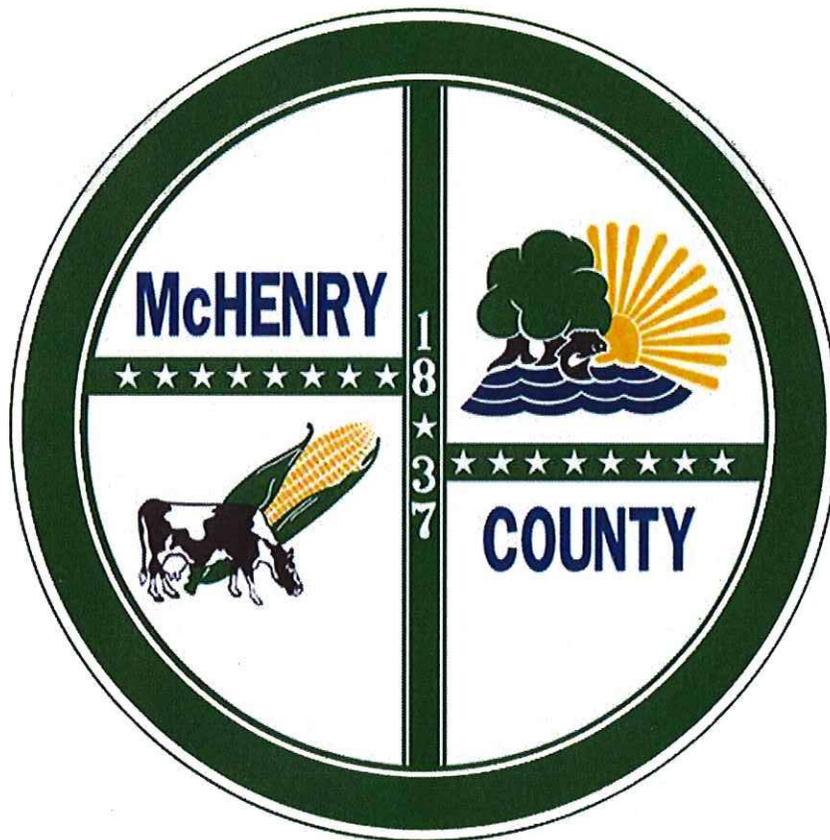


**LIQUOR CONTROL AND  
LIQUOR LICENSING  
ORDINANCE  
FOR THE  
COUNTY OF McHENRY, ILLINOIS**

**March 19, 2019**



# ORDINANCE

## ORDINANCE AMENDING THE LIQUOR CONTROL AND LIQUOR LICENSING ORDINANCE FOR THE COUNTY OF MCHENRY, ILLINOIS NO. O-201805-45-019

**WHEREAS**, the Law & Government/Liquor Committee of the County Board has determined that changes in the Liquor Control and Liquor Licensing Ordinance for the County of McHenry, Illinois are necessary; and

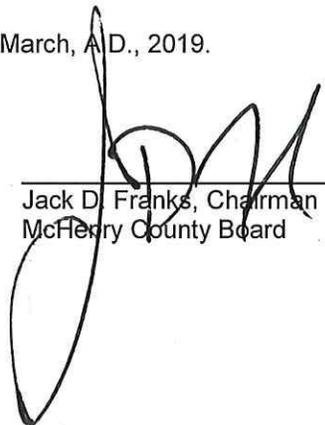
**WHEREAS**, the attached amendments have been approved by the Law & Government/Liquor Committee of the County Board, and reviewed by the State's Attorney's Office.

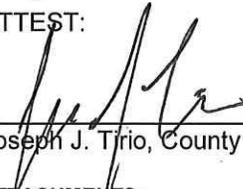
**NOW, THEREFORE BE IT ORDAINED**, the County Board of McHenry County hereby amends the attached Liquor Control and Liquor Licensing Ordinance for the County of McHenry, Illinois; and

**BE IT FURTHER ORDAINED**, that these changes shall be effective immediately upon adoption by the McHenry County Board; and

**BE IT FURTHER ORDAINED**, that the County Clerk is hereby authorized to distribute a certified copy of this Ordinance to the County Administrator, the McHenry County Liquor Commissioner and the Law & Government/Liquor Committee.

