

Sponsored by: City Staff

Bill No. 04-2024

Co-Sponsored by: City Staff

Ordinance No. 2024-04

AN ORDINANCE AMENDING TITLE VI. BUSINESS AND OCCUPATION OF THE CODE OF ORDINANCES OF THE CITY OF OVERLAND, MISSOURI, BY AMENDING CHAPTER 600 ALCOHOLIC BEVERAGES AS NOTED HEREIN

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OVERLAND, ST. LOUIS COUNTY, MISSOURI AS FOLLOWS:

Section 1. That Chapter 600, of the Municipal Code of the City of Overland, is hereby amended by the deletion of the following term and definition from **Section 610 Definitions** which reads as follows:

Section 600.010 Definitions.

NON-INTOXICATING BEER

Any beer manufactured from pure hops or pure extract of hops and pure barley or other wholesome grains or cereals, and wholesome yeast and pure water and free from harmful substances, preservatives, and adulterants, and having an alcohol 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.

Section 2. That Chapter 600, of the Municipal Code of the City of Overland, is hereby amended by the addition of the following terms and definitions to **Section 610 Definitions** which shall read as follows:

Section 600.010 Definitions.

DISORDERLY PLACE OR HOUSE

A licensee under this Chapter is maintaining or operating a disorderly place or house when the following violations occur:

- 1. Any acts of immorality;**
- 2. Any acts of lewd conduct (including as set forth in Section 600.155);**
- 3. Breaches of the peace;**
- 4. Exceeding occupancy limit of premises**

5. Suffering or permitting any acts prohibited under this Chapter;
6. Violation(s) of any provision of this Chapter;
7. Violation(s) of other City ordinances or State law or State regulations applicable to the premises;
8. The liquor and/or business license was obtained through materially false statements in the application for such license;
9. The licensee failed to make a complete disclosure of all pertinent information in the application for such liquor and/or business license;
10. The licensee, since the issuance of such license, has ceased to be the person actually engaged in the active control and management of the particular establishment for which the liquor and/or business license was issued;
11. The licensed premises are no longer used for the purposes permitted by the liquor and/or business license and after five (5) days' written notice, the licensee has failed to respond or satisfactorily explain the change; or
12. Anything has occurred which would render the licensed premises ineligible or unsuitable for a liquor and/or business license under the provisions of this Chapter.

FAILED TO KEEP AN ORDERLY PLACE OR HOUSE

A licensee under this Chapter has failed to keep an orderly place or house when a licensee under this Chapter has:

1. Had the Police called frequently to the licensed premises;
2. Failed to control the licensed premises;
3. Sold intoxicating liquor or beer at the licensed premises to minors or persons already intoxicated;
4. Failed to cooperate with properties neighboring the licensed premises; and/or

5. Failed to cooperate with reasonable suggestions pertaining to the licensed premises made by the Police Department or the Supervisor of Liquor Control.

The list of examples of failure to keep an orderly place or house shall be by way of example only and shall not be deemed to be exclusive in nature.

Section 3. That Chapter 600, of the Municipal Code of the City of Overland, is hereby amended by the repeal of **Section 600.180 License Application** which reads as follows, in its entirety;

Section 600.180 License Application.

Application for a license to sell intoxicating liquor under the provisions of this Article shall be filed with the City Clerk and shall be on forms to be furnished by the Clerk and signed and sworn to by the applicant.

Section 4. That Chapter 600, of the Municipal Code of the City of Overland, is hereby amended by the adoption of a new **Section 600.180 License Application**, to read as follows;

Section 600.180 License Application.

A. Application — Form and Content.

1. All applications for licenses under the provisions of this Chapter shall be made, in writing, to the City Clerk, on forms 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. Such forms, at a minimum, shall provide for and shall contain spaces for:

a. Designation of the class of license desired (including date(s) of event, in the case of a temporary license);

b. Description of the premises to which such licenses apply and the location or address thereof ("Description of the premises" shall include a site plan and a line drawing of the room(s) and/or areas in the buildings in which the controlled substances are stored, exhibited for sale, and served and consumed);

c. Name, place of residence, and mailing address of the person, individual, association, and partnership and

names of partners or corporation managing officer thereof for whom or which a license is sought;

d. Term of the license;

e. Signature of the applicant;

f. Verification that the applicant meets the qualifications of Section 600.190; and

g. Such other information as may be necessary to the City in administering this Chapter.

2. In the event a "Class A" license is sought for the sale of intoxicating liquor in the original package, the application form shall provide for and contain spaces for a description of the business engaged in by the applicant and the kind of stock or goods, and invoice value thereof, exclusive of fixtures, and intoxicating liquors kept in the business store of applicant. There shall be attached to applications a recent photograph of both the applicant and the place of business.

3. In the event a license is sought for the sale at retail by the drink for consumption on the premises where sold, of all kinds of intoxicating liquor, including the sale of intoxicating liquor in the original package (Classes C-E), the application forms shall provide for and contain spaces for information relating to the applicant's compliance with any criteria and requirements concerning the granting of such license, as the same are set forth and defined in this Code, including, but not limited to, building and sanitary codes.

