

CHAPTER 21

LIQUOR

ARTICLE I - GENERALLY

21-1-1 **DEFINITIONS.** Unless the context otherwise requires, the words and phrases herein defined are used in this Chapter in the sense given them in the following definitions:

"ALCOHOL" means the product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, and includes synthetic ethyl alcohol. It does not include denatured alcohol or wood alcohol.

"ALCOHOLIC LIQUOR" includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and capable of being consumed as a beverage by human beings. The provisions of this Chapter shall not apply to alcohol used in the manufacture of denatured alcohol produced in accordance with **Acts of Congress** and regulations promulgated thereunder, nor to any liquid or solid containing **one-half of one percent** or less of alcohol by volume. **(See 235 ILCS 5/1-3.05)**

"BEER" means a beverage obtained by the alcoholic fermentation of an infusion or concoction of barley or other grain, malt and hops in water, and includes, among other things, beer, ale, stout, lager beer, porter and the like. **(See 235 ILCS 1-3.04)**

"CATERER RETAILER" means a person who serves alcoholic liquors for consumption, either on-site or off-site, whether the location is licensed or unlicensed, as an incidental part of food service. Prepared meals and alcoholic liquors are sold at a package price agreed upon under contract. **(See 235 ILCS 5/1-3.34)**

"CLOSE" means to shut up so as to prevent entrance or access by any person; and the entire suspension of business.

"CLUB" means a corporation organized under the laws of this State and not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquors, kept, used and maintained by its members, through the payment of annual dues, and owning, hiring or leasing a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and provided with suitable and adequate kitchen and dining space and equipment and maintaining a sufficient number of servants and employees for cooking, preparing and serving food and meals for its members and their guests; provided that such club files with the Mayor at the time of its application for a license under this Chapter, **two (2) copies** of a list of names and residences of its members, and similarly files within **ten (10) days** of the election of any additional member, his name and address; and provided further, that its affairs and management are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting and that no member or officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation any profits from the distribution or sale of alcoholic liquor to the club or its members or guests introduced by members, beyond the amount of such salary as may be fixed and voted at the annual meeting by the members or by the board of directors or other governing body out of the general revenue of the club. **(See 235 ILCS 5/1-3.24)**

"CORPORATION" means any corporation, domestic or foreign, qualified to do business in the State of Illinois under the "Business Corporation Act" of Illinois. **(Rule 100.10(b))**

"DISTILLED SPIRITS". See "Spirits".

"EVENT" means a single theme. **(Rules and Regulations 100.10(o))**

"HOTEL" means every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which **twenty-five (25)** or more rooms are used for the sleeping accommodations of such guests and having **one (1)** or more public dining rooms where meals are served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or buildings in connection therewith, and such building or buildings, structure or structures being provided with adequate and sanitary kitchen or dining room equipment and capacity. **(See 235 ILCS 5/1-3.25)**

"MANAGER" OR "AGENT" means any individual employed by any licensed place of business, provided said individual possess the same qualifications required of the licensee. Satisfactory evidence of such employment will be furnished the Commission in the form and manner as such Commission shall from time to time prescribe. **(Rule 100.10(f))**

"MAYOR" means the Local Liquor Control Commissioner as provided in the **Illinois Compiled Statutes, Chapter 235, entitled "Dramshop"** and all references to Liquor Commissioner shall refer to the Mayor unless otherwise provided.

"MEAL" means food that is prepared and served on the licensed premises and excludes the serving of snacks. **(Rules and Regulations 100.10(n))**

"ORIGINAL PACKAGE" means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container, whatsoever, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor. **(See 235 ILCS 5/1-3.06)**

"PACKAGE LIQUOR STORE" means any public place where packaged liquors are offered for sale in the original, unopened container for consumption away from the premises.

"PARTNER" is any individual who is a member of a co-partnership. "Co-partnership" means an association of **two (2)** or more persons to carry on as co-owners of a business for profit. **(Rules and Regulations 100.10(d)(e))**

"PREMISES/PLACE OF BUSINESS" means the place or location where alcoholic beverages are manufactured, stored, displayed, offered for sale or where drinks containing alcoholic beverages are mixed, concocted and served for consumption. Not included are sidewalks, street, parking areas and grounds adjacent to any such place or location. **(Rules and Regulations 100.10(g))**

"PRIVATE FUNCTION" means a prearranged private party, function, or event for a specific social or business occasion, either by invitation or reservation and not open to the general public, where the guests in attendance are served in a room or rooms designated and used exclusively for the private party, function or event.

"PUBLIC PLACE" means any premises enclosed or unenclosed or partly enclosed and partly unenclosed wherein any service or goods, chattels or merchandise are offered for sale to the public or any such premises used as a clubhouse, club room or meeting place. The terms **"public place"** and **"public premises"** shall be interchangeable for the purposes of this Chapter.

"RESIDENT" means any person (other than a corporation) who has resided and maintained a bona fide residence in the State of Illinois for at least **one (1) year** and in the city, village and county in which the premises covered by the license are located for at least **ninety (90) days** prior to making application for such license and is a registered voter. **(Rule 100.10(a))**

"RESORT" means every building and associated structure and grounds kept, used, maintained, advertised and held out to the public to be a place for sleeping accommodations and recreational activities offered for adequate pay to travelers and guests, and of which **twenty-five (25)** or more rooms are used for the sleeping accommodations of such guests and having **one (1)** or more associated structures for the recreational activities of guests in connection therewith, and such buildings, structure or structures as may be provided with adequate and safe recreational grounds, equipment and services. **(Ord. No. 98-31; 12-18-98)**

"RESTAURANT" means any public place kept, used, maintained, advertised, and held out to the public as a place where meals are served, and where meals actually are served and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. **(See 235 ILCS 5/1-3.23)**

"RETAILER" means a person who sells or offers for sale alcoholic liquor for use or consumption and not for resale in any form. **(See 235 ILCS 5/1-3.17)**

"SALE" means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration, and includes and means all sales made by any person, whether principal, proprietor, agent, servant or employee. **(See 235 ILCS 5/1-3.21)**

"SELL AT RETAIL" and "SALE OF RETAIL" refer to any mean sales for use or consumption and not for resale in any form. **(See 235 ILCS 5/1-3.18)**

"SPECIAL EVENT" means an event conducted by an educational, fraternal, political, civic, religious or non-profit organization. **(See 235 ILCS 5/1-3.30)**

"SPECIAL EVENTS RETAILER" means an educational, fraternal, political, civic, religious, or non-profit organization which sells or offers for sale beer or wine, or both, only for consumption at the location and on the dates designated by a special event retail license. **(See 235 ILCS 5/1-3.17.1)**

"SPIRITS" means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors and such liquors when rectified, blended or otherwise mixed with alcohol or other substances. **(See 235 ILCS 5/1-3.02)**

"TO SELL" includes to keep or expose for sale and to keep with intent to sell. **(See 235 ILCS 5/1-3.22)**

"WINE" means any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables containing sugar, including such beverages when fortified by the addition of alcohol or spirits as above defined. **(See 235 ILCS 5/1-3.03)**

"WINERY" means every building and associated structure and grounds kept, used, maintained, advertised and held out to the public as a place of production and/or bottling of wine for human consumption including such on-site consumption as appropriate to market the product thereon produced or bottled. **(Ord. No. 98-31; 12-18-98)**

[All references to "Rules" refer to Illinois Liquor Control Commission Rules located in Title 11; Subtitle A; Chapter 1; Part 1; Section 100.5 et seq. of the Illinois Administration Code.]

ARTICLE II - LICENSES

21-2-1 **LICENSE REQUIRED.** No person shall sell, keep or offer for sale at retail, or conduct any place for the sale at retail of alcoholic liquor within the limits and territory of this municipality without having a license to do so, issued by the Mayor of this municipality in the manner hereinafter provided, and a valid license for such purpose issued by the **Illinois Liquor Control Commissioner of the State of Illinois.**

A similar valid license issued by the Mayor of this municipality is hereby required for and with respect to each building, location and premises, within the aforesaid territory of this municipality, at or upon which alcoholic liquor is to be sold or kept or offered for sale at retail. **(See 235 ILCS 5/4-1)**

21-2-2 **APPLICATIONS.** The Mayor is authorized to grant and issue licenses to individuals, firms, and corporations to sell at retail and to keep and offer for sale at retail alcoholic liquors within the limits and territory of this municipality upon the conditions and in the manner provided by this Chapter and by the **Act of the General Assembly of Illinois**, and not otherwise. Such license shall be in writing, signed by the Mayor and attested by the City Clerk, with the seal of his office affixed thereto.

