the minor with reasonable cause to believe that the minor was twenty-one (21) or more years of age; and
 - c. To purchase the intoxicating liquor, the person exhibited to the defendant a driver's license, Missouri non-driver's identification card, or other official or apparently official document, containing a photograph of the minor and purporting to establish that such minor was twenty-one (21) years of age and of the legal age for consumption of intoxicating liquor.

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

1. No person under the age of twenty-one (21) years shall represent, for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor, that he/she has

attained the age of twenty-one (21) years, except in cases authorized by law.

2. In addition to Subsection (C)(1) of this Section, no person under the age of twenty-one (21) years shall use a reproduced, modified or altered chauffeur's license, motor vehicle operator's license, identification card issued by any uniformed service of the United States, passport or identification card established in Section 302.181, RSMo., for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor.

D. Minors In Possession Of Intoxicating Liquor.

1. No person under the age of twenty-one (21) years, shall purchase or attempt to purchase, or have in his/her possession, any intoxicating liquor as defined in Section 600.010 or, shall be visibly in an intoxicated condition as defined in Section 577.001.3, RSMo., or shall have a detectable blood alcohol content of more than two-hundredths of one percent (.02%) or more by weight of alcohol in such person's blood.
2. Any person under the age of twenty-one (21) years who purchases or attempts to purchase, or has in his or her possession, any intoxicating liquor, or who is visibly in an intoxicated condition as defined in Section 577.001, RSMo., shall be deemed to have given consent to a chemical test or tests of the person's breath, blood, saliva, or urine for the purpose of determining the alcohol or drug content of the person's blood. The implied consent to submit to the chemical tests listed in this Subsection shall be limited to not more than two (2) such tests arising from the same arrest, incident, or charge. Chemical analysis of the person's breath, blood, saliva, or urine shall be performed according to methods approved by the State Department of Health and Senior Services by licensed medical personnel or by a person possessing a valid permit issued by the State Department of Health and Senior Services for this purpose. The State Department of Health and Senior Services shall approve satisfactory techniques, devices, equipment, or methods to be considered valid and shall establish standards to ascertain the qualifications and competence of individuals to conduct analyses and to issue permits which shall be subject to termination or revocation by the State Department of Health and Senior Services. The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person at the choosing and expense of the person to be tested, administer a test in addition to any administered at the direction of a Law Enforcement Officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test taken at the direction of a Law Enforcement Officer. Upon the request of the person who is tested, full information concerning the test shall be made available to such person. "Full information" is limited to the following:
 - a. The type of test administered and the procedures followed;
 - b. The time of the collection of the blood or breath sample or urine analyzed;
 - c. The numerical results of the test indicating the alcohol content of the blood and breath and urine;
 - d. The type and status of any permit which was held by the person who performed the

test;

- e. If the test was administered by means of a breath-testing instrument, the date of performance of the most recent required maintenance of such instrument.

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

- 3. The provisions of this Subsection shall not apply to a student who:
 - a. Is eighteen (18) years of age or older;
 - b. Is enrolled in an accredited college or university and is a student in a culinary course;
 - c. Is required to taste, but not consume or imbibe, any beer, ale, porter, wine, or other similar malt or fermented beverage as part of the required curriculum; and
 - d. Tastes a beverage under Subsection (D)(3)(c) of this Section only for instructional purposes during classes that are part of the curriculum of the accredited college or university.

