BILL NO. 388

ORDINANCE NO. 388

AN ORDINANCE ENACTING A LIQUOR CONTROL ORDINANCE; PROVIDING FOR LICENSE REQUIREMENTS, FEES, CLASSIFICATIONS, AND LIMITS FOR RETAILERS OF INTOXICATING LIQUOR, MALT LIQUOR, AND NONINTOXICATING BEER; PROVIDING FOR THE REGULATION THEREOF; SETTING FORTH VIOLATIONS AND PROVIDING FOR THE ENFORCEMENT AND PUNISHMENT OF VIOLATIONS OF THIS ORDINANCE.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF WOOD HEIGHTS, MISSOURI, AS FOLLOWS:

Section 1. Title. This ordinance may be cited as the "Liquor Control Ordinance," of the City of Wood Heights, Missouri.

Section 2. Definitions

(a) Intoxicating Liquor. The term intoxicating liquor as used in this ordinance, shall mean and include alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt or other liquors, or combinations of liquors, a part of which is spirituous, vinous, fermented, and all preparations or mixtures for beverage purposes, containing in excess of three and two-tenths, (3.2%) per cent of alcohol by weight.

(b) Malt Liquor: Liquor, including 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, free from all harmful substances, preservatives and adulterants, and having an alcoholic content in excess of three and two-tenths (3.2%) per cent by weight, and not in excess of five (5%) per cent by weight.

(c) Nonintoxicating Beer: Any beer made from pure hops, or pure extract of hops, and pure barley malt, or other wholesome grains or cereals, and wholesome yeast and pure water, free from all harmful substances, adulterations and preservatives, and having an alcoholic content of more than one-half of one (½ of 1) per cent by volume and not exceeding three and two-tenths (3.2%) per cent alcohol by weight.

(d) Original Package: At least one (1) container of not less than eight (8) ounces of any intoxicating liquor containing in excess of five (5%) per cent alcohol by volume, or three (3) or more standard containers of malt liquor or nonintoxicating beer.

Section 3. Other definitions. For the purpose of this ordinance, the following terms are defined as follows:

(a) Person. The term "person" as seen and used in this ordinance shall mean and include an individual, partnership, firm, association or corporation, unless the context requires a contrary interpretation.

(b) Church. The term "church" shall mean and include any building or structure regularly and primarily used as a place of worship by any organized religious society, organization or congregation, regardless of whether or not such building or structure was originally designed and constructed for such purpose.

Section 4. Intoxicating liquor not to be sold within three hundred feet of school or church. No license shall be granted for the sale of intoxicating liquor as defined in this ordinance, within three hundred (300) feet of the premises of any school or church, unless the applicant for such license shall first obtain the consent in writing of the majority of the Board of Directors of such school, or the consent in writing of such church.

Section 5. License required, and period of time. It is hereby declared to be unlawful for any person, firm, copartnership, association or corporation, whether by itself or through the use of agents or servants, to engage in the sale or distribution of intoxicating liquors, malt liquor, or nonintoxicating beer, as in this ordinance defined, within the City of Wood Heights, Missouri, without first having taken out and obtained a license authorizing such sale or distribution in compliance with the terms of this ordinance.

(a) Said license to be issued for a period of one year from June 30 of each year, and where a license is applied for and issued after December 31st of any year, then the licensee shall pay a license fee equal to one-half of the annual fee, and thereafter all renewals of licenses shall be issued on June 30th of each year.

(b) If any licensee shall discontinue or abandon the operation of the liquor establishment for which liquor license was issued for a period of ninety (90) days or more the Board of Aldermen may declare such license abandoned or forfeited; provided that five days notice has been given by the City in writing of such action, and served by the Chief of Police at the last known address of the licensee or the address shown on the licensee's application for a liquor license.

Section 6. Qualifications of applicant.