Prior to issuance of a license, the applicant must submit to the Mayor an application in triplicate, in writing and under oath, stating the following:

(A) The name, age, and address of the applicant in the case of an individual; in the case of a co-partnership, the persons entitled to share in the profits thereof, and in the case of a corporation for profit or a club, the date of incorporation, the object for which it was organized, the names and addresses of the officers, directors and the name of the person who will be managing the establishment for which the license is sought, and if a majority in interest of the stock of such corporation is owned by one person or his nominee, the address and name of such person.

(B) The citizenship of the applicant, his place of birth and if a naturalized citizen, the time and place of his naturalization.

(C) The character of business of the applicant, and in the case of a corporation, the objects for which it was formed.

(D) The length of time that the applicant has been engaged in the business of that character or in the case of a corporation, the date on which its charter was issued.

(E) The location and description of the premises or place of business which is to be operated under such license.

(F) Whether applicant has made similar application for a similar other license on premises other than described in the application and the disposition of such application.

(G) That applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in the aforesaid **Act of the General Assembly** or in this Chapter or resolution and amendments thereto.

(H) Whether a previous license issued to the applicant by any state, or subdivision thereof, or by the federal government has been revoked and the reasons therefor.

(I) That he will not violate any of the laws of the State of Illinois or of the United States, or any of the provisions of this Chapter or resolution and amendments thereto in the conduct of his place of business.

In the case of a partnership or corporation, the information and statements required by this Section shall be furnished as to each partner, and with respect to a corporation, the information and statements required by this Section shall be furnished as to the president of the corporation, the secretary of the corporation, the directors of the corporation, and with respect to the person who is to manage the establishment for which a license is sought.

If the application is made on behalf of a partnership, firm, association, club or corporation, then the same shall be signed and sworn to by at least **two (2) members** of such partnership, firm, association or club, or by the president and secretary of such corporation.

One (1) copy of the application shall be retained by the Mayor, **one (1) copy** given to the Chief of Police; the Chief of Police shall endorse on the copies his approval or disapproval of the application and

may make further comments regarding that application. The copies shall be returned to the Mayor and the endorsement and comment of the Chief of Police shall be considered by him as an aid in deciding whether the license should be issued or refused. **(See 235 ILCS 5/7-1)**

21-2-3 EXAMINATION OF APPLICANT. The Mayor shall have the right to examine or cause to be examined, under oath, any applicant for a local license or for renewal thereof, or any licensee upon whom notice of revocation or suspension has been served in the manner hereinafter provided, and to examine or cause to be examined, the books and records of any such applicant or licensee; to hear testimony and take proof for his information in the performance of his duties, and for such purpose to issue subpoenas which shall be effective in any part of this State. For the purpose of obtaining any of the information desired by the Mayor under this Section, he may authorize his agent to act on his behalf. **(See 235 ILCS 5/4-5)**

21-2-4 PROHIBITED LICENSEES. Except as otherwise provided in paragraph (U) of this Section, no license of any kind shall be issued by the Mayor to the following:

- (A) A person who is not a resident of this City;
- (B) A person who is not of good character and reputation in the community in which he resides;
- (C) A person who is not **twenty-one (21) years** of age;
- (D) A person who has been convicted of a felony under any Federal or State law, unless the Commission determines that such person has been sufficiently rehabilitated to warrant the public trust after considering matters set forth in such person's application and the Commission's investigation. The burden of proof of sufficient rehabilitation shall be on the applicant;
- (E) A person who has been convicted of being the keeper of or is keeping a house of ill-fame;
- (F) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency or morality;
- (G) A person whose license issued under this Act has been revoked for cause;
- (H) A person who, at the time of the application for renewal of any license issued hereunder, would not be eligible for such license upon first application;
- (I) A co-partnership, if any general partnership thereof, or any limited partnership thereof, owning more than **five percent (5%)** of the aggregate limited partner interest in such co-partnership would not be eligible to receive a license hereunder for any reason other than residence within the political subdivision, unless residency is required by local ordinance;
- (J) A corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than **five percent (5%)** of the stock of such corporation, would not be eligible to receive a license hereunder for any reason other than citizenship and residence within the political subdivision;
- (K) A corporation unless it is incorporated in Illinois, or unless it is a foreign corporation which is qualified under the "**Business Corporation Act of 1983**" to transact business in Illinois;
- (L) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses the same qualifications required by the licensee;
- (M) A person who has been convicted of a violation of any Federal or State law concerning the manufacture, possession or sale of alcoholic liquor, subsequent to the passage of this Act or has forfeited his bond to appear in court to answer charges for any such violation;
- (N) A person who does not beneficially own the premises for which a license is sought, or does not have a lease thereon for the full period for which the license is to be issued;
- (O) Any law enforcing public official, including members of local liquor control commissions, any mayor, alderman, or member of the city council or commission, and no such official shall be interested directly in the manufacture, sale, or distribution of alcoholic liquor, except that a license may be granted to such official in relation to premises that are not located within the territory subject to the jurisdiction of that official if the issuance of such license is approved by the State Liquor

Control Commission and except that a license may be granted, in a city with a population of **fifty thousand (50,000)** or less, to any alderman, member of a city council, in relation to premises that are located within the territory subject to the jurisdiction of that official if (i) the sale of alcoholic liquor pursuant to the license is incidental to the selling of food, (ii) the issuance of the license is approved by the State Commission, (iii) the issuance of the license is in accordance with all applicable local ordinances in effect where the premises are located, and (iv) the official granted a license does not vote on alcoholic liquor issues pending before the board or council to which the license holder is elected;

(P) A person who is not a beneficial owner of the business to be operated by the licensee;

(Q) A person who has been convicted of a gambling offense as prescribed by any of subsections (a)(3) through (a)(11) of Section 28-1 of, or as proscribed by Section 28-1.1 or 28-3 of, the Criminal Code of 1961, or as prescribed by a statute replaced by any of the aforesaid statutory provisions;

(R) A person or entity to whom a federal wagering stamp has been issued by the federal government, unless the person or entity is eligible to be issued a license under the Raffles Act or the Illinois Pull Tabs and Jar Games Act;

(S) A person who intends to sell alcoholic liquors for use or consumption on his or her licensed retail premises who does not have liquor liability insurance coverage for that premises in an amount that is at least equal to the maximum liability amounts set out in Section 5/6-21 of Chapter 235 of the Illinois Compiled Statutes;

(T) A person who is delinquent in the payment of any indebtedness or obligation to the City;

(U) A criminal conviction of a corporation is not grounds for the denial, suspension, or revocation of a license applied for or held by the corporation if the criminal conviction was not the result of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor, the offense that led to the conviction did not result in any financial gain to the corporation and the corporation has terminated its relationship with each director, officer, employee, or controlling shareholder whose actions directly contributed to the conviction of the corporation. The Mayor shall determine if all provisions of this paragraph (U) have been met before any action on the corporation's license is initiated. **(See 235 ILCS 5/6-2)**

21-2-5 TERM OF LICENSE – DISPOSITION OF FEES. Retail liquor licenses issued under this Chapter shall be valid for **six (6) months** or **one (1) year** respectively, upon the payment of the license fee as herein set forth, unless sooner revoked or suspended. The **six (6) month period** shall be from **May 1st** of each year to **October 31st** and from **November 1st** to **April 30th** of the succeeding year. The license fee shall be payable in advance by the applicant for a license at the time the application for a license is submitted to the Local Liquor Control Commissioner as herein provided. The fee to be paid shall be reduced in proportion to the full calendar months which have expired in the year, prior to the issuance of the license. In the event the license is denied, the license fee shall be returned to the applicant. The fees shall be deposited with the City Treasurer, who shall deposit such fees in the City General Fund. The application for a license shall be filed with the City Clerk.

(A) **Licensee Information.** Licenses shall state thereon the names of the licensees and the address and description of the premises for which they are granted and the dates of their issuance and expiration.

(B) **Corporations; Manager.** With respect to a corporation operating an establishment for which a liquor license has been issued, should the manager of said establishment change after the issuance of said liquor license, the corporation **must submit** the new manager's name and shall be submitted within **thirty (30) days**. Continuation of the license will be contingent upon a background check of the new manager as set out in this Chapter, and all fees shall be waived should the license be changed only as a result of a change of managers. If, for some reason, the manager is not acceptable, the licensee shall have **thirty (30) days** to submit a new name before revocation. Failure to provide new information shall be grounds for suspension or revocation of said license.