4. In the event a license is sought for a premises which was issued a valid license for the previous license term, the application form shall verify that there were no instances of conduct in violation of Sections 600.060, 600.155, or any of the grounds for suspension or revocation contained in Section 600.250.

B. Licenses for Subsequent License Periods. Applications for issuance of licenses for a premises that was granted a license during the previous license period must be filed on or before the first day of June of each calendar year. Such application shall be reviewed by the City Council at its next meeting or as soon thereafter as is practical. Upon approval of the

majority of the City Council and payment of the license fee provided in this Chapter, the Clerk shall issue a new license.

C. *Prior Issuance Creates No Right to License Approval.* The issuance of a license for any license period does not create an automatic right to approval of a license for a subsequent license period.

Section 5. That Chapter 600, of the Municipal Code of the City of Overland, is hereby amended by the repeal of **Section 600.200. Issuance of License; Review** which reads as follows, in its entirety;

Section 600.200. Issuance of License; Review.

Upon the filing of an application for a license for the sale of intoxicating liquor, malt liquor, and non-intoxicating beer, under the provisions of this Article, said application shall be presented to the City Council at the next regular or special meeting thereof, and upon approval of said application by the City Council and upon payment of the license, the applicant shall be permitted to conduct business in this City until the following July.

Section 6. That Chapter 600, of the Municipal Code of the City of Overland, is hereby amended by the adoption of a new **Section 600.200. Issuance of License; Review** to read as follows;

Section 600.200. Issuance of License; Review.

A. *Issuance.* Upon the filing of an application for a license for the sale of intoxicating liquor or malt liquor under the provisions of this Chapter, said application shall be presented to the City Council at the next regular or special meeting thereof, or as soon as may be practicable, and upon approval of said application by the City Council and upon payment of the license, the applicant shall be permitted to conduct business in this City until the following July

B. *Review.* Every application shall be reviewed by the City Council for compliance with the provisions of this Code, and the City Council shall determine, in its sole discretion, if it is advisable to grant the license to the Applicant, if the proposed location is satisfactory, and if the issuance of such license is in the best interests of the health, safety, morals, and welfare of the City.

Section 7. That Chapter 600, of the Municipal Code of the City of Overland, is hereby amended by the repeal of **Section 600.240. License Renewal** which reads as follows, in its entirety;

Section 600.240. License Renewal.

All licenses granted to a licensee under this Article are given for a term of one (1) calendar year maximum. All licenses granted under this Article shall be valid only until July first (1st) of any given year. A license granted after July first (1st) of any given year is only valid until the next July first (1st), and fees for that partial term shall be at the yearly rate and will not be pro-rated or reduced in any way. All applications for a liquor license renewal of any kind shall be returned to the City Clerk no later than June first (1st) of any given year for consideration of a license starting July first (1st) of that same year. All applications for a liquor license renewal must include the correct total amount of fees for the license(s) requested at the time the application is returned to the City Clerk. Liquor license renewals may be granted at the discretion of the City Council upon the same qualifications, terms, and conditions as initial issuance of the license.

Section 8. That Chapter 600, of the Municipal Code of the City of Overland, is hereby amended by the adoption of a new **Section 600.240. License Renewal** to read as follows;

Section 600.240. License Renewal.

All licenses granted to a licensee under this Chapter are given for a term of one (1) calendar year maximum. All licenses granted under this Chapter shall be valid only until July first (1st) of any given year. A license granted after July first (1st) of any given year is only valid until the next July first (1st), and fees for that partial term shall be at the yearly rate and will not be pro-rated or reduced in any way. All applications for a liquor license renewal of any kind shall be returned to the City Clerk no later than June first (1st) of any given year for consideration of a license starting July first (1st) of that same year. All applications for a liquor license renewal must include the correct total amount of fees for the license(s) requested at the time the application is returned to the City Clerk. Liquor license renewals may be granted at the sole discretion of the City Council in accordance with the review procedures outlined in Section 600.200.B.

Section 9. That Chapter 600, of the Municipal Code of the City of Overland, is hereby amended by the repeal of **Section 600.250. License Suspension, Revocation** which reads as follows, in its entirety;

Section 600.250. License Suspension, Revocation.

Whenever it is shown to the City Council that a licensee hereunder has been guilty of a violation of the terms of this Chapter, or has been guilty of disorderly or undesirable conduct, or is an improper person to engage in such business, or

has been conducting a disorderly or undesirable place of business, or has violated any of the provisions of this Chapter or of the Liquor Control Act of the State of Missouri, or has no license from the State Supervisor of Liquor Control, or has made a false affidavit in his/her application for license, or has failed to furnish additional sureties on his/her bond after demand therefor by the City Council, the City Council may, upon its own motion, or upon complaint of any person, or in the event the licensee closes his/her place of business for ninety (90) days without good and sufficient cause, revoke or suspend for such time as the City Council may deem necessary and proper any license issued under the provisions hereof, and the action of the City Council shall be in addition to the penalties herein prescribed for violations of this Chapter. Before revoking or suspending any license, the City Council shall give to the licensee or to any person in charge of or employed in the place licensed, at least forty-eight (48) hours' written notice of any complaint and the date and place fixed for a hearing thereupon. At which hearing the licensee shall have a right to have counsel and produce witnesses in his/her behalf. In the event that any license issued hereunder shall, for any cause, be revoked or suspended, as provided in this Chapter, no portion of the fee paid therefor shall be refunded.