**DATED** at Woodstock, Illinois, this 19th day of March, A.D., 2019.

  
\_\_\_\_\_  
Jack D. Franks, Chairman  
McHenry County Board

ATTEST:  
  
\_\_\_\_\_  
Joseph J. Tirio, County Clerk

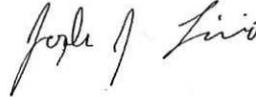
- ATTACHMENTS:
- Liquor Control and Licensing Ordinance 3-19-19 (PDF)

STATE OF ILLINOIS        )  
                                  ) SS  
COUNTY OF MCHENRY    )

17.2.A

I, Joseph J Tirio, County Clerk within and for said County and State aforesaid, do hereby certify the attached to be a true and complete copy of Ordinance O-201903-12-22; Amending the Liquor Control and Liquor Licensing Ordinance for the County of McHenry, Illinois No. O-201805-45-019.

WHEREOF I have hereunto subscribed my hand and affixed the official seal of said County, at my office in Woodstock, Illinois this 20<sup>th</sup> day of March, 2019.



McHenry County Clerk

McHenry County, IL Code of Ordinances
TITLE 5: BUSINESS LICENSES AND REGULATIONS CHAPTER 5.08: LIQUOR CONTROL CODE

**CHAPTER 5.08: LIQUOR CONTROL CODE**

Section

- 5.08.010 Legislative purpose
- 5.08.020 Definitions
- 5.08.030 McHenry County Liquor Control Commissioner, Law & Government/Liquor Committee
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Attachment: Liquor Control and Licensing Ordinance 3-19-19 (7468 : 18 - Amending Liquor License Ordinance March 2019)

5.08.300 Appeals from order of Commissioner

5.08.310 Owner of premises permitting violation—acts of agent or employee—liability of licensee—  
knowledge

5.08.320 Penalties

5.08.330 Severability clause

5.08.340 Repeal of prior ordinances

**§ 5.08.010 LEGISLATIVE PURPOSE.**

To the end that the health, safety and welfare of the People of the County of McHenry shall be protected and temperance in the consumption of alcoholic liquors shall be fostered and promoted, the following has been adopted by the Board of the County of McHenry. This Ordinance shall be liberally construed to affect the above goals.

(Ord. O-201406-12-020, § 1, passed 6-17-2014)

**§ 5.08.020 DEFINITIONS.**

**ACT.** The Illinois Liquor Control Act of 1934, as amended (235 ILCS 5/1-1 *et seq.*).

**ALCOHOLIC LIQUOR.** Any spirits, wine, beer, ale or other liquor, containing more than one-half of one per cent of alcohol by volume, which is capable of being consumed as a beverage by a human being.

**LAW & GOVERNMENT/LIQUOR COMMITTEE MEMBER.** An assistant Liquor Control Commissioner for McHenry County, Illinois.

**BANQUET HALL FACILITIES.** A business conducted on premises at which an activity is catering of private parties, either exclusively or in conjunction with a “restaurant” business; and, whereat there is service for consumption at tables of a full multiple course meal at a prearranged fixed unit price, or hors d’oeuvres, buffet or smorgasbord, and at which alcoholic liquor may be served or sold as incidental to such food services. Each of such private parties must be prearranged and under sponsorship of a particular person or organization.

**BOWLING ALLEY.** Every establishment or building, or part of an establishment or building, wherein the game of bowling, played with composition balls and ten pins, is played.

**CLUB.** A corporation organized under the laws of this State, 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 room space and equipment and maintaining a sufficient number of servers and employees for cooking, preparing and servicing food and meals for its members and their guests; provided, that such a club files with the Commissioner at the time of its application for a license under this Ordinance that its affairs and management are conducted by a board of directors, executive committee, or similar body chosen by the directors, executive committee, or similar body chosen by the members at their annual meeting and that no member or any 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 the members of the club or its guests introduced by members beyond the amount of such salary as may be fixed and voted at any annual meeting by the members or by its board of directors or other government body out of the general revenue of the club.

**COMMISSION.** The McHenry County Liquor Control Commission comprised of the Law & Government/Liquor Committee and the McHenry County Board Chairman.