(C) **Delinquent Payment of City Debt.** No licensee shall become delinquent on payments for any services, loans or other contractual agreements received by the licensee or the licensed establishment from the City. For the purpose of this Section, a licensee shall be considered to be

delinquent if the licensee is currently in arrears for more than **fifteen (15) days** on an outstanding debt owed to the City, or has been in arrears for more than **fifteen (15) days** on a payment to the City for services, loans or other contractual agreements, **two (2)** or more times within a **two (2) year** period. For the purpose of this Section, "licensee" shall refer to the liquor license applicant, its officers, directors, registered agents and any stockholders owning **five percent (5%)** or more of the corporate stock and any individual or partner as listed on the application currently in effect. **(Ord. No. 2004-16; 05-10-14)**
(See 235 ILCS 5/4-1)

21-2-6 **LICENSE CLASSIFICATION, FEES, LIMITATION.** Licenses issued by the Local Liquor Control Commissioner shall be of the following classes:

(A) **Class "A" License**, which shall entitle the licensee to sell alcoholic liquor of all kinds in the place named therein, by the drink to be consumed on the premises, as well as in unbroken original packages as defined in this Chapter, and not to be consumed on the premises, but not for resale. The annual fee for such license shall be **One Thousand One Hundred Dollars (\$1,100.00)**. The reduction of Class "A" licenses from **nine (9)** to **seven (7)** shall occur as existing licenses are revoked, not renewed or not transferred. The transfer of licenses to a new owner shall not be affected provided all regulations are met. **(Ord. No. 15-07; 03-09-15)**

(B) **Class "B" License**, which shall entitle the licensee to sell alcoholic liquors of all kinds in the place named therein, in its original package as defined in this Chapter and not to be consumed on the premises and not for resale. The annual fee for such license shall be **Eight Hundred Eighty Dollars (\$880.00)**. There shall not be more than **six (6)** Class "B" licenses in effect at any time.

(C) **Class "C" License**, which shall be issued to a club only, as defined in this Chapter, and shall entitle said club to sell in the place named therein, by the drink to be consumed on the premises, as well as in unbroken original packages as defined in this Chapter not to be consumed on the premises, but not for resale. There shall not be more than **five (5)** Class "C" licenses in effect at one time. The annual fee for such license shall be **Four Hundred Forty Dollars (\$440.00)**. **(Ord. No. 15-05; 01-23-15)**

(D) **Class "D" License**, which shall be issued to a hotel only, as defined in this Chapter, and shall entitle said hotel to sell in the place named therein, by the drink to be consumed on the premises, as well as in unbroken original packages as defined in this Chapter and not to be consumed on the premises, but not for resale. The annual fee for such license shall be **One Thousand One Hundred Dollars (\$1,100.00)**.

(E) **Class "E" License**, which shall be issued to a restaurant only, as defined in this Chapter, and shall entitle said restaurant to sell in the place therein, by the drink consumed on the premises beer and wine only. The annual fee for such license shall be **Five Hundred Fifty Dollars (\$550.00)**. **(See 235 ILCS 5/4-1)**

(F) **Class "E1" License**, which shall be established to authorize the retail sale of all alcoholic liquor (spirits, wines and/or beer), by the drink and not by the package, and wine where it may be sold in its original package, with food for consumption on the premises only subject to the conditions of this subsection (E1) license class, subsections (1) through (6), inclusive, of this Section and to the terms, conditions, and restrictions of this and all other pertinent sections of this Code.

- (1) The Class E1 licensee shall offer for sale all restaurant menu items for consumption on the premises during the hours the kitchen is open as approved per the license.
- (2) A Class E1 license shall not be issued to the applicant unless the premises for which the application is made is operated as a business which collects at least **fifty-one percent (51%)** of its gross retail sales revenue from the sales of non-alcoholic beverages and food.
- (3) Should a Class E1 license have been issued to the applicant for the premises in the preceding year for which the applicant for a new or renewal license is made, a Class E license shall not be issued to the applicant for the premises unless the applicant submits to the Local Liquor Control Commissioner sufficient documentation to establish that at

least **fifty-one percent (51%)** of the gross retail sales at that location in the license period immediately preceding that year, or a part thereof if the license had been issued after the first day of the license period, where collected from the sales of non-alcoholic beverages and food.

- (4) The determination of the sufficiency of the documentation referred to in subsection (3) above, shall be in the sole discretion of the Local Liquor Control Commissioner. The Local Liquor Control Commissioner may, in his or her discretion, require an audit of the records of the establishment, which is operated by the applicant and for which the license is sought, in order to prove compliance with subsection (3) above. The cost of producing any documentation, including the audit, shall be borne by the applicant. The audit shall be prepared by a certified public accountant and shall cover the time period as ordered by the Local Liquor Control Commissioner.
- (5) An establishment issued an E1 license shall be furnished with kitchen facilities and equipment sufficient for food preparation and service as defined herein.
- (6) Any Class E1 Licensee, upon application to and approval by the Local Liquor Control Commissioner, may make retail sales of alcoholic liquor in the original package only, with food only, for consumption off the premises, subject to the following conditions:
 - (a) No alcoholic liquor may be sold by any Class E1 licensee without the simultaneous sale or consumption of a food item listed for consumption on its premises. The Class E1 licensee shall not sell alcoholic liquor with the simultaneous purchase of an item listed in the appetizer, dessert, or side order section of its menu for consumption off the premises; and
 - (b) The Class E1 licensee shall submit a fee of **One Hundred Dollars (\$100.00)** in addition to the fee required pursuant to this Chapter.
- (7) Upon application to and approval by the Local Liquor Control Commissioner, a Class E1 licensee may manufacture and sell at retail micro brewed beer by the drink for consumption on the premises and by the package for consumption off the premises, provided that the beer is brewed on the premises and the licensee submit a fee of **One Hundred Dollars (\$100.00)** in addition to all fees as required pursuant to this Chapter.

(G) **Class "G" License**, which shall be issued to a resort or winery only, as defined in this Chapter and shall entitle said resort to sell in the place named therein, by the drink to be consumed on the premises, as well as in unbroken original packages as defined in this Chapter and not be consumed on the premises, but not for resale. All provisions of the City Code not inconsistent with this Section shall apply. The annual fee for a resort shall be **One Thousand One Hundred Dollars (\$1,100.00)**. The annual fee for issuance of a winery license shall be **Eight Hundred Eighty Dollars (\$880.00)**.

(H) **Class "H" License**, which shall be issued to an educational, fraternal, political, civic, religious, or non-profit organization for the sale of beer or wine, or both, only for consumption at the location and dates designated on the license. The annual fee for this license shall be **One Hundred Ten Dollars (\$110.00)**. A license under this provision shall not be transferred or assigned. The hours of operation under a Class "H" license shall be from **12:00 (Noon) to 12:00 (Midnight)**, Monday through Saturday only.

(Ord. No. 2010-14; 04-12-10)

(I) **Class "A-1" Licenses**. Class "A-1" licenses shall be established to authorize the retail sale of all alcoholic liquor (spirits, wine and/or beer), by the drink and not by the package, and wine where it may be sold in its original package, with food for consumption on the premises only subject to

the conditions of subsections (I)(1) through (I)(6), inclusive, of this Section and to the terms, conditions, and restrictions of this and all other pertinent sections of this Code.