The beverage must at all times remain in the possession and control of any authorized instructor of the college or university, who must be twenty-one (21) years of age or older. Nothing in this Subsection, may be construed to allow a student under the age of twenty-one (21) to receive any beer, ale, porter, wine or other similar malt or fermented beverage unless the beverage is delivered as part of the student's required curriculum and the beverage is used only for instructional purposes during classes conducted as part of the curriculum. (RSMo, §§311.300 (2009); 311.310 (2009); 311.320; 311.325 (2009))

SECTION 600.065: BURDEN OF PROOF ON VIOLATOR CONCERNING MANUFACTURER-SEALED CONTAINER

For purposes of determining violations and prosecution under this Chapter, or any rule or regulation of the Supervisor of Alcohol and Tobacco Control, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was no intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor. (RSMo. §311.325.2)

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. *Packaging, Labeling, Repackaging Prohibited, When.* Any retailer licensed pursuant to this Chapter shall not:
1. Sell intoxicating liquor 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
 2. Repackage intoxicating liquor 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.
- C. *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.
- D. *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.
- E. *Only Those Liquors Authorized By License To Be Kept On Premises.* It shall be unlawful for any licensee licensed for the sale of intoxicating liquor at retail by the drink for consumption on the premises to keep in or upon the premises described in such license any intoxicating liquor other than the kind of liquor expressly authorized to be sold by such licensee.
- F. *Persons Apparently Intoxicated Not To Be Provided With Intoxicating Liquor.* It shall be unlawful for any licensee, or his/her employee or agent, to sell or supply intoxicating liquor, 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.
- G. *Drinking In Public Places Prohibited.*
1. For purposes of this Section, the term "*public place*" shall mean any public street, highway, alley, sidewalk, thoroughfare or other public way of the City, or any parking lot.
 2. No person shall drink or ingest any intoxicating liquor in or on any public place.
 3. No person shall possess or have under his/her control any unsealed glass, bottle, can or other open container of any type containing any intoxicating liquor while in or upon any public place.
 4. No person shall possess or have under his/her control any unsealed glass, bottle, can or other open container of any type containing any intoxicating liquor 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. (RSMo.

§§311.280, 311.310, 311.330, 311.340, 311.600)

5. Notwithstanding the provisions of §600.070(G)(1)-(4), if a special events permit is obtained pursuant to § 600.020(D), any person twenty one years of age or older may drink or ingest intoxicating liquor in a designated public place as defined in §600.070(G)(1) in accordance with provisions of the special events permit.

SECTION 600.080: WARNING SIGN DISPLAYED—LIQUOR LICENSES

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. (RSMo. §311.299)

SECTION 600.090: ADMINISTRATION OF LAW—LICENSE SUSPENSION/REVOCATION

- 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 600.100 of this Chapter.
- B. *Grounds For Suspension Or Revocation.* A license may be suspended or revoked for any of the following reasons:
1. Violating any of the provisions of either this Chapter, Chapter 311, RSMo., or any ordinance of the City; or
 2. Failing to obtain or keep a license from the State Supervisor of Alcohol and Tobacco Control; or
 3. Making a false affidavit in an application for a license under this Chapter; or
 4. Failing to keep an orderly place or house; or
 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; or
 6. Selling, offering for sale, possessing or knowingly permitting the consumption of any intoxicating liquor which has not been inspected and labeled according to the laws of the State of Missouri; or
 7. Selling, giving, or otherwise supplying intoxicating liquor to:

- a. Any person under the age of twenty-one (21) years, or
 - b. Any person during unauthorized hours on the licensed premises, or
 - c. A habitual drunkard or to any person who is under or apparently under the influence of intoxicating liquor, or
 - d. Any person on the licensed premises during a term of suspension as ordered by the Board.
- 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, 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 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 600.100: HEARINGS UPON SUSPENSION OR REVOCATION OF LICENSES

- A. *Hearing Officer.* Hearings may be had before the Board of Aldermen or before a Hearing Officer appointed by the Board who shall be an attorney licensed to practice law in the State of Missouri. If held before a Hearing Officer, he/she shall report to the Board findings of fact, conclusions of law and recommendations. The Board may accept, modify or refuse to accept the report of the Hearing Officer or any portion thereof.
- A. *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.
- B. *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.
- C. *Decision—Suspension Or Revocation.* If the evidence supports a finding that the license should be revoked or suspended pursuant to Section 600.090 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.
- D. *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 thirty (30) days of the date of the Board's decision. The Board may delay the

implementation of its order pending appeal.