Attachment: Liquor Control and Licensing Ordinance 3-19-19 (7468 : 18 - Amending Liquor License Ordinance March 2019)

**COMMISSIONER.** The McHenry County Liquor Control Commissioner.

**CONVENIENCE STORE.** Any public place kept, used, maintained, advertised and held out to the public as a place at which the primary purpose is to offer gasoline and/or limited groceries and sundries for sale, the retail sale of alcoholic liquors being incidental thereto. The area for display of alcoholic liquors shall be limited to ten percent (10%) of the retail floor display area in such an establishment.

**HOTEL AND MOTEL.** 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 ten (10) or more rooms are used for sleeping accommodations of such guests and having one 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 building in connection therewith and such building or buildings, structure or structures, being provided with adequate and sanitary kitchen and dining room equipment and capacity.

**PERSON.** Any natural person, firm, partnership, association or corporation.

**PREMISES.** Any permanent physical structure or building from which alcoholic liquors are sold.

**RESTAURANT.** Any public place kept, used, maintained, advertised and held out to the public as a place where meals are served, and where meals are actually 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.

**RETAILER.** A person who sells or offers for sale alcoholic liquor for use or consumption and not for resale in any form.

**RETAIL SALE.** A sale for use of consumption and not for resale in any form.

**SALE.** Any transfer, exchange, delivery or barter in any manner, or by any means whatsoever, including a transfer of alcoholic liquors by and through a transfer or negotiation of warehouse receipts or certificates, and includes and means all sales made by any person, whether principal, proprietor, agent, servant or employee. The term "sale" includes any license to an importing distributor's license even if both licenses are held by the same person.

**STATE COMMISSION.** The Illinois Liquor Control Commission as created in 235 ILCS 5/3-1.

**WINE.** 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.

**WINE-MAKER.** A person engaged in the making of less than 50,000 gallons of wine annually.

(Ord. O-201406-12-020, § 2, passed 6-17-2014)

**§ 5.08.030 MCHENRY COUNTY LIQUOR CONTROL COMMISSIONER, LAW & GOVERNMENT/LIQUOR COMMITTEE MEMBERS.**

A. The Chairman of the County Board for the County of McHenry, Illinois shall be the McHenry County Liquor Control Commissioner in and for all areas outside corporate limits of any city, town or village and lying within the corporate limits of the County of McHenry, and he/she shall be assisted by eight (8) members of the County Board and shall be designated as Assistant Liquor Control Commissioners for McHenry County. The Assistant Liquor Control Commissioners shall assist the McHenry County Liquor Control Commissioner in an exercise of powers and performance of his/her duties as such Commissioner. The Commissioner and his/her Assistant Commissioners shall constitute the McHenry County Liquor Control Commission.

Attachment: Liquor Control and Licensing Ordinance 3-19-19 (7468 : 18 - Amending Liquor License Ordinance March 2019)

B. The Commissioner shall have the power to delegate authority to County employees as may be necessary to carry out the administrative functions related to the provisions of this Ordinance.

(Ord. O-201406-12-020, § 3, passed 6-17-2014)

**§ 5.08.040 COMPENSATION OF COMMISSIONER AND LAW & GOVERNMENT/LIQUOR COMMITTEE MEMBERS.**

A. The Commissioner and the members of the Law & Government/Liquor Committee shall receive no annual salary or compensation for their services related to the duties of the McHenry County Liquor Control Commission in addition to their salaries and mileage reimbursement as the County Board Chairman and County Board Members, respectively.

(Ord. O-201406-12-020, § 4, passed 6-17-2014)

**§ 5.08.050 COMMISSION TO INCLUDE AGENCY.**

When in this Ordinance the Commission shall be referred to, it shall include the Commission and any committee or other agency appointed by such Commissioner.

(Ord. O-201406-12-020, § 5, passed 6-17-2014)

**§ 5.08.060 POWERS AND DUTIES OF COMMISSIONER AND COMMISSION.**

The Commissioner and the Commission, in addition to the powers and duties herein given and provided, shall have all the powers and duties as provided for in the Act.

(Ord. O-201406-12-020, § 6, passed 6-17-2014)

**§ 5.08.070 FILING WITH COUNTY CLERK THE APPOINTMENTS OF MEMBERS OF THE COMMISSION.**

The Commissioner shall file a copy of an appointment of the members of the Commission in the Office of the County Clerk of McHenry County, Illinois within five (5) days after their respective appointments.