- (1) The Class "A-1" licensee shall offer for sale all restaurant menu items for consumption on the premises during the hours the kitchen is open as approved per the license.
- (2) A Class "A-1" license shall not be issued to the applicant unless the premises for which the application is made is operated as a business which collects at least **fifty-one percent (51%)** of its gross retail sales revenue from the sales of nonalcoholic beverages and food.
- (3) Should a Class "A-1" license have been issued to the applicant for the premises in the preceding year for which the applicant for a new or renewal license is made, a Class A license shall not be issued to the applicant for the premises unless the applicant submits to the Local Liquor Control Commissioner sufficient documentation to establish that at least **fifty-one percent (51%)** of the gross retail sales at that location in the license period immediately preceding that year, or a part thereof if the license had been issued after the first day of the license period, were collected from the sales of nonalcoholic beverages and food.
- (4) The determination of the sufficiency of the documentation referred to in subsection (I)(3) above, shall be in the sole discretion of the Local Liquor Control Commissioner. The Local Liquor Control Commissioner may, in his or her discretion, require an audit of the records of the establishment, which is operated by the applicant and for which the license is sought, in order to prove compliance with subsection (I)(3) above. The cost of producing any documentation, including the audit, shall be borne by the applicant. The audit shall be prepared by a certified public accountant and shall cover the time period as ordered by the Local Liquor Control Commissioner.
- (5) An establishment issued an "A-1" license shall be furnished with kitchen facilities and equipment sufficient for food preparation and service as defined herein.
- (6) Any Class "A-1" license, upon application to and approval by the Local Liquor Control Commissioner, may make retail sales of alcoholic liquor in the original package only, with food only, for consumption off the premises, subject to the following conditions:
 - (a) No alcoholic liquor may be sold by any Class "A-1" licensee without the simultaneous sale or consumption of a food item listed for consumption on its premises. The Class "A-1" licensee shall not sell alcoholic liquor with the simultaneous purchase of an item listed in the appetizer, dessert, or side order section of its menu for consumption off the premises; and
 - (b) The Class "A-1" licensee shall submit a fee of **One Hundred Dollars (\$100.00)** in addition to the fee required pursuant to this Chapter.
- (7) Upon application to and approval by the Local Liquor Control Commissioner, a Class "A-1" licensee may manufacture and sell at retail micro brewed beer by the drink for consumption on the premises and by the package for consumption off the premises, provided that the beer is brewed on the premises and the licensee submit a fee of **One Hundred Dollars (\$100.00)** in addition to all fees as required pursuant to this Chapter.

(Ord. No. 03-23; 10-27-03)

(J)

Outdoor Café Permit and Regulations.

- (1) On application and payment of an investigation and processing fee as set forth in **Section 21-2-6(I)**, the holder of a Class "A-1" license may be

issued an Outdoor Café Permit which shall authorize the retail sale of alcoholic beverages as an incidental sale of food items in an Outside Café area.

- (2) **Application and Fees and Review.**
- (a) Any licensee desiring to operate an Outdoor Café area must submit an application that provides:
- (i) Number of patrons to be accommodates; and
 - (ii) A drawing identifying the designated area and its proposed use; and
 - (iii) Proof of dram shop insurance which names the City as an additional insured, and will indemnify and hold the City harmless from any action proceeding of a claim of liability asserted against the City as the result of the operation of an Outdoor Café.
- (b) The said application and other mandatory items provided by this Section shall be reviewed by the Liquor Commissioner, and by such other City Departments as the Liquor Commissioner deems warranted. If liquor is being served, the Liquor Commissioner shall either issue or deny the Outdoor Café Permit with any changes or conditions the Liquor Commissioner deems appropriate. If liquor is not served, the Mayor shall authorize such permits with any changes or conditions the Mayor deems appropriate.
- (3) An Outdoor Café, upon issuance, entitle the holder of a Class "A-1" classification, outside of the permanent structure of the premises under the following conditions:
- (a) The Outdoor Café must conclude all sales and clear the café no later than normal license hours.
 - (b) A fence **six (6) feet** high shall be erected. The fence shall be designed and positioned so as to separate the licensee's patrons from the general public.
 - (c) Access to the Outdoor Café shall be from the permanent structure only and no access shall be permitted from the street, sidewalk, or adjoining property. Emergency exits as required are permitted.
 - (d) No music of any kind may be played or broadcast from the Outdoor Café or within the permanent structure which is of such a volume so as to disturb the neighborhood in any manner.
 - (e) No sales or dispensing of alcoholic liquor may be made from the outside area of permanent structure to any person upon adjoining property, public street, sidewalk or alley; and no alcoholic liquor served in an open container may be removed from the Outdoor Café or permanent structure.
 - (f) Outdoor Café shall be in compliance with **Section 21-2-6** of the Code and shall be subject to suspension or revocation by the Liquor Commissioner or the Chief of Police.
 - (g) The Outdoor Café shall promptly remove any litter deposited on or in the vicinity of the surface space used by the holder of the permit resulting from the activity or activities conducted by the holder of the permit or on adjoining such space.
 - (h) The Outdoor Café shall at all times conduct such activity or activities in an orderly fashion and in such a manner as to protect the public health and safety.
 - (i) The applicant shall comply with all health and sanitation regulations.

- (j) The Mayor shall have the right to modify or waive any requirement and approve the issuance of a permit at his/her/its discretion upon a showing of unique circumstances by the applicant.

(Ord. No. 2004-21; 07-26-04)

21-2-7 NATURE OF LICENSE. A license issued under this Chapter shall be purely a personal privilege, good for not to exceed **one (1) year** after issued unless sooner revoked as in this Chapter authorized and provided, and shall not constitute property nor shall it be subject to attachment, garnishment or execution; nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such license shall not descend by the laws of testate or intestate devolution, but it shall cease upon the death of the licensee, provided that executors and administrators of any estate of the deceased licensee and the trustees of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale of alcoholic liquor under the order of the court having jurisdiction of such estate and may exercise the privileges of such deceased, insolvent, or bankrupt licensee after the death of such decedent or such insolvency or bankruptcy until the expiration of such license, but not longer than **six (6) months** after the death, bankruptcy or insolvency of such licensee. **(See 235 ILCS 5/6-1) (See Attorney General's Report No. 703; 01-08-48)**

21-2-8 LIMITATION OF LICENSES.

(A) **Annexing License Holders.** The restrictions contained in this Chapter shall in no way affect taverns and other business(es) holding retail liquor licenses, duly licensed by the County, which are located in the territory annexed to the municipality. Licenses may be issued to them or renewed by the duly constituted authorities upon annexation; provided that thereafter, all of the restrictions and contingencies contained herein shall apply.

(B) **Destroyed or Damaged Business.** No license shall be held in existence by the mere payment of fees by any person, firm or corporation for a period longer than **ninety (90) days** without a tavern or liquor business for the same being in complete and full operation. However, if a tavern or liquor business has been destroyed or damaged by fire or act of God and cannot be rebuilt or repaired within the **ninety (90) day period**, then, in that event, the Mayor shall extend the period of time for which a liquor license may be held by the mere payment of fees without the tavern or liquor business being in full and complete operation for an additional **ninety (90) days**.

If either of the above stated periods of time passes without the particular tavern or liquor business returning to complete and full operation, the license for that particular business shall expire and not be subject to renewal, unless all other requirements of this Chapter shall have been met. **(See 235 ILCS 5/4-1)**

21-2-9 DRAMSHOP INSURANCE. No license shall be issued hereunder unless the applicant shall file with the application a certificate by an insurance company authorized to do business in the State of Illinois, certifying that the applicant has the following coverages up to the full amount of potential liability as established by the Illinois Compiled Statutes from time to time. **(235 ILCS 5/6-21)**

21-2-10 DISPLAY OF LICENSE. Every licensee under this Chapter shall cause his license to be framed and hung in plain view in a conspicuous place on the licensed premises. **(See 235 ILCS 5/6-24)**

21-2-11 RECORD OF LICENSES. The Mayor shall keep a complete record of all licenses issued by him and shall supply the Clerk, Treasurer and Chief of Police a copy of the same. Upon issuance or revocation of a license, the Mayor shall give written notice to these same officers within **forty-eight (48) hours**. **(See 235 ILCS 5/4-1)**

ARTICLE III - REGULATIONS

21-3-1 HOURS OF OPERATION.

(A) All places operating under Class A, B, C, D and E licenses shall be closed at **12:00 Midnight** and shall remain closed until **7:00 A.M.** the following morning, on Friday and Saturday night all places operating under Class A, B, C, D and E license shall have **two (2)** additional opening hours and shall close at **2:00 A.M.**

All places operating under Class G shall be closed at **2:00 A.M.** on Sunday and remain closed until **12:00 Noon** on Sunday and must again close at **11:00 P.M.** Sunday until **7:00 A.M.** Monday. All other days of the week the places operating by virtue of the Class G class of license specified in this Section shall close at **1:00 A.M.** and remain closed until **7:00 A.M.** of the same day, special use permits shall also be available under the rules and regulations governing special use permits. **(Ord. No. 13-14; 02-11-13)**

(B) The Liquor Commissioner may grant permission to Class A, B, D and E license holders to open for additional hours providing application is made to the City Clerk. A fee of **Twenty-Five Dollars (\$25.00)** shall be paid for each application. There shall be a limit of **two (2)** additional opening hours per year for each license. Additional hours shall be defined as follows: Sunday from **1:00 P.M. to 10:00 P.M.** and Monday through Thursday **12:00 Midnight to 2:00 A.M.** The additional hours of opening or Sunday permits are one in the same and there will only be **two (2)** opening permits per license per calendar year.