No person shall be granted a license under this ordinance unless such person is of good moral character and a qualified legal voter and taxpaying citizen of the United States and the State of Missouri; nor shall any corporation be granted a license hereunder unless the managing officer of such corporation has the above-mentioned qualifications; and no person shall be granted a license or permit hereunder whose license as such dealer has been revoked, or who has been convicted, since the ratification of the Twenty-first Amendment to the Constitution of the United States, of a violation of the provisions of any law applicable to the manufacture or sale of intoxicating liquor, or who employs in his business as such dealer any person whose license has been revoked or who has been convicted of violating the provisions of any such law since the date aforesaid.

Section 7. Application for license.

(a) All applications for a license under the provisions of this ordinance shall be made in writing on forms approved and supplied by the city clerk to the Board of Aldermen, and shall

state specifically the class of license applied for as classified in Section 12 hereof, shall state the alcoholic content of the liquor and/or nonintoxicating beer to be sold under the license and whether the license applied for is for consumption on or off the premises where sold. All such applications shall state the name and address of the applicant or, if the applicant is a firm, partnership or association, all of the names and addresses of each member of the firm, partnership or association; or if the applicant is a corporation, the names and addresses of all the officers, the board of directors and all of the stockholders of the corporation. The application shall also describe the premises for which the license applied for shall cover and, after an inventory and valuation at cost, prices of goods other than intoxicating liquor at the proposed place of business shall accompany the application when required by this ordinance.

(b) Every applicant must submit a copy of his tax receipt for the year immediately preceding the date of the application of the county, town, city or village where he resides in the state; or, if the applicant is a corporation, a copy of the tax receipt for the year immediately preceding the date of the application of the managing officer of such corporation of the county, town, city or village in the state where such managing officer resides, or in lieu thereof, an affidavit of the county or city assessor wherein such applicant resides; or, if the applicant is a corporation, where the managing officer of such corporation resides, stating therein that the applicant or managing officer of such corporation, if a corporation, owns property for which he is legally subject and liable to taxation in the county, town, city or village where the applicant, or if a corporation, the managing officer of such corporation, resides in the state.

(c) Every applicant must submit a certificate of registration from the election board of the county where he resides, stating that the applicant is a qualified legal voter in the state.

(d) If, during the period for which a license is granted, there is any change of facts or information differing from those set forth in the original or any renewal application on file with the city clerk, written notice thereof must be given him within ten (10) days after such change.

(e) A bank draft, United States or express money order, certified check or cashier's check, made payable to the city clerk for the correct amount of the license fee, must accompany the application.

(f) There must be securely attached to the application a recent photograph or clean snapshot of the individual signing the application.

(g) A recent photograph of the exterior of the premises for which the license is sought must be attached to the application.

(h) If the application is being made for an original package an affidavit by the individual owner, all of the partners if a partnership, or the managing officer of a corporation if a corporation, must be submitted therewith, stating the type of business the applicant is engaged in, or in connection with which the license is to be used, and stating therein that the applicant has and at all times keeps in his 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.

(i) If the application is made by a partnership, it shall set out the names and residences of all the partners and whether they are active or silent partners. All partners must qualify under this article for a license and all partners shall sign the application.

(j) No license shall be granted to an applicant unless he makes full, true and complete answers to all questions in the application. If any applicant shall make any false statement of a material matter in his application, it shall be deemed cause for suspension or revocation of any license issued pursuant to such application.

Section 8. Granting of License.

(a) On approval of an application by the board of aldermen and payment of the license fee herein provided, the board of aldermen shall direct the city clerk to issue the applicant a license to conduct business at the specified location in the city for a period set forth in said license certificate. Every license issued under the provisions of this ordinance shall set forth the type of license granted, and shall particularly describe the premises at which alcoholic liquor may be sold thereunder; and such license shall not be deemed to authorize or permit the sale of alcoholic liquor at any place other than that described therein. No licensee under the provisions of this ordinance shall be permitted to move the location of said establishment as pertains to the subject of this ordinance unless said applicant has complied with the provisions of sections 9 through 10, and secured the express approval of the board of aldermen, nor shall any license be issued unless the licensee is in present possession of the premises described in his application, at the time the applicant's application is presented to the city clerk.