(Ord. O-201406-12-020, § 7, passed 6-17-2014)

**§ 5.08.080 LICENSE REQUIRED.**

A. No person, firm, partnership, association or corporation shall act as a retailer of alcoholic liquor or engage in a business of selling, offering for sale, or keeping with an intention of selling for use or consumption and not for resale or providing for consumption by the public alcoholic liquors in the County of McHenry, Illinois, outside the corporate limits of any city, village or incorporated town without first having obtained a retail liquor license as hereinafter provided.

B. No Person shall manufacture, bottle, blend, sell, barter, transport, deliver, furnish with or without cost or possess any alcoholic liquor for beverage purposes, except as specifically provided for in the Act.

(Ord. O-201406-12-020, § 8, passed 6-17-2014)

**§ 5.08.090 CLASSIFICATION OF LICENSES—FEES.**

A. The Commissioner shall have powers to grant liquor licenses for selling at retail of alcoholic liquor for a period beginning on the first day of May of any year and ending on the thirtieth (30th) day of April of the next year. Such licenses shall be and are hereby divided into the following categories and none other, to wit:

1. *Class "A"*: License shall authorize retail sale on premises of alcoholic liquor for consumption on the premises or retail sale of unbroken packaged liquor for consumption off the premise on all days, such

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license being subject to the time restrictions set forth in § 5.08.240A. of this Ordinance. The fee for a Class "A" license shall be \$1,500.00 (one thousand five hundred and no/100 dollars).

2. *Class "B"*: License shall authorize retail sale on premises, in unbroken packages, of alcoholic liquor for consumption off the premises on all days, such license being subject to time restrictions set forth in § 5.08.240A. of this Ordinance. The fee for a Class "B" license shall be \$1,500.00 (one thousand five hundred and no/100 dollars).

3. *Class "C"*: License shall authorize a caterer to serve alcoholic liquor as an incidental part of a food service that serves prepared meals which excludes the serving of snacks as a primary meal, either on or off-site, subject to time restrictions in § 5.08.240A. of this Ordinance. The Fee for a Class "C" license shall be \$1,500.00 (one thousand five hundred and no/100 dollars).

4. *Class "D"*: License shall authorize the retail sale of alcoholic beverages for consumption beyond the confines of the premises specified in the license but within the property lines of the property upon which the premises is located. The requirements for obtaining a Class "D" license shall be the same as for a current license. No person shall be eligible for a Class "D" license who has not been issued a current Class "A" liquor license. The fee for a Class "D" license shall be \$500.00 (five hundred and no/100 dollars).

5. *Class "E"*: License shall authorize retail sale on premises of alcoholic liquor for the consumption on the premises or retail sale of unbroken packaged liquor for consumption off the premise, for a fee of \$800.00. Said Class E license to be in force for 150 consecutive days, subject to time restrictions in § 5.08.240A. of this Ordinance. Dates will be determined by the applicant when applying for a Class E Liquor License.

6. a. *Class "F"*: License shall authorize retail sale on premises of alcoholic liquor for the consumption on the premises for a period of 24 hours. A Class "F" license may be issued only to charitable groups, or non-profit associations or corporations, religious corporations or government entities, as allowed by law, upon a determination by the Commissioner that the retail sale of alcoholic liquor will be for a charitable or civic purpose. No more than three (3) Class F" licenses shall be issued to any such organization or association in any one license year, such year beginning May 1 and ending April 30. In addition, prior to the issuance of a Class F License, the applicant shall submit the following items to the Commissioner: (1) location upon the premises where alcohol is to be sold; (2) a safety plan for the event including crowd control, security if necessary, and the prevention of underage drinking; (3) a list of members who will be selling alcohol during the event; and (4) official documentation that the licensee has authority from the charitable or non-profit group to apply for the license. Class "F" Licenses shall be reviewed for compliance with the requirements set forth in this paragraph and may be signed by the Commissioner unless the Commissioner decides, in his discretion, to impose other requirements on a Class "F" License as may be appropriate upon reviewing the above submitted information. The Commissioner may also submit the application to the Commission for review and recommendation. The Commission may impose other requirements on a Class "F" License as may be appropriate upon reviewing the above submitted information.

b. Twenty-four (24) hour license shall be \$125.00 (one hundred twenty-five and no/100 dollars), provided that the license may be extended to an additional four consecutive calendar days at a fee of \$75.00 (seventy-five and no/100 dollars) for each additional 24 hour period or fraction thereof. Such license is subject to the time restrictions set forth in § 5.08.240A. of this Ordinance.