Class C, Club Licensees may be granted Special Sunday Permits to be paid at **Five Hundred Twenty Dollars (\$520.00)** annually for the hours of **1:00 P.M. to 10:00 P.M.** only. Activities for such Special Sunday Permits shall be restricted to club members only. **(Ord. No. 13-14; 02-11-13)**

(C) When New Year's Eve falls on Sunday, however, all places operating under Class A, D and E license may open and sell and dispense alcoholic liquors on **December 31st at 8:00 A.M.** and shall close at **2:00 A.M.** on **January 1st.** All places operating under Class B package liquor license may open and sell and dispense alcoholic liquors on **December 31st at 1:00 P.M.** and shall close at **2:00 A.M.** on **January 1st.** **(Ord. No. 06-77; 12-11-06)**

(D) When New Year's Eve falls on any day except Sunday, all licenses shall be permitted to remain open until **2:00 A.M.** the next day.

(E) **Off Premises, Outdoor Sales, Entertainment.** All sales, furnishing, delivering or possession by a license holder or its patrons of alcoholic liquor outside of the building listed on its license or an enclosed extension of said building is prohibited. Outside music or noise making entertainment associated with any license holder is also prohibited.

Violation of this Section shall result in revocation of any license issued pursuant to the provisions of this Code. **(Ord. No. 97-22; 06-26-97)**

21-3-2 SPECIAL USE PERMIT LICENSE.

(A) **Transfer from Inventory.** A licensee may submit a request for a special use permit license. Special use approval shall allow a licensed retailer to transfer a portion of its alcoholic liquor inventory from its retail licensed premises to the premises specified in the request, and to sell or offer for sale at retail, in or on the premises specified in the request, the transferred alcoholic liquor for use, or consumption, but not for resale in any form. Special use approval may be granted for the following time periods: **one (1) day** or less, or **two (2)** or more days to a maximum of **fifteen (15) days.** An applicant for special use approval must also submit with the application and proof satisfactory to the Local Liquor Control Commissioner that the applicant will provide dram shop liability insurance as required under state and local law, and naming the City as an additional insured. Such off-premise use of alcohol may also be permitted under such B-1 Zoning requirements and regulations.

(B) **Criteria.** The request shall be considered by the Local Liquor Control Commissioner, and may be approved subject to the following criteria:

- (1) The proposed activity shall be for the benefit of a civic, service, charitable, tourism, educational or other not-for-profit organization or event.
- (2) The location must be a place appropriate as a location used for housing banquets, receptions, special events, etc.
- (3) The licensee shall submit an application for the special use approval to the City Clerk's office **ten (10) days** prior to the date of the proposed activity. The application shall include:
 - (a) The name, address, telephone number and contact person of the entity to benefit from the special use approval, accompanied by written verification from the entity or organization to benefit that they have given approval for the event.
 - (b) The name, address and telephone number of the licensee.
 - (c) The name and address of the premises upon which the proposed activity is to occur, accompanied by written verification from the person in control of the premises that approval has been given for the event to take place at the proposed location.
 - (d) A detailed description of the proposed activity.
 - (e) The date and hours the proposed activity is to occur.
 - (f) A required fee of **Twenty-Five Dollars (\$25.00)** for a **one (1) day** permit; or **Fifty Dollars (\$50.00)** for a **two (2)** or more days to a maximum of **fifteen (15) days** permit.
- (4) Failure to include any of the requested information may result in denial of the request.
- (5) Any additional criteria or restrictions may be imposed by the Local Liquor Commissioner that he/she finds to be desirable for the event.

(C) **Violation; Penalty.** Any violation of the restrictions set forth in this Section will result in the immediate termination of the activity and are subject to the penalty provisions as provided in this Chapter. **(Ord. No. 10-22; 07-26-10)**

21-3-3 HAPPY HOUR RESTRICTIONS.

(A) All retail licensees shall maintain a schedule of the prices charged for all drinks of alcoholic liquor to be served and consumed on the licensed premises or in any room or part thereof. Whenever a hotel or multi-use establishment which holds a valid retailer's license operates on its premises more than one establishment at which drinks of alcoholic liquor are sold at retail, the hotel or multi-use establishment shall maintain at each such establishment a separate schedule of the prices charged for such drinks at the establishment.

(B) No retail licensee or employee or agent of such licensee shall:

- (1) Serve **two (2)** or more drinks of alcoholic liquor at one time to one person for consumption by that one person, except selling or delivering wine by the bottle or carafe;
- (2) Sell, offer to sell or serve to any person an unlimited number of drinks of alcoholic liquor during any set period of time for a fixed price, except at private functions not open to the general public;
- (3) Sell, offer to sell or serve any drink of alcoholic liquor to any person on any one date at a reduced price other than that charged other purchasers of drinks on that day where such reduced price is a promotion to encourage consumption of alcoholic liquor, except as authorized in subsection C(7) of this Section.
- (4) Increase the volume of alcoholic liquor contained in a drink, or the size of a drink of alcoholic liquor, without increasing proportionately the price regularly charged for the drink on that day;
- (5) Encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or the awarding of drinks of

- alcoholic liquor as prizes for such game or contest on the licensed premises; or
- (6) Advertise or promote in any way, whether on or off the licenses premises, any of the practices prohibited under paragraphs (1) through (5).
- (C) Nothing in subsection B shall be construed to prohibit a licensee from:
- (1) Offering free food or entertainment at any time;
 - (2) Including drinks or alcoholic liquor as part of a meal package;
 - (3) Including drinks of alcoholic liquor as part of a hotel package;
 - (4) Negotiating drinks of alcoholic liquor as part of a contract between a hotel or multi-use establishment and another group for the holding of any function, meeting, convention or trade show;
 - (5) Providing room service to persons renting rooms at a hotel;
 - (6) Selling pitchers (or the equivalent, including but not limited to buckets), carafes, or bottles of alcoholic liquor which are customarily sold in such manner and delivered to **two (2)** or more persons at one time; or
 - (7) Increasing prices of drinks of alcoholic liquor in lieu of, in whole, or in part, a cover charge to offset the cost of special entertainment not regularly scheduled.
- (D) A violation of this Section shall be grounds for suspension or revocation of the retailer's license as provided by Article IV of this Code. **(See 235 ILCS 5/6-28)**

21-3-4 PROHIBITED LOCATIONS. No license shall be issued for the sale of any alcoholic liquor at retail within **one hundred (100) feet** of any church, school (other than an institution of higher learning), hospital, home for the aged or indigent persons, or for veterans, their spouses or children or any military or naval station; provided, that this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs or to restaurants, food shops, or other places where the sale of alcoholic liquors is not the principal business carried on if such place of business so exempted shall have been established for such purposes prior to the taking effect of this Chapter; nor to the renewal of a license for the sale at retail of alcoholic liquor on the premises within **one hundred (100) feet** of any church or school where such church or school has been established within such **one hundred (100) feet** since the issuance of the original license. In the case of a church, the distance of **one hundred (100) feet** shall be measured to the nearest part of any building used for worship services or educational programs and not to property boundaries.

Nothing in this Section shall prohibit the issuance of a license to a church or private school to sell at retail alcoholic liquor if any such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors. **(Ord. No. 1193; 10-26-87) (See 235 ILCS 5/6-11)**

21-3-5 CHANGE OF LOCATION. A retail liquor dealer's license shall permit the sale of alcoholic liquor only on the premises described in the application and license. Such location may be changed only upon the written permit to make such change issued by the Mayor. No change of location shall be permitted unless the proposed new location is a proper one for the retail sale of alcoholic liquor under the law of this state and the Code of this municipality. **(See 235 ILCS 5/7-14)**

21-3-6 STORES SELLING SCHOOL SUPPLIES, LUNCHES, ETC. No license shall be issued to any person for the sale at retail of any alcoholic liquor at any store or other place of business where the majority of customers are minors of school age or where the principal business transacted consists of school books, school supplies, food, lunches, or drinks for such minors. **(See 235 ILCS 5/6-12)**

21-3-7 **TRANSPORTING, ETC., IN MOTOR VEHICLES.** No person shall, within this municipality, transport, carry, possess, or have any alcoholic liquor in, upon, or about any motor vehicle in or on any public street, alley or place, except in the original package and with the seal unbroken.

