

TITLE VI

LICENSES

CHAPTER 6.01

CONTROL AND LICENSING OF DOMESTIC ANIMALS

6.0101 Applicability of Ordinance to Other Animals

The provisions hereof shall include dogs, cats and other domesticated animals, not specifically prohibited within the city limits, by ordinance, so far as applicable; but animals other than dogs are not required to be licensed. Animals specifically prohibited, shall not be allowed within the city limits.

6.0102 Definitions

The following are designated as definitions as used in this chapter:

- (a) The term “Dog” shall include both males and females, singular and/or plural where applicable. The term “Other Animals” shall include cats, rabbits, or other animals, males and/or females, singular and/or plural where applicable.
- (b) “Owner” means any person, firm or corporation, or legal entity having a possessory property right(s) in a dog, or other animal; or one who possesses, owns, houses, harbors, cares for, exercises control over, raises, confines, breeds, keeps, or knowingly permits such dog, or other animal, to remain on premises occupied by such person(s), or who creates the appearance of owing such dog, or other animal, that remains or to which it customarily returns daily for a period of ten (10) days is presumed to be harboring or keeping such dog or other animal.
- (c) “At Large” means to be off the premises of the owner or occupant and not under the control of the owner or member of his family or designated individual, either by leash or otherwise; but a dog within a vehicle of the owner shall be deemed to be upon the owner’s property.
- (d) “Vicious” or “Dangerous” dog, or other animal, shall be defined as:
 1. Any dog, or other animal, that, without intentional provocation, bites or attacks humans or other animals;
 2. Any dog, or other animal, with a propensity, tendency, or disposition to attack, to cause injury or to otherwise endanger the safety of human beings or domestic animals; any dog or other animal that approaches (or has approached) an individual in a threatening manner as if to be endangering the safety of such individual; or any dog or other animal that has demonstrated such characteristics in one or more incidents in the past; or
 3. Any pit Bull terrier which is defined as any dog identifiable, or know, or (should be known) by the owner to be, a pit bull terrier,

which shall herein be defined as any American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Pit Bull Terrier or other Pit Bull Terrier breed or dog or any mixed breed of dog which contains as an element of its breeding the breed of American Pit Bull Terrier, Staffordshire Bull Terrier, American Staffordshire Bull Terrier, or other Pit Bull breed as to be identifiable as partially of the breed of American Pit Bull Terrier, Staffordshire Bull Terrier, American Staffordshire Bull Terrier, or other Pit Bull Terrier.

4. Any Rottweiler breed of dog, which is defined as any dog identifiable or known to be, or should be known by the owner to be a Rottweiler breed of dog or any mixed breed of dog which contains as an element of its breeding the breed of Rottweiler or other Rottweiler breed as to be identifiable as partially or wholly of the breed of Rottweiler;
5. In the interest of immediate need for the public safety and welfare, any provisions of Section 6.0102 shall be in full force and effect immediately; and shall not be subject to the principle of pre-existing conditions (commonly referred to as “grandfather clause.”)

TITLE VI

CHAPTER 6.02

VIOLATIONS

6.0201 Dogs Running at Large Prohibited

It shall be unlawful for any person, firm or corporation, or owner of any dog, whether licensed or unlicensed, to allow any dog owned or controlled by such person, firm or corporation, or owner to run at large at any time beyond the limits of the property or premises of the owner, and upon the streets, sidewalks, alleys, parks, or recreation areas, property of another, or other public or private property. For the purpose hereof, a dog shall be considered to be running at large whenever such dog is not under the immediate control of a person able to do so by means of a leash, chain, rope, or electronic leash, and

- (a) with one end held by a person physically able to control the animal; or
- (b) with one end fastened securely to an object to control the animal; or
- (c) kept in a pen, fence, or other restraining enclosure; or
- (d) electronic leash, such as a collar and electronic device to control animal.

6.0202 Keeping Vicious or Dangerous Dog(s) Prohibited

It shall be unlawful for any person, firm or corporation, or owner to keep harbor, or allow to be present within the city, whether or not on the property or premises of the owner of occupant:

- (a) any vicious or dangerous dog or other animal; and/or
- (b) any pit bull terrier, as defined in this Section.

6.0203 Applicability to Adult Dogs Only

The provision of this chapter shall apply to adult dogs only, which shall mean any dog over the age of six (6) months.

6.0204 Immediate Removal or Destruction

Upon notice from a member of the police department, the owner of a dog, or other animal, declared or identified as a vicious or dangerous dog, or other animal, or is a pit bull terrier as defined in this Section, shall within 24 hours after such notice remove such dog, other animal, or pit bull dog from the city or destroy it.

Nothing in this chapter shall be construed to prevent immediate destruction of a vicious or dangerous dog, or other animal by a police officer.

- (a) if the owner does not comply with the order from a police officer to remove or destroy such dog, or other animal, in time allotted;
- (b) if the surrounding circumstances deem it necessary to take immediate action relative to removal or destruction; or
- (c) if the animal's owner and/or police officer is unable to restrain or control the dog, or other animal, so it might be impounded or removed.

6.0205 Allowing Dog to Disturb Peace Prohibited

It shall be unlawful for any person or owner to suffer or allow any dog owned or controlled by them to disturb the peace and quiet of the city.

6.0206 Keeping of Unlicensed Dog Prohibited

It shall be unlawful for any person or owner to keep or harbor within the city any dog not licensed as herein provided for.

6.0207 Failure to Report Dog Suffering from Rabies Unlawful

It shall be unlawful for any person or owner to keep or maintain in the city any dog, or other animal, which appears to be suffering from rabies or other infections or dangerous disease, and not immediately report such act to a veterinarian or other authority.

6.0208 Raising of Dogs or Other Animals in Quantity or Numbers; Restrictions; Prohibitions; Permits

This Section prohibits or restricts the raising of dogs, or other animals (as defined under “Owner” in Section 6.0102) in quantity or number, to protect the health, welfare, safety, and peaceable enjoyment of individuals and the preservation of individual property rights.

- (a) It shall be unlawful for any Owner to possess, own, house, harbor, care for, exercise control over, raise, confine, breed, keep, or knowingly permit dogs, or other animals, of/in a quantity or number exceeding three (3) dogs, three (3) cats, or three (3) genus, classes, or types of other animals at any one time:
 - 1. within three hundred feet (300’) of any residence or other structures whether occupied or not; or
 - 2. unless a “quantity Animal Permit” is approved and issued therefore by formal action of the City Council assembled in regular or special session, and duly acquired by, and issued to, the Owner.

6.0209 Application for "Quantity Animal Permit"; Requirements; Procedures

The application for a “Quantity Animal Permit” shall include the following procedures and requirements, which shall be documented and submitted with the application:

- (a) Applicant must first obtain all necessary and required Federal and/or State approval permits and/or licenses (where applicable) for the raising, breeding, disposition, and/or sale of dogs and/or other animals and their offspring; or for engaging in such and related activities. Proof of such permit or license must be submitted with the application.
- (b) Applicant must obtain the signatures of all residents, tenants, occupants, or owners of properties whose boundaries, or portions thereof, lie within three hundred feet (300’) of the location, or proposed location, where such dogs or other animals are possessed, owned, housed, harbored, cared for, exercised control over, raised, confined, bred, kept, or knowingly permitted. If any such property is unoccupied, the signature of the owner must be obtained.
- (c) The application must describe the intended purposes(s) of the activity(ies), the type of accommodations available, the proposed location, and the identification of animals and numbers to be covered under a proposed permit. In addition, the application must describe the procedural and operating safeguards to prevent abuse or public nuisance(s), as well as measures to protect the health, welfare, safety, and/or non-infringement upon the peaceable enjoyment of the property rights of others.

6.0210 Issuance of Permit; Term; Renewal(s); Revocability

The City Council shall reserve the right to exercise discretionary powers and/or rights in determining whether or not a “Quantity Animal Permit” shall/will be granted, issued, or approved initially, or subsequently renewed.

- (a) Permits and annual renewal permits shall be issued for periods of one year;

- (b) Applications for annual renewal(s) of said permit shall be submitted at least 30 days prior to the expiration date; and shall observe the requirements and procedures described in Section 6.0209, unless specifically waived separately for each renewal period by formal action of the City Council. Such specific waiver does not constitute a waiver for subsequent renewals, or for other applicants.
- (c) The permit fee for a “Quantity Animal Permit” and subsequent renewals, shall be Two Dollars (\$2.00) annually, to be submitted with the application therefore.

6.0211 Applicability of All Ordinances

The issuance of a “Quantity Animal Permit” does not provide exceptions, waivers, or exemptions for compliance with any, or all City Ordinances. All City Ordinances shall apply to the holder of such a permit or renewal, including Title VI, Chapters 6.01, 6.02, 6.03, 6.04, 6.05, and all Sections applicable thereto. The issuance of a “Quantity Animal Permit” shall not exempt the owner from licensing requirements.

TITLE VI

CHAPTER 6.03

LICENSES

6.0301 Annual License Fee Required

Each owner, keeper and person in charge of any dog shall, before the 1st day of May in each year, pay a license fee to the City Finance Officer or Police Officer for each dog. The City Council shall from time to time establish the rates and charges including the categories of collection or any other special categories or rates.

6.0302 When Licensing Not Required

No dog need be licensed if the dog is less than three months of age and is kept on the property of the owner.

6.0303 Rabies Vaccination Prerequisite to License

No License required by this division shall be issued for any dog unless it shall have been vaccinated by a licensed veterinarian with antirabic vaccine within three (3) months preceding the date on which the dog is licensed, or, in case of a permanent vaccine, at any time prior to the time of licensing. Vaccination with live embryonated egg vaccine within two (2) years shall be deemed vaccination sufficient to permit the issuance of the license required by this division, and a veterinarian’s certificate to that effect shall be in compliance with this section.

6.0304 Issuance of License Tag or Check to be Worn by Licensed Dog

The Finance Officer or Police Officer shall issue his receipt for the payment of the license fee imposed upon dogs by this division, and the Finance Officer or Police Officer shall issue to the person a certificate to the effect that the dog therein described has been duly registered and shall also deliver to such person a metal tag or check, which certificate and tag or check shall bear the registry number of the dog together with the year in which the certificate tag or check was issued, and the tag or check shall be securely fastened upon the collar of the dog so registered.

6.0305 Noncompliance

Any dog owner not in compliance with licensing procedures by May 1 of each year shall be subject to an additional penalty fee of \$2.00 for each dog license.

TITLE VI

CHAPTER 6.04

IMPOUNDMENT

6.0401 Duty to Impound Licensed, Unlicensed or Non-Vaccinated Dogs

It shall be the duty of each Police Officer, or any other person designated by the City Council, to apprehend any dog licensed, unlicensed or nonvaccinated as required herein or any vicious or dangerous dog or any dog appearing to be suffering from rabies or any other infectious or dangerous disease to impound said dog at a city pound or other suitable place designated by the City Council.

6.0402 Register of Impounded Dogs

The person designated to be in charge of the pound shall while receiving any dogs make a registry, entering the breed, color and sex of such dog, whether the dog is licensed, and the date and place the dog was apprehended. If the dog is licensed, he shall enter the name and address of the owner and the number of the license tag.

6.0403 Notice of Impoundment

The poundkeeper or other person in charge thereof shall immediately notify the owner of a licensed dog having the metal tag required herein as to the fact of the impounding. As to dog not having a metal tag, the poundkeeper or other person in charge shall immediately post a written notice at a conspicuous place at the community center with the information as above required.

6.0404 Impoundment and Maintenance Charges

The following charges are filed and must be paid to the Finance Officer before the dog impounded may be reclaimed:

- (a) For impounding a licensed dog, \$5.00; unlicensed dog, \$10.00
- (b) For keeping any dog, \$1.50 per day
- (d) All costs incurred by the City for vaccination or other veterinary expense.

6.0405 Unlicensed Dogs to be Vaccinated and Licensed

An unlicensed dog impounded must be licensed and vaccinated before such dog is released to its owner or keeper.

6.0406 Time for Keeping Dogs Impounded

Licensed dogs impounded pursuant hereto shall be kept for at least seven (7) days and unlicensed dogs impounded shall be kept for five (5) days after giving or posting of the notice required herein, and at the expiration of which time the dog required herein, and at the expiration of which time the dog shall be destroyed in some humane manner.

6.0407 Certain Dogs not to be Released

Any dog which appears to be suffering from rabies or any other infectious or dangerous disease shall not be released, but may be forthwith destroyed.

TITLE VI

CHAPTER 6.05

PENALTIES

6.0501 Penalties for Violations

Any person, firm or corporation, or owner upon conviction of violating any provision hereof shall be subject to jail sentence of not more than thirty (30) days, or by fine of not more than One Hundred Dollars (\$100.00), or by both fine and jail sentence.

6.0502 Penalties for Violations of "Raising Dogs or other Animals in Quantity or Numbers" Expanded

Penalties for violations of Sections 6.0208, 6.0209, 6.0210, and/or 6.0211 shall include impoundment (as in Chapter 6.04), but are hereby expanded to include dogs, cats, and/or other animals. Any person, firm or corporation, or Owner upon conviction of violating any provisions of Sections 6.0208, 6.0209, 6.0210, and/or Section 6.0211 shall be subject to jail sentence of not more than thirty (30) days, or by fine of not more than Two Hundred Dollars (\$200.00), or both fine and imprisonment.

6.0503 Dog Offense Fine and Court Costs Schedule

Any person convicted of the provisions of 6.01, 6.02, 6.03, 6.04 or Chapter 10 Section 10.0104 (barking dog), shall be deemed guilty of a Class II misdemeanor, and shall be required to pay the customary and normal standard court cost at time of first violation. Any subsequent violation shall incur a twenty-dollar (\$20.00) fine plus court cost for each offense thereafter.

TITLE VI

CHAPTER 6.06

PUBLIC DANCE HALLS

6.0601 Unlawful Without License

It shall be unlawful for any person or persons, firm or corporation, to conduct, operate or maintain a public dance hall within the City of Springfield, Bon Homme County, South Dakota, without first obtaining a license therefore from the City Council of said City.

6.0602 Public Dance Hall Defined

A public dance hall as the term is used in this chapter, shall be construed to mean any building, place or space open to public patronage, in which dancing wherein the public may participate, is carried on and to which admission may be had by the public by payment either directly or indirectly of an admission fee or price for dancing, for the personal gain or profit of the person, firm or corporation conducting, maintaining, or operating such dance hall.

6.0603 License – How Procured

Any person or persons, firm or corporation desiring to conduct, maintain or operate any public dance hall within the City of Springfield shall make application to the City Council of said city for permission therefore, which application shall state location of the room, place, hall or building, the name of the person or persons intending to operate the same and if a corporation, the names of the president, secretary and treasurer thereof, and if by a partnership, the names of the persons constituting the same and which application shall state the length of time for which license is applied. If said application shall be considered favorably, the Municipal Finance Officer shall issue a license to such applicant upon the payment of the license fee hereinafter provided.

6.0604 License Fee

The license fee to be paid for such license shall be \$5.00 for one night; \$10.00 for a week; \$25.00 by the month, and \$100.00 by the year; all such license fees to be credited to the general fund of the city.

6.0605 Minors Not Allowed

It shall be unlawful for any person or persons, firm or corporation engaged in conducting or operating a public dance hall in the City of Springfield, to suffer, permit or allow any person under the age of eighteen years, unaccompanied by his or her father, mother, or legally appointed guardian, to enter or remain in said dance hall. It shall be unlawful for any person or persons under the age of eighteen *18) years, unaccompanied by his or her father or mother, or legally appointed guardian, to enter or remain in said dance hall.

6.0606 Dances Forbidden

It shall be unlawful for any person or persons, firm or corporation, conducting or operating a public dance hall within the City of Springfield, to permit, suffer or allow any person or persons in attendance at such dance hall to dance or participate in any immodest, suggestive, lewd or immoral dance.

6.0607 Lighting Grounds

It shall be the duty of the person or persons, firm or corporation or manager in charge of such public dance hall within the City of Springfield, to provide adequate illumination for the purpose of lighting all of the adjoining grounds used by the participants in connection with such public dance hall, and all of said grounds adjoining said public dance hall and used in connection therewith shall be lighted during the entire time that such public dance hall shall be used for dancing at night.

6.0608 Dance Halls – When Open

It shall be unlawful for any person or persons, firm or corporation owning, controlling or operating a public dance hall within the City of Springfield, to suffer, permit, or allow the same to be open, or dances participated therein, between the hours of two o'clock a.m. and seven o'clock a.m., upon week days and the same shall be closed from the hour of twelve o'clock midnight on Saturday night and remain closed to the public until seven o'clock a.m. on the following Monday.

6.0609 Supervision

Such dance halls shall be open at all times when dances are being held to the Police Officers of the City of Springfield, and such Police Officers may enter such halls at any time and may remove any person found to be in an intoxicated condition or offending against morality or decency, or violating any law of the state of South Dakota or any ordinance of the City of Springfield; the City Council, if they deem it necessary, may require the employment of a matron or special officer to supervise dances conducted in a public dance hall, such matron or officer to be appointed by the City Council at a fixed compensation to be paid by the person or person, firm or corporation operating such dance hall.

6.0610 Penalties

Any person or persons, firm or corporation, violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be punished by a fine of not less than five dollars (\$5.00) nor more than one hundred dollars (\$100.00), or by imprisonment not exceeding thirty (30) days, or both such fine and imprisonment; and the City Council may revoke any license under the provision of this ordinance.

TITLE VI

CHAPTER 6.07

PEDDLERS, SOLICITORS, TRANSIENT MERCHANTS

6.0701 Definitions

The following terms as used in this chapter are defined as follows:

- (a) A “peddler” is a person engaged in the selling of personal property by going about from place to place or house to house to sell the same and who carries such property with him for delivery at the time of sale.
- (b) A “solicitor” is a person engaged in going about from place to place or house to house to solicit orders for or to offer to sell personal property for future delivery.
- (c) A “transient merchant” is any person, firm or corporation or association and agents of any of them transacting a temporary business where goods and merchandise are exposed for sale in any manner where such business is established for temporary operation only.

6.0702 License Required

It shall be unlawful for any person, firm, or corporation to pursue the occupation of a peddler, solicitor, or transient merchant as the same are defined by the preceding section(s) without first having procured a license therefore. Licenses for such purposes may be procured from the Municipal Finance Officer. Peddler’s solicitor’s or transient merchant license fee may be established by resolution by the City Council from time to time and establish the rates and charges including the categories of collection or any other special categories or rates.

The City may, at its discretion, waive all, or a portion thereof, of said license fee(s) for individual and/or specific situations when it is deemed to be to the best interests for the City to do so.

The provisions of this chapter shall not apply to traveling salesmen doing business exclusively with retail merchants nor to persons who market their own produce, fruits and garden or agricultural products.

6.0703 Violations Regarded as Nuisances

Any and all violations of the provisions of this chapter are hereby declared to be a public nuisance and the Chief of Police or his assistants are hereby directed and required to prevent such nuisances or to arrest persons engaged in committing the same and to take them before District Court for prosecution.

6.0704 Violation Constitute Misdemeanor

Any person guilty of violating the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one hundred dollars (\$100.00) together with the costs of prosecution and in default of payment of such fine may be committed to the city jail for a period not exceeding thirty (30) days.

TITLE VI

CHAPTER 6.08

INTOXICATION AND NON-INTOXICATING LIQUORS

6.0801 Licenses

No person shall sell, exchange, barter, distribute or keep for sale any intoxicating liquor nor any mean distilled, fermented, spirituous, vinous or malt beverages or other beverages containing alcohol, except sacramental wine, without first having obtained a license therefore pursuant to the provision of SDCL 1967 and/or any subsequent State and/or Federal Laws.

6.0802 Liquor Sale Limits

The City Council of the City of Springfield shall not approve any “on sale” or “off sale” applications unless said applicant’s place of business is situated within the then existing business or commercially zoned district of the City of Springfield.

6.0803 Unobstructed View

The place of business of a beer or liquor dealer shall be a room situated upon the street level and the windows of said room shall be unobstructed so that clear view of the interior thereof may be had from the front of said building and it shall not have any exit therefrom except from the front and rear of said building and the rear entrance shall not enter into any other room or building.

6.0804 Liquor Sales to be in the Open

It shall be unlawful for any dealers to sell liquor, malt beverages, or beer to any person who is not in complete view of every other person in the licensed premises and also observable from any and all points thereof.

6.0805 Gambling, Dances, Slot Machines, Etc.

It shall be unlawful for any beer or liquor dealer to permit or allow to be played in his licensed premises, any games of chance or to permit any public dancing, unless subsequently and specifically allowed by State Statutes.

6.0806 Sale to Certain Persons Prohibited

It shall be unlawful for any liquor, malt beverage, or beer licensee to sell any intoxicating liquor, malt beverage, or beer to any person who is intoxicated at the time or who is known to such seller to be a habitual or to any person to whom he has been requested not to sell by any member of the Liquor Control Commission, agent of the State Department of Justice and Public Safety, police officer, wife, mother, father, brother, sister or child of such person or to any spendthrift, insane or feeble-minded person, or to any person who is known to be supported in whole or in part by a charitable association or institution; provided, however, that the request mentioned herein shall be in writing and the person making such request, in order to make a record thereof, may compel any licensee to endorse an admission of service on the original or a copy of such request when presented and provided further that if any licensee shall refuse to admit service on said request, the person making the same may, at the time thereof, make an affidavit setting forth such service and may file such affidavit with the original or a copy of such request with the Liquor Control Commission where such request and affidavit shall be filed for the future use of any person interested therein.

6.0807 Intoxicated Persons

It shall be unlawful for any licensee to permit any intoxicated person to enter or remain on his said premises; and it shall be unlawful for any licensee to permit any person to become intoxicated on his licensed premises.

6.0808 Unsealed Liquor Prohibited in Certain Places

Be it ordained by the City of Springfield, South Dakota, that no person shall take, carry, or have in his possession upon a street, alley, or sidewalk, or public grounds of the City of Springfield any opened can, bottle, or other container in which there shall be any quantity of liquor.

6.0809 Liquor Sales Limited to Certain Hours

All provisions of SDCL 35-4 "Sale of Beverages", as amended, pertaining to "Liquor Sales Limited to Certain Hours" shall apply for the purposes and intent of this ordinance.

It shall be the duty of the owner or proprietor or such licensed premises or establishment to comply with this section and all provisions of SDCL 35-4, as amended.

The City of Springfield shall allow the sale, service, and consumption of alcoholic beverages on Sundays and Memorial Day for on-sale and off-sale licensee(s) as per SDCL 35-4-2.1 and SDCL 35-4-81.

No licensee within the City of Springfield shall sell serve, or allow to be consumed any alcoholic beverages on the premises covered by the license during any other hours. As per SDCL 35-4.

6.0810 Penalty

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and on conviction shall be punished by a fine of not less than Fifty Dollars (\$50) nor more than One Hundred Dollars (\$100), or by a jail sentence of not less than fifteen (15) days nor more than thirty (30) days, or by both fine and imprisonment.

TITLE VI

CHAPTER 6.09

ASSESSMENT OF MARKUP FROM MALT BEVERAGE LICENSEES

6.0901 Statutory Changes Relative to Malt Beverage Licensees

SDCL 35-4 as amended, created a one-strength Malt Beverage License, which allows such licensees to sell any strength of malt beverage available in South Dakota.

6.0902 Authority to Assess Markup

SDCL 35-4, as amended, created certain rights, powers, authorizations and/or requirements as they relate to the relationship of such malt beverage licensees to cities operating on-sale and/or off-sale municipal liquor stores. Accordingly, the city was authorized thereby to require beverage licensees to make purchases from/through the city; and the city was authorized to charge such licensees a discretionary markup ranging up to 10% of the gross sales of such licensees.

6.0903 Definition of Terms

For the purpose of this ordinance, the following terms, phrases, words, and derivations shall have the meaning given herein. When not consistent with the context, words used in present tense include present and future; words in plural number include singular number; and words in singular number shall include plural number. The word “shall” is always mandatory; and not merely directory.

- (a) “City” shall mean the City of Springfield, South Dakota.

- (b) The definition of “Malt Beverage” shall conform to the meaning intended by SDCL 35-4.2 as principally a liquor with malt-base derivative, commonly referred to as “beer”. It shall not include other alcoholic beverages.
- (c) The term “Malt Beverage Licensee” shall conform to the definition intended by SDCL 35-4.2. “Licensee” shall mean “malt Beverage Licensee”. “On-Sale” and “Off-Sale” Licensees shall be defined in accordance with Statutory Licensing definitions established by State Statutes.
- (d) “Purchase”, when referring to the Licensee, shall mean the purchase, acquisition, buying, inventory replenishment, and/or acceptance of delivery or possession by the Licensee for resale. Presence of malt beverages on the premises shall be construed as having been “purchased”, whether acquired by gift, transfer from another source, brought in or transferred onto the Licensee’s premises from the owner’s supplies elsewhere, or from any other source or method resulting in placing of malt beverages on/or/in the premises of the Licensee.
- (e) “Wholesaler”, “Distributor”, “Supplier shall refer to the wholesaler, provider, distributor, supplier, transporter, deliverer, and/or any other person or firm making Malt Beverages available to the Licensee for resale; or one who transfers possession thereof, whether actively or constructively involved in such activity, or through an agent or employee.
- (f) “Markup” shall mean a percentage applied to, or calculated on, the total invoice, including transportation charges (commonly referred to as the cost of goods “laid in”.) The Markup shall be based on the combined total cost of the goods purchased plus the transportation, if any.

6.0904 Purchase of Malt Beverage Supplies/Inventory from City Required

All on-sale and off-sale Malt Beverage Licensees within the corporate limits of the City of Springfield shall purchase their Malt Beverage supplies and merchandise for resale from the City of Springfield. This shall be accomplished through the following procedure or arrangement:

Licensees will make all Malt Beverage purchases from the Wholesalers or Distributors; and such Licensees shall pay the Wholesalers or Distributors directly for such purchases; but such Licensees shall thereafter pay a required Markup traditionally to the City of Springfield as specified herein.

6.0905 Rate of Markup Payable to City

Payments of five percent (5%) Markup on all invoices for purchases of Malt Beverage supplies for resale, as defined in this Ordinance, shall be made by all Licensees to the City of Springfield.

6.0906 Duties of Wholesaler and Distributor

It shall be the duty of any, and all Wholesalers and/or Distributors selling and/or delivering Malt Beverages to Licensees to do the following, so the City may establish and maintain control for compliance with the Markup payment liability

- (a) The Wholesaler or Distributor shall require the retail Licensees, or the Licensee's agent, to sign the invoice immediately upon the purchase by the Licensee and/or delivery or transfer of possession of Malt Beverage supplies by the Wholesaler or Distributor to the Licensee.
- (b) The Wholesaler or Distributor shall provide a signed copy of each such invoice to the Municipal Finance Officer, of the City of Springfield, under either one of the following options:
 1. Immediately after the sale and/or delivery of such Malt Beverage supplies to the Licensee; or
 2. Maintaining a complete accumulation of all invoices for each calendar month; and submitting such monthly accumulations or invoices at one time, and within five (5) days following the end of each calendar month.

6.0907 Duties of Licensee

- (a) The Licensee shall keep an accurate accounting of all Malt Beverage purchases made during each calendar month.
- (b) The Licensee shall furnish such accounting to the Municipal Finance Officer of the City of Springfield, a written record of such purchases made during each calendar month; and shall furnish such accounting within five (5) day after the end of the calendar month.
- (c) Upon reconciliation of the invoices supplied by the Wholesaler or Distributor with the accounting data provided by the Licensee, the Municipal Finance Officer shall calculate the Markup amount due and payable to the City of Springfield by the Licensee; and shall send a billing therefore to the Licensee.
- (d) Upon receiving a billing from the Municipal Finance Officer, the Licensee shall remit and/or pay the full amount due and payable each month on, or before, the fifth (5th) day after such billing date.
- (e) The Licensee may be required by the city to pay a fine for repeat tardiness or non-submission of the accounting data or the monthly markup payment liability occurring within twelve (12) consecutive months. First notice of tardiness or non-submission by Licensee to the city shall pay a fifty dollars (\$50.00) fine; second occurrence of tardiness or non-submission, a fine of one hundred dollars (\$100.00); third occurrence may be subject to termination of license.