SECTION 3. SAVINGS CLAUSE.

Nothing in this ordinance shall be construed to affect any suit or proceeding now pending in any court, or any rights acquired, or liability incurred, nor any cause or causes of action occurred or existing, under any act or ordinance repealed hereby. Nor shall any right or remedy of any character be lost, impaired, or affected by this ordinance. In the event of any conflict between this ordinance and any other law, regulation or ordinance, the more restrictive shall apply.

SECTION 4. SEVERABILITY CLAUSE.

If any section, subdivision, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Aldermen hereby declares that it would have adopted the ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 5. DATE OF EFFECT.

This Ordinance shall be in full force and effect from and after the date of its passage by the Board of Aldermen and approval of the Mayor.

THE TERMS OF THIS ORDINANCE SHALL TAKE EFFECT FROM AND AFTER ITS PASSAGE BY THE BOARD OF ALDERMAN OF THE CITY OF WILLARD, GREENE COUNTY, MISSOURI.

READ TWO TIMES AND PASSED AT THE MEETING OF THE BOARD OF ALDERMAN, THE CITY OF WILLARD, GREENE COUNTY, MISSOURI ON THIS 8th DAY OF APRIL, 2013.

Approved as to form: _____
Ken Reynolds, City Attorney

Approved by: _____
Wendell Forshee, Mayor

Attested by: _____
Dale Duvall, City Clerk

MEMBERS OF THE BOARD OF ALDERMEN:

DAVID ROGGENSEES

DAVID HEMPHILL

CYNDI COSBY-TRAPP

YES

NO

First Reading: 05-23-13

Second Reading: 05-23-13

Council Bill No.

Ordinance No.:

AN ORDINANCE

AN ORDINANCE APPROVING MUNICIPAL CODE AMENDMENTS TO SECTION 600.070 OF THE MUNICIPAL CODE OF THE CITY OF WILLARD PERTAINING TO ALCOHOLIC BEVERAGES: MISCELLANEOUS OFFENSES.

NOW THEREFORE, BE IT HEREBY ORDAINED AND RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF WILLARD, GREENE COUNTY, MISSOURI, AS FOLLOWS:

Section 1. Section 600.070 of the Code of the City of Willard shall be amended to read as follows:

SECTION 600.070: MISCELLANEOUS OFFENSES

G. *Drinking In Public Places Prohibited.*

1. For purposes of this Section, the term "*public place*" shall mean any public street, highway, alley, sidewalk, thoroughfare or other public way of the City, or any parking lot.
2. No person shall drink or ingest any intoxicating liquor in or on any public place.
3. No person shall possess or have under his/her control any unsealed glass, bottle, can or other open container of any type containing any intoxicating liquor while in or upon any public place.
4. No person shall possess or have under his/her control any unsealed glass, bottle, can or other open container of any type containing any intoxicating liquor 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. (RSMo. §§311.280, 311.310, 311.330, 311.340, 311.600)
5. Notwithstanding the provisions of §600.070(G)(1)-(4), if a special events permit is obtained pursuant to § 600.020(D), any person twenty one years of age or older may drink or ingest intoxicating liquor in a designated public place as defined in §600.070(G)(1) in accordance with provisions of the special events permit application approved by the Willard Board of Aldermen on 05-23-13.

THE TERMS OF THIS ORDINANCE SHALL TAKE EFFECT FROM AND AFTER ITS PASSAGE BY THE BOARD OF ALDERMEN AND ITS APPROVAL BY THE MAYOR, CITY OF WILLARD, GREENE COUNTY, MISSOURI.

READ TWO TIMES AND PASSED AT THE MEETING OF THE BOARD OF ALDERMEN, THE CITY OF WILLARD, GREENE COUNTY, MISSOURI ON THIS ____ DAY OF _____, 2013.

Approved as to form: _____
City Attorney

Attested by:

Approved by:

Dale Duvall, City Clerk

Wendell Forshee, Mayor