21-3-8 **OPEN LIQUOR - CUP-TO-GO PROHIBITED.** The licensee shall not knowingly permit any person to leave his premises with open liquor or in a “cup-to-go”.

21-3-9 **LIQUOR IN VEHICLES; UNDERAGE.** The presence in a vehicle other than a public vehicle of any alcoholic liquor shall be prima facie evidence that it is in the possession of and is being carried by all persons occupying such vehicle at the time of which such alcoholic liquor is found, except under the following circumstances:

- (A) If such liquor is found on the person of one of the occupants therein; or
- (B) If such vehicle contains at least one occupant over **twenty-one (21) years of age.**

21-3-10 **RESTRICTED RESIDENTIAL AREAS.** It shall be unlawful to establish a retail liquor business within the municipality in violation of the restrictions of the Zoning Code. **(See Chapter 40 of the Revised Code)**

21-3-11 **ELECTION DAYS.** All such licensees may sell alcoholic liquor at retail, by the drink or in the original package for consumption either on or off the premises licensed on the day of any national, state, county or municipal election, including primary elections during the hours the polls are open within the political area in which such election is being held and on Sundays; subject to all the remaining terms, conditions and opening hours and closing hours as set forth in this Chapter.

21-3-12 **UNLAWFUL ACTS.** It shall be unlawful for any person to do or commit any of the following acts within the City, to-wit:

(A) **Consumption on Streets, Etc.** The consumption of alcoholic liquor by any person under **twenty-one (21) years** of age is forbidden, and no person, regardless of age, shall drink any alcoholic liquor on any public street, sidewalk, alley, or in any publicly owned or controlled space. Alcoholic liquor may be sold on public property owned by any governmental authority, including municipal corporations, if there is on display on said property a valid, current City Liquor License if all other provisions of the Ordinances of the City of Benton regulating possession, delivery or sale of intoxicating liquors are met and if the holder of the liquor license being displayed receives a permit from the Liquor Commissioner of the City and has the approval of the corporate authorities of the governmental entity which is the owner or lessee of the property. These rights shall be for special events only and such permit shall be limited to the period of time during which the special event is being conducted. **(Ord. No. 1263; 04-09-90)**

(B) **Location of A-1 Liquor License Businesses.**

- (1) All holders of an “A-1” liquor license shall be entitled to locate their business anywhere in the corporate City limits, or the area outside the City limits to which the City is entitled to control zoning where a restaurant may be located, subject to contrary State of Illinois liquor license laws and procedural requirements.
- (2) This Section amends and supersedes any potentially contrary revision in our Zoning Code, where multiple references in **Chapter 40** reference location of restaurants and the location for sales of alcohol. It is meant to supersede all inconsistent provisions. All provisions of the Zoning Code not inconsistent herewith are hereby reaffirmed and ratified.

(Ord. No. 05-20; 2005)

21-3-13 UNLAWFUL ENTERTAINMENT. No licensee, his agent, servant or employee shall permit or allow any lewd or lascivious act or any topless and/or bottomless employee and/or employees [**topless being defined as naked and substantially without clothing or covering of the body from the waist to the neckline and bottomless being defined as naked and substantially without clothing or covering of the body from the waist downward**], or entertainment to be performed within the licensed premises by an entertainer employed therein, or by any employee or guests.

Nor shall any licensee, his agent, servant or employee permit or allow any employee or guests or any other person whomever to solicit or encourage the purchasing of any alcoholic liquor or beverage of any description, or the giving of any gratuity or gift by any patron or guests to or for the benefit of such employee or guest.

The following kinds of conduct on premises in this municipality licensed to sell alcoholic liquor are prohibited:

- (A) The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts;
- (B) The actual or simulated exhibition, touching, caressing, or fondling of the breasts, buttocks, pubic hair, anus, vulva, or genitals;
- (C) The actual or simulated displaying of the breasts, buttocks, pubic hair, anus, vulva, or genitals;
- (D) The permitting by a licensee of any person to remain in or upon the licensed premises who exposes to view any portion of his or her breasts, buttocks, genitals, vulva, or anus;
- (E) The displaying of films or pictures depicting acts, a live performance of which are prohibited by the regulations quoted above.

21-3-14 SANITARY CONDITIONS. All premises used for the retail sale of alcoholic liquor or for the storage of such liquor for such sale shall be kept in a clean and sanitary condition, and shall be kept in full compliance with the codes regulating the condition of the premises used for the storage or sale of food for human consumption. **(See 410 ILCS 650/1, et seq.)**

21-3-15 DISEASED EMPLOYEES. It shall be unlawful to employ in any premises used for the retail sale of alcoholic liquor, any person who is afflicted with or who is a carrier of any contagious disease, infectious or venereal disease; and it shall be unlawful for any person who is afflicted with or a carrier of any such disease to work in or about any premises or to engage in any way in the handling, preparation or distribution of such liquor. **(See 410 ILCS 650/10)**

21-3-16 HEALTH PERMIT. Every licensee shall have, at all times, a valid operating permit from the County Health Department which regulates health standards.

21-3-17 PEDDLING. It shall be unlawful to peddle alcoholic liquor in this municipality. **(See 235 ILCS 5/4-1)**

21-3-18 GAMBLING. **(See Sections 7-4-1 et seq.)**

21-3-19 DISORDERLY HOUSE. Any person licensed under this Chapter shall not suffer or permit any disorder, drunkenness, quarreling, fighting, unlawful games, or riotous or disorderly conduct in any house or premises kept or occupied by him for the sale of liquor. **(See 235 ILCS 5/4-1)**

21-3-20 PROHIBITED SALES - GENERALLY. No licensee, nor any officer, associate, member, representative, agent or employee of such licensee shall sell, give or deliver alcoholic liquor to any person under the age of **twenty-one (21) years**, or to any intoxicated person or to any person known by him to be a habitual drunkard, spendthrift, insane, or mentally ill. No person, after purchasing or otherwise obtaining alcoholic liquor shall sell, give or deliver such alcoholic liquor to another person under the age of **twenty-one (21) years**, except in the performance of a religious ceremony or service. (See 235 ILCS 5/6-16)

21-3-21 PERSONS SELLING LIQUOR.

(A) It shall be unlawful for any person under the age of **eighteen (18) years** to attend any bar or to sell, draw, pour or mix any alcoholic liquor in any Class "A-1", "B", "C" or "D" licensed retail premises. It shall be unlawful for any person under the age of **twenty-one (21) years** to attend any bar or to sell, draw, pour or mix any alcoholic liquor in any Class "A" licensed retail premises. No bartender or server shall drink or consume any alcoholic liquor, or be under the influence of alcoholic liquor while on duty in any Class "A" licensed retail premises.

(B) Each licensee is responsible and liable to prosecution for any violation of **Section 21-3-21** by any servant, employee, or agent of the licensee as though the violation had been committed by the licensee.

(C) Any violation of **Section 21-3-21(A)** shall be punishable by a fine not exceeding **Two Hundred Fifty Dollars (\$250.00)**, or by imprisonment in jail not to exceed **ninety (90) days**, or both.

(Ord. No. 07-42; 08-13-07) (See 235 ILCS 5/4-1)

21-3-22 UNDERAGED; ENTRY ON LICENSED PREMISES. It shall be unlawful for any person under the age of **twenty-one (21) years** to enter upon premises where alcoholic liquors, spirits, beer or wine are sold by the holder of a Class "A" or a Class "B" license unless accompanied by a parent or legal guardian. No holder of a Class "A" or Class "B" license, nor any officer, associate, member, representative, agent or employee of such licensee shall permit any person under the age of **twenty-one (21) years** not accompanied by a parent or legal guardian to enter the licensed premises. For the purpose of preventing the violation of this section, any holder of a Class "A" or a Class "B" license, or his agent or employee, may refuse to permit entry onto the licensed premises of any person under the age of **twenty-one (21) years** who is unable to produce adequate written evidence of the fact that the person accompanying such person under the age of **twenty-one (21) years** is that person's parent or legal guardian.