Section 10. That Chapter 600, of the Municipal Code of the City of Overland, is hereby amended by the adoption of a new **Section 600.250. License Suspension, Revocation** to read as follows;

Section 600.250. License Suspension, Revocation.

A. *Suspension or Revocation of License — When — Manner.* The City Council may suspend or revoke the license of any person for cause shown. In such cases, the City Clerk shall schedule a hearing before the City Council not less than ten (10) days prior to the effective date of revocation or suspension, and, prior to the hearing, the City Clerk shall give not less than ten (10) days' written notice to the licensee specifying the grounds for the suspension or revocation thereof 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 600.253 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., the Code of State Regulations applicable to the conduct of licensees or any employee, agent or servant of the licensee, or any ordinance of the City;***

2. Failing to obtain or keep a license from the State Supervisor of Alcohol and Tobacco Control;
3. Making a false affidavit in an application for or otherwise using materially false statements in the application for such license under this Chapter;
4. Maintaining or operating a disorderly place or house or failing to keep an orderly place or house, as defined by Section 600.010;
5. Selling, offering for sale, possessing or knowingly permitting the consumption on the licensed premises of any kind of intoxicating liquors, the sale, possession or consumption of which is not authorized under the license;
6. That the conduct of the business violates, or the licensed premises or the licensee are in violation of, any provision of this Code;
7. The licensed premises have been discontinued or abandoned;
8. The licensee, since the issuance of such license, has ceased to be the person actually engaged in the active control and management of the particular establishment for which the license was issued;
9. Conduct by the officers, employees, or managing officers of the Licensee such as public drunkenness when working or while on the Premises, indecent exposure when working or when on the Premises, or other behavior demonstrating improper conduct by an individual who is licensed by this Chapter. For purposes of this provision, the term "Premises" shall include the licensed premises, the parking lots and area around the business which is owned, use, or maintained as part of the business;
10. Lack of proper control of customers in that Licensee shall use good judgment in the sale of intoxicating beverages and shall not sell the same to persons obviously intoxicated. If any customer becomes unruly or abusive, it shall be the duty of the licensee to call and fully cooperate with police or other law enforcement authority. The licensee shall take appropriate and necessary steps to supervise the areas immediately outside the liquor establishment, shall keep said areas free from litter, and shall not allow such areas immediately outside the authorized liquor consumption premises to become a gathering location for the liquor establishment's customers; or

11. Selling, giving, or otherwise supplying intoxicating liquor to any person on the licensed premises during a term of suspension as ordered by the City Council.

C. Automatic Revocation/Suspension. A license shall be revoked automatically if:

1. 1. A 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.

2. A licensee is or has been convicted in any court of a violation of State laws relating to intoxicating liquors, or a conviction of a violation of this Chapter.

3. A violation of Section 600.155.

D. Effect of a Suspension. No person whose license shall have been suspended by order of the City Council shall sell or give away any intoxicating liquor, malt liquor, light wines 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 City Council's order of suspension in a conspicuous place on the premises so that all persons visiting the premises may readily see the same.

Section 11. That Chapter 600, of the Municipal Code of the City of Overland, is hereby amended by the adoption of a new Section 600.0253. Hearings Upon Suspension or Revocation of License to read as follows;

Section 600.0253. Hearings Upon Suspension or Revocation of Licenses.

A. Testimony — Evidence. The licensee shall be given reasonable notice of hearing and the grounds upon which discipline will be considered. Hearings before the City Council 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 three hundred (300) feet of the licensed establishment shall have the right to produce witnesses and testimony. In the event that the Applicant or Licensee fails to appear at the hearing, the evidence of the

existence of facts which constitute grounds for the suspension or revocation of the License shall be considered unrebutted.

B. Witnesses — How Summoned. Subpoenas may be issued by the City Council 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 City Council also may issue subpoenas duces tecum requiring the production of documents or other items pertaining to the subject of the inquiry.

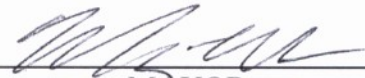
C. Witnesses to be Sworn. Before any witness shall testify in any such hearing, he/she shall be sworn by the City Clerk to tell the truth and nothing but the truth. Witnesses shall be subject to direct and cross examination by an attorney representing the licensee as well as attorneys representing other interested parties

D. Decision — Suspension or Revocation. If the evidence supports a finding that the license should be revoked or suspended, the City Council 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.

Section 12. That said Title VI. in all of its other provisions and as herein amended shall remain in full force and effect.

Section 13. This ordinance shall be in full force and effect from and after its passage and approval according to law.

PASSED this 8th day of April 2024.



MAYOR

April 8, 2024

Date of Approval

ATTEST:



CITY CLERK