(b) The chief of police or any city policeman may inspect the premises of any licensee at a reasonable time, without warrant, and the acceptance of the license under this ordinance shall be construed as a waiver by the licensee of any constitutional provisions concerning search and seizure.

(c) Licenses granted under this ordinance shall be signed by the mayor of the board of aldermen and the city clerk, and the seal of the city shall be affixed by the city clerk.

Section 9. Transfer of License - Generally.

No license under this ordinance shall be transferred from one person to another nor shall said license be used at any place except on the premises for which said license is issued and a proper license shall be procured for each place of business for which a state license is required.

Section 10. Removal of License to Other Location.

A license may, subject to the approval of the board of alderman, be transferred to any other premises or to any other part of the building containing the licensed premises if the premises sought to be licensed meet the requirements of this ordinance. The board of alderman must first approve such a transfer and the application for permission to transfer must be in writing and set forth:

(a) The name and address of the licensee.

(b) The address and legal description of the premises to which removal is sought, together with the name and address of the landlord.

Section 11. Suspension or Revocation of License; Public Hearing.

(a) The board of alderman may, in its reasonable discretion and for cause, which shall include, but not be limited to a dealer licensed hereunder failing to keep at all times an orderly place, or upon violation by a licensee of any of the provisions of this ordinance, suspend or revoke any license issued hereunder, first having given such licensee not less than ten (10) days' written notice of the application to suspend or revoke his license prior to the order of suspension or revocation issuing, which notice shall contain the ground or grounds for such suspension or revocation set out therein and shall command the licensee to be present at a hearing before the board of alderman and show cause, if any, why such license should not be suspended or revoked; provided that such licensee shall have full right to be represented by counsel at said hearing and that such notice of suspension or revocation hearing shall be served by a police officer or may be served upon the licensee by leaving a copy thereof with the licensee or any person or employee in charge of the place of business of said licensee. Upon the suspension or revocation of any license, no license fee paid shall be refunded to the licensee.

(b) Every licensee shall, in addition to the requirements of this ordinance, comply in every respect with all federal liquor laws and with the liquor control law of the state, and any violation thereof shall be a valid reason for the suspension or revocation of any license issued under this ordinance.

(c) No licensee who shall have had his license suspended by order of the board of alderman shall sell or give away any intoxicating liquor or nonintoxicating beer during the period of time such order of suspension is in effect. Any licensee desiring to keep his premises open for the sale of food or merchandise during such period of suspension shall display the order of suspension issued by the board of alderman in a conspicuous place on the premises so that all persons visiting the premises may readily see the same.

Section 12. License fees; Classification; Limit.

The license classifications, license fees to be paid and imposed annually, and the limit of number of licenses to be issued are as follows:

(a) For a license authorizing the sale of nonintoxicating beer for consumption on the premises where sold, thirty-seven dollars and fifty cents ($37.50). The total number of licenses authorized for the sale of nonintoxicating beer under this classification shall not exceed two (2) until the total population of the city reaches two thousand (2000), and thereafter no license shall be issued when the granting thereof will increase the number of such licenses outstanding and in force to a greater number than one (1) for each one thousand (1000) people within the corporate limits of the City of Wood Heights, Missouri, or major fraction thereof as shown by the last decennial census.

(b) For a license authorizing the sale of nonintoxicating beer by grocers and other merchants and dealers, for sale in the original package, which is defined as any package containing three

(3) or more standard beer bottles, direct to the consumer not to be opened or consumed on the premises where sold, and not for resale, twenty dollars ($20.00). The total number of licenses authorized under this classification shall not exceed two (2) until the total population of the city reaches two thousand (2000), and thereafter no license shall be issued when the granting thereof will increase the number of such licenses outstanding and in force to a greater number than one (1) for each one thousand (1000) people within the corporate limits of the City of Wood Heights, Missouri, or major fraction thereof as shown by the last decennial census.

(c) For a license authorizing the sale of malt liquor containing alcohol not in excess of five (5) per cent by weight, by the drink, for consumption on the premises where sold, the sum of fifty-two and 50/100 dollars ($52.50). The total number of licenses authorized for the sale of malt liquor under this classification shall not exceed two (2) until the total population of the city reaches two thousand (2000), and thereafter no license shall be issued when the granting thereof will increase the number of such licenses outstanding and in force to a greater number than one (1) for each one thousand (1000) people within the corporate limits of the City of Wood Heights, Missouri, or major fractions thereof as shown by the last decennial census.