This restriction does not apply to persons entering an establishment holding a Class "A-1" or beer/wine liquor license. (Ord. No. 07-11; 04-23-07) (See 235 ILCS 5/4-1)

21-3-23 UNLAWFUL PURCHASE OF LIQUOR. Any person to whom the sale, gift or delivery of any alcoholic liquor is prohibited because of age shall not purchase or accept a gift of such alcoholic liquor or have such alcoholic liquor in his possession. (See 235 ILCS 5/6-20)

21-3-24 IDENTIFICATION REQUIRED. If a licensee or his agents or employees believe or have reason to believe that a sale or delivery of any alcoholic liquor is prohibited because of the age of the prospective recipient, he shall, before making such sale or delivery, demand presentation of some form of positive identification, containing proof of age, issued by a public officer in the performance of his official duties.

Proof that the defendant/licensee or his employees or agent demanded, was shown, and reasonably relied upon such written evidence in any transaction forbidden by this section is competent evidence and may be considered in any criminal prosecution therefor or in any proceedings for the suspension or revocation of any license based thereon. (See 235 ILCS 5/6-20)

21-3-25 **TRANSFER OF IDENTIFICATION CARD.** No person shall transfer, alter or deface such an identification card; use the identification card of another; carry or use a false or forged identification card; or obtain an identification card by means of false information. No person shall purchase, accept delivery, or have possession of alcoholic liquor in violation of this Chapter.

The consumption of alcoholic liquor by any person under the age of **twenty-one (21) years** is forbidden. **(See 235 ILCS 5/6-20)**

21-3-26 **POSTING WARNING.** In every licensed business where alcoholic liquor is sold, there shall be displayed at all times in a prominent place, a printed card which shall be supplied by the Municipal Clerk, and which shall read as follows:

UNDERAGE LIQUOR WARNING

“YOU ARE SUBJECT TO A FINE UP TO \$750 UNDER THE ORDINANCES OF THIS MUNICIPALITY IF YOU PURCHASE ALCOHOLIC LIQUOR OR MISREPRESENT YOUR AGE FOR THE PURPOSE OF PURCHASING OR OBTAINING ALCOHOLIC LIQUOR.”

21-3-27 **EXCLUSIONARY PROVISION.** The possession and dispensing or consumption by an underaged person of alcoholic liquor in the performance of a religious service or ceremony, or the consumption by an underaged person under the direct supervision and approval of the parent or parents of such underaged person in the privacy of a home is not prohibited by this Chapter. **(See 235 ILCS 5/6-20)**

21-3-28 **INSPECTIONS.** It shall be unlawful to refuse to grant admittance to the premises for which a license has been issued at any time upon the verbal request of the Chief of Police, any police officer, or the Liquor Commissioner for the purpose of making an inspection of such premises or any part thereof. **(See 235 ILCS 5/4-4)**

21-3-29 **BOOKS AND RECORDS---AVAILABLE UPON REASONABLE NOTICE AND MAINTAINED IN STATE RECORDS.** It shall be the duty of every retail licensee to make books and records available upon reasonable notice for the purpose of investigation and control by the Mayor having jurisdiction over the licensee. Such books and records need not be maintained on the licensed premises, but must be maintained in the State of Illinois. **(See 235 ILCS 5/6-10)**

21-3-30 **RESTRICTIONS ON LICENSEE.** In addition to the restrictions on licensing, the holder of a license is subject to the following restrictions:

(A) It is unlawful for any licensee to accept, receive or borrow money or anything of value directly or indirectly from any manufacturer or distributor of alcoholic liquor. **(See 235 ILCS 5/6-5)**

(B) No licensee licensed under the provisions of this Code shall deny or permit his agents or employees to deny any person the full and equal enjoyment of the accommodations, advantages, facilities and privileges of any premises in which alcoholic liquors are authorized to be sold subject only to the conditions and limitations established by law and applicable alike to all citizens. **(See 235 ILCS 5/6-17)**

(C) No licensee shall sell liquor to any persons on credit, or in payment for services rendered but this does not apply to clubs and hotels and liquor purchased for consumption off the premises. **(See 235 ILCS 5/6-19)**

(D) No licensee shall fill or refill in whole or in part any original package of alcohol with the same or other liquor and no liquor shall be sold except in original packages. **(See 235 ILCS 5/6-22)**

(E) No alcoholic liquor shall be sold or delivered in any building belonging to or under the control of a municipality except in connection with the operation of an established food service facility or at a site specifically provided for in the Act and where dram shop insurance coverage is provided. **(See 235 ILCS 5/6-15)**

(F) An established place of business is a prerequisite to the issuance of a license. Revocation of a license when a licensee ceases to operate the business before the license expires is within the authority of the commissioner on the grounds of nonuse. **(See Goode V. Thomas 31 Ill. App. 3d 674, 1975)**

21-3-31 SELLING FALSE IDENTIFICATION. Any person who sells, gives, or furnishes to any person under the age of **twenty-one (21) years** any false or fraudulent written, printed, or photostatic evidence of the age and identity of such person or who sells, gives or furnishes to any person under the age of **twenty-one (21) years** evidence of age and identification of any other person is guilty of violating this Code. **(See 235 ILCS 5/6-16)**

21-3-32 FALSE IDENTIFICATION. Any person under the age of **twenty-one (21) years** who presents or offers to any licensee, his agent or employee, any written, printed or photostatic evidence of age and identity which is false, fraudulent, or not actually his own for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any alcoholic beverage, or who has in his possession any false or fraudulent, written, printed, or photostatic evidence of age and identity, is guilty of violating this Code. **(See 235 ILCS 5/6-16)**

21-3-33 UNDERAGED DRINKING ON STREETS. Any person under the age of **twenty-one (21) years** who has any alcoholic beverage in his possession on any street or highway or in any public place, or in any place open to the public is guilty of violating this Code. This section does not apply to possession by a person under the age of **twenty-one (21) years** making a delivery of an alcoholic beverage in pursuance of the order of his or her parent or in pursuance of his or her employment. **(See 235 ILCS 5/6-16) (See Section 21-3-12)**

21-3-34 RESIDENTIAL DRINKING. Any person shall be guilty of a violation of this Code where he or she knowingly permits a gathering at a residence which he or she occupies of **two (2) or more persons** where any one or more of the persons is under **eighteen (18) years** of age and the following factors also apply:

(A) the person occupying the residence knows that any such person under the age of **eighteen (18)** is in possession of or is consuming any alcoholic beverage; and

(B) the possession or consumption of the alcohol by the person under **eighteen (18)** is not otherwise permitted by this Code and

(C) the person occupying the residence knows that the person under the age of **eighteen (18)** leaves the residence in an intoxicated condition.

For the purposes of this section where the residence has an owner and a tenant or lessee, there is a rebuttable presumption that the residence is occupied only by the tenant or lessee. **(See 235 ILCS 5/6-16)**

21-3-35 RENTING HOTEL ROOMS FOR DRINKING. Any person who rents a hotel or motel room from the proprietor or agent thereof for the purpose of or with the knowledge that such room shall be used for the consumption of alcoholic liquor by persons under the age of **twenty-one (21) years** shall be guilty of violating this Code. **(See 235 ILCS 5/6-16)**

ARTICLE IV - VIOLATIONS AND PENALTIES

21-4-1 **OWNER OF PREMISES PERMITTING VIOLATION.** If the owner of the licensed premises or any person from whom the licensee derives the right to possession of such premises, or the agent of such owner or person shall knowingly permit the licensee to use said licensed premises in violation of the terms of this Code, said owner, agent or other person shall be deemed guilty of a violation of this Code to the same extent as said licensee and be subject to the same punishment. **(See 235 ILCS 5/10-2)**

21-4-2 **ACTS OF AGENT OR EMPLOYEE - LIABILITY; KNOWLEDGE.** Every act or omission of whatsoever nature constituting a violation of any of the provisions of this Code by any officer, director, manager or other agent or employee of any licensee shall be deemed and held to be the act of such employer or licensee, and said employer or licensee shall be punishable in the same manner as if said act or omission had been done or omitted by him personally. **(See 235 ILCS 5/10-3)**

21-4-3 **REVOCAION OF LICENSE AFTER CONVICTION.** Whenever any licensee shall be convicted of any violation of this Code, the license of said licensee may, in the discretion of the Mayor, be revoked and forfeited and all fees paid thereon shall be forfeited, and it shall thereafter be unlawful and shall constitute a further violation of this Code for said licensee to continue to operate under such license. **(See 235 ILCS 5/10-4)**