7. *Class "S"*: License shall authorize the retail sale on premises of alcoholic liquor for consumption on the premises for a 24 hour period. A class "S" license shall only be issued to an organization or corporation which holds a current and valid liquor license from the State of Illinois and either the County of McHenry or a municipality located within the corporate boundaries of McHenry County. The aforementioned municipal license must grant the licensee substantially similar authorization to sell or

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serve alcoholic liquor as either of the McHenry County class "A", "B", or "C", licenses. A Class "S" license shall be issued for the sole purpose of obtaining local liquor authority approval from McHenry County pursuant to an application for a State of Illinois Special Use Permit Liquor License. Failure to obtain a State of Illinois Special Use Permit within 60 days of being issued a Class "S" license shall render the Class "S" license void. A Class "S" license must be issued for each twenty-four (24) hour period of an event. Separate Class "S" licenses may be issued for consecutive 24 hour periods of the same event. No more than ten (10) Class "S" licenses shall be issued to any organization or corporation in any one license year, such year beginning May 1, and ending April 30. Prior to the issuance of a Class "S" license, the applicant shall submit the following items to the Liquor Control Commission, (1) a completed Class "S" license application providing information relating to the applicant as well as detailing the event, (2) a copy of the applicant's current local and state liquor license, (3) a temporary use permit or other zoning authorization from the McHenry County Planning and Development Department for the event, (4) a list of individuals who will be selling or serving alcohol at the event, and (5) a description of the location of the premises where the event will occur. Class "S" Licenses shall be reviewed for compliance with the requirements set forth in this paragraph and may be signed by the Commissioner unless the Commissioner decides, in his discretion, to impose other requirements on a Class "S" License as may be appropriate upon reviewing the above submitted information. The Commissioner may also submit the application to the Commission for review and recommendation. The Commission may impose other requirements on a Class "S" License as may be appropriate upon reviewing the above submitted information.

A Class "S" license is subject to the time restrictions set forth in § 5.08.240A of this Ordinance. The fee for a Class "S" license shall be \$150.00 (one hundred and fifty and no/100 dollars) for each twenty-four (24) hour period.

8. Class "W": A wine-maker's license shall authorize the manufacture of less than 50,000 gallons of wine, within the premises specified, and the storage and sale of such wine, per year to distributors in the state and persons outside the state, as may be permitted by law. Such license shall allow the retail sale of wine, by a wine-maker as defined previously, within the premises specified, not more than 50,000 gallons of wine per year, for use or consumption, either on premises or off premises in original packaging, and for wine tasting for which remuneration may or may not be received. Such license being subject to time restrictions set forth in § 5.08.240A of this Ordinance. The annual license fee shall be \$1,500.00.

B. Other than Class "E" or "F" or "S" licenses, if a new application for a liquor license is made during the last six months of any license year, the license fee shall be one-half the appropriate regular fee.

(Ord. O-201406-12-020, § 9, passed 6-17-2014)

**§ 5.08.100 ISSUANCE OF LICENSES—PROCEDURE AND APPLICATION.**

A. Forms of application for a license under this Ordinance shall be furnished by the McHenry County Liquor Commissioner, and applicants for a license under this Ordinance shall secure the necessary forms from said McHenry County Liquor Commissioner and such application or applications shall be in writing and under oath and shall be filed with the McHenry County Liquor Commissioner and shall become a permanent record of the Commission and shall contain the following information, vis:

1. Applicant's name and residential address. If the premises are leased, name and address of the landlord, and a copy of lease. Lease must be in name of applicant and for the entire license period;
2. Name and address of applicant's business;
3. Proof of proper zoning for the licensed premises;
4. If applicable, date of filing of an "assumed name" of its business with the McHenry County Clerk;

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5. In a case of a partnership, date of formation of the partnership; in case of an Illinois corporation, date of its incorporation; or in a case of a foreign corporation, the State where it was incorporated and date of its becoming qualified under the "Business Corporation Act of 1983" (805 ILCS 5/1.01 *et seq.*) to transact business in the State of Illinois.

6. Applicant's Retailer's Occupation Tax (ROT) Registration Number; whether the applicant is delinquent in the payment of the Retailer's Occupation Tax (Sales Tax), and if so, the reasons therefore;

7. Whether the applicant is delinquent under the thirty (30) day credit law, and if so, the reasons therefore;

8. Whether the applicant has made an application for a liquor license which has been denied in any jurisdiction, and if so, the reasons therefore;

9. Whether the applicant has ever had any previous liquor license suspended or revoked in any jurisdiction, and if so, the reasons therefore;

10. Whether the applicant has ever been convicted of a gambling offense or felony, and if so, the particulars thereof;

11. Whether the applicant, partner, shareholder or manager is an elected, appointed, or law enforcement public official, and if so, the particulars thereof;

12. Applicant's name, sex, date of birth, social security number, FEIN Number, position and percentage of ownership in the business; and the name, sex, date of birth, social security number, position and percentage of ownership in the business of every sole owner, partner, corporate officer, director, manager and any person who owns five percent (5%) or more of the shares of the applicant business entity or parent corporations of the applicant business entity.

13. That applicant has not received or borrowed money or anything else of value, and that applicant will not receive or borrow money or anything else of value (other than merchandising credit in the ordinary course of business for a period not to exceed 90 days as expressly permitted in § 6-5 of the Act), directly or indirectly, from any manufacturer, importing distributor or distributor or from any representative of any such manufacturer, importing distributor or distributor, nor be a party in any way, directly or indirectly, to any violation by a manufacturer, distributor or importing distributor of § 6-6 of the Act.

14. That the applicant has a one-year pre-paid in effect Liquor Law Liability (Dram Shop) Insurance policy for the entire term of the license. Evidence of said coverage shall be in the form of a Certificate of Insurance which the applicant shall submit with the written application. The Certificate of Insurance must be marked paid in full.

a. There shall be a thirty (30) day notification to the Commissioner in an event of cancellation of the Liquor Law Liability Insurance; such notification requirement shall be stated on the Certificate of Insurance.

b. That a renewal of Liquor Law Liability Insurance shall be sent to the Commissioner no later than fifteen (15) days prior to the expiration date of the Liquor Law Liability Insurance.

c. To show evidence, satisfactory to the Commissioner, of issuance of a policy of liquor liability insurance (Dram Shop) and insuring against liability for any injury or death on account of acts of negligence, omission, or violating the Liquor Control Act. Said policy shall carry an amount of coverage which meets or exceeds the limitation on actions for damages caused by intoxication (235 ILCS 5/6-21) and must be increased as statutorily amended. Each licensee shall furnish the Commissioner a certificate of such insurance and, in the event of cancellation, notify the Commissioner immediately of such cancellation. If the Commissioner has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of a community, he/she may, upon the issuance

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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.

15. a. In addition to the foregoing information, such application shall contain such other and further information as the Commissioner may, by rule or regulation not inconsistent with law, prescribe.

b. All license holders have a perpetual duty to update the aforementioned information for duration of license. Failure to update information to the Commissioner within ten (10) days shall be deemed a violation of this Ordinance.

c. If the applicant reports a felony conviction as required under subsection A.10. above of this Section, such conviction may be considered by the Commissioner in determining qualifications for licensing, but shall not operate as a bar to licensing.

d. If said application is made on behalf of a partnership, the application must be signed by at least one of the partners. Applications made on behalf of an association, club or corporation must be signed by one officer in good standing with the organization.

B. At the time of application for either a new or Class "D" license, the applicant shall submit certifications from the McHenry County Health Department and Building and Zoning Department that the proposed license premises are in conformity with all regulations and ordinances of said Departments.

C. There shall be a onetime, nonrefundable Liquor License Application Fee of \$1,000.00 (one thousand and no/100 dollars) charged to new applicants of all classes of liquor licenses, excepting Class "F" and Class "