(d) For a license authorizing the sale of all intoxicating liquor at retail in the original package, not to be consumed upon the premises where sold, the sum of seventy-five dollars ($75.00); provided that no license under this classification shall be issued except to a person engaged in, and to be used in connection with the operation of one 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 store a stock of goods having a value according to invoices of at least one thousand dollars, exclusive of fixtures and intoxicating liquors. The total

number of licenses authorized under this classification shall not exceed two (2) until the total population of the city reaches two thousand (2000), and thereafter no license shall be issued when the granting thereof will increase the number of such licenses outstanding and in force to a greater number than one (1) for each one thousand (1000) people within the corporate limits of the City of Wood Heights, Missouri, or major fractions thereof as shown by the last decennial census. The drinking or consumption of intoxicating and nonintoxicating liquors and malt beverages shall not be allowed in, upon, or about the licensed premises of this classification by any person.

(e) For a license authorizing the sale of malt liquor containing alcohol in excess of three and two tenths (3.2) per cent by weight and not in excess of five (5) per cent by weight by grocers and other merchants and dealers for sale in the original package, which is hereby defined as any package containing three (3) or more standard beer bottles, direct to consumers, not to be opened or consumed on the premises where sold and not for resale, the sum of twenty dollars ($20.00). The total number of licenses authorized for the sale of malt liquor under this classification shall not exceed two (2) until the total population of the city reaches two thousand (2000), and thereafter no license shall be issued when the granting thereof will increase the number of such licenses outstanding and in force to a greater number than one (1) for each one thousand (1000) people within the corporate limits of the City of Wood Heights, Missouri, or major fractions thereof as shown by the last decennial census.

(f) For a license authorizing the sale of malt liquor containing alcohol not in excess of five (5) per cent by weight, by the drink at retail, for consumption on the premises of any restaurant bar described in the application, between the hours of 1:00 o'clock P.M. and midnight on Sunday, by applicant meeting the requirements of and in compliance with "Sunday Sale" or "Restaurant Bar" Statute of the State of Missouri, Section 311.097

R.S.Mo., an additional fee of Three Hundred Dollars ($300.00) per year.

Section 13. Beer Licensee not to serve setups or permit possession or consumption of hard liquor. No person holding a license for the retail sale of malt liquor by the drink for the sale of nonintoxicating beer by the drink shall knowingly sell, give away or serve upon the premises described in said license any glass, ice, water, soda water, phosphates or any other kind of liquids to be used for the purpose of mixing intoxicating drinks, and commonly referred to as "setups"' nor shall any such licensee permit any person while in or upon the premises covered by such license to possess or consume any intoxicating liquor other than malt liquor if the license is to sell malt liquor containing more than three and two-tenths (3.2%) per cent alcohol by weight, or any kind of intoxicating liquor if the license is to sell nonintoxicating beer, or to pour into, mix with or add intoxicating liquor to water, soda water, ginger ale, seltzer or other liquid.

Section 14. Delivery to Licensees by Wholesalers.

No wholesale distributor shall deliver or cause intoxicating liquors, wines, malt liquor, or nonintoxicating beer to be delivered to any premises in this city unless there shall be prominently displayed therein a license issued by the board of alderman to the person purchasing such liquor, beer or wine, designating such purchaser as a person licensed to sell on said premises the kind of liquor or beer of which said distributor is about to deliver.

Section 15. Prescription Sales.

Nothing in this ordinance shall be construed as limiting a druggist in the exercise of his business in compounding medicines or dispensing intoxicating liquor under prescription from a licensed physician.

Section 16. Visibility.

No licensee shall maintain, erect, or permit on any premises

APPROVED by the Mayor this 5 day of January, 1982.

Stephen A. Schmidt
Mayor

ATTEST:

Dorothy Covington
City Clerk