21-4-4 **REVOCAION OF LICENSE WHEN EMPLOYEE CONVICTED.** Whenever any officer, director, manager, or other employee in a position of authority of any licensee under this Code shall be convicted of any violation of this Code while engaged in the course of his employment or while upon the premises described by the license, the license shall be revoked and the fees paid thereon forfeited, both as to the holder of the license and as to the premises, as if said licensee had himself been convicted. **(See 235 ILCS 5/10-5)**

21-4-5 **MISBRANDING.** Any person who shall knowingly possess, sell or in any way dispose of any alcoholic liquor under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the package or other containers of the alcoholic liquor, or who shall cause any such act to be done, shall forfeit the alcoholic liquor and the packages and containers to the State and shall be subject to the punishment and penalties provided for violation of this Code. **(See 235 ILCS 5/10-6)**

21-4-6 **ABATEMENT OF PLACE USED IN VIOLATION.** Every lot, parcel or tract of land, and every building, structure, tent, railroad car, boat, wagon, vehicle, establishment or place whatsoever, together with all furniture, fixtures, ornaments and machinery located thereon, wherein there shall be conducted any unlawful sale of any alcoholic liquor, or whereon or wherein there shall be kept, stored, concealed or allowed any alcoholic liquor intended for illegal sale or to be sold, disposed of or in any other manner used in violation of any of the provisions of this Code, is hereby declared to be a public nuisance and shall be abated as provided by the laws of this State for the abatement of public nuisances. **(See 235 ILCS 5/10-7)**

21-4-7 **USE OF PREMISES FOR ONE YEAR AFTER REVOCATION.** When any license has been revoked for any cause, no license shall be granted for the same premises for a period of **one (1) year** thereafter. **(See 235 ILCS 5/7-13)**

21-4-8 **REVOCATION OF LICENSES.** The Local Liquor Control Commissioner shall have the following powers, functions and duties with respect to licenses granted under this Code.

(A) In addition to and not limited by the specific penalties set out for violations of specific articles of this Code, the Local Liquor Control Commissioner may suspend for **thirty (30) days** or revoke any liquor license issued under this Code for violation of any state law pertaining to the sale of alcoholic liquors by any licensee, his agent, servant or employee.

(B) To suspend or revoke any liquor license if the licensee makes any false statement or misrepresentation in the application for a license.

(C) To enter or to authorize any law enforcing officer to enter at any time upon any premises licensed hereunder to determine whether any of the provisions of this Code or any rules or regulations adopted by him or by the State Commission have been or are being violated, and at such time to examine said premises of said licensee in connection therewith;

(D) To notify the Secretary of State where a club incorporated under the General Not for Profit Corporation Act or a foreign corporation functioning as a club in this State under a certificate of authority issued under that Act has violated this Code by selling or offering for sale at retail alcoholic liquors without a retailer's license;

(E) To receive complaint from any citizen within his jurisdiction that any of the provisions of this Act, or any rules or regulations adopted pursuant hereto, have been or are being violated and to act upon such complaints in the manner hereinafter provided;

(F) The Local Liquor Control Commissioner shall also have the power to levy fines in accordance with **Section 21-4-10** of this Code. **(See 235 ILCS 5/4-4)**

21-4-9 **COMPLAINT BY RESIDENTS.** Any **five (5) residents** of the municipality shall have the right to file a complaint with the Liquor Commissioner, stating that a licensee under this Code has been or is violating the provisions of this Code or any amendments hereto, or of any of the statutes of this State of Illinois, enacted with reference to the control of liquor. Such complaint shall be made in writing and shall be signed and sworn to by the parties complaining.

The complaint shall state the particular provision, rule or regulation believed to have been violated and the facts in detail upon which such belief is based. If the Liquor Commissioner is satisfied that the complaint substantially charges a violation, and that from the facts alleged, there is reasonable cause for such belief, he shall set the matter for hearing, and shall serve notice upon the licensee of the time and place of such hearing and of the particular charges in the complaint. **(See 235 ILCS 5/7-7)**

21-4-10 **REVOCATION OR SUSPENSION OF LOCAL LICENSE; - NOTICE AND HEARING.** The Liquor Commissioner may revoke or suspend any license issued by him if he determines that the licensee has violated any of the provisions of the **Illinois Liquor Act**, any valid ordinance adopted by the municipality, any applicable rule or regulation established by the Liquor Commissioner or the State Commission which is not inconsistent with law.

(A) **Fine as Opposed to Suspension or Revocation.** In addition to the suspension, the Local Liquor Control Commissioner in any county or municipality may levy a fine on the licensee for such violations. The fine imposed shall not exceed One Thousand Dollars (\$1,000.00) for a first violation within a twelve (12) month period, One Thousand Five Hundred Dollars (\$1,500.00) for a second violation within a twelve (12) month period, and Two Thousand Five Hundred Dollars (\$2,500.00) for a third or subsequent violation within a twelve (12) month period. Each day on which a violation continues shall constitute a separate violation. Not more than Fifteen Thousand Dollars (\$15,000.00) in fines under this Section may be imposed against any licensee during the period of his license. Proceeds from such fines shall be paid into the general corporate fund of the municipal treasury. **(See P.A. 89-0063)**

(B) **Revocation and Suspension: Notice.** However, no such license shall be so revoked or suspended and no licensee shall be fined except after a public hearing by the Local Liquor Control Commissioner with a **three (3) day** written notice to the licensee affording the licensee an opportunity to appear and defend. All such hearings shall be open to the public and the Liquor

Commissioner shall reduce all evidence to writing and shall maintain an official record of the proceedings. If the Liquor Commissioner has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the community he may, upon the issuance of a written order stating the reason for such conclusion and without notice or hearing order the licensed premises closed for not more than **seven (7) days**, giving the licensee an opportunity to be heard during that period, except that if such licensee shall also be engaged in the conduct of another business or businesses on the licensed premises such order shall not be applicable to such other business or businesses.

(C) **Hearing.** The Liquor Commissioner shall, within **five (5) days** after such hearing, if he determines after such hearing that the license should be revoked or suspended, state the reason or reasons for such determination in a written order of revocation or suspension and shall serve a copy of such order within the **five (5) days** upon the license. The findings of the Commissioner shall be predicted upon competent evidence. **(See 235 ILCS 5/7-5)**

21-4-11 APPEALS FROM ORDER OF LIQUOR COMMISSIONER. Except as provided in this section, any order or action of a Local Liquor Control Commissioner levying a fine or refusing to levy a fine on a licensee, granting or refusing to grant a license, revoking or suspending or refusing to revoke or suspend a license or refusing for more than **thirty (30) days** to grant a hearing upon a complaint to revoke or suspend a license may within **twenty (20) days** after notice of such order or action by appealed by any resident of the municipality under the jurisdiction of the Liquor Commissioner or any person interested, to the State Commission.

In any case where a licensee appeals to the State Commission from an order or action of the Liquor Commissioner having the effect of suspending or revoking a license, denying a renewal application, or refusing to grant a license, the licensee shall resume the operation of the licensed business pending the decision of the State Commission and the expiration of the time allowed for an application for rehearing. If an application for rehearing is filed, the licensee shall continue the operation of the licensed business until the denial of the application or, if the rehearing is granted, until the decision on rehearing. **(See 235 ILCS 5/7-9)**

21-4-12 SUBSEQUENT VIOLATIONS IN A YEAR. In any case in which a licensee appeals to the State Commission a suspension or revocation by a Local Liquor Control Commissioner that is the second or subsequent such suspension or revocation placed on that licensee within the preceding **twelve (12) month period**, the licensee shall consider the suspension or revocation to be in effect until a reversal of the Liquor Commissioner's action has been issued by the State Commission and shall cease all activity otherwise authorized by the license. The State Commission shall expedite, to the greatest extent possible, its consideration of any appeal that is an appeal of a second or subsequent suspension or revocation within the past **twelve (12) month period**. **(See 235 ILCS 5/7-9)**

21-4-13 APPEAL LIMITATIONS FOR SUBSEQUENT VIOLATION. Any appeal of the decision and findings of the Liquor Commissioner in **Section 21-4-12** shall be limited to a review of the official record of the proceedings of said Liquor Commissioner. The official record shall be a "certified official record" of the proceedings taken and prepared by a certified court reporter or certified shorthand reporter. A copy of this record shall be filed by the Liquor Commissioner within **five (5) days** after notice of the filing of such appeal is received by the municipality from State Commission. **(See 235 ILCS 5/7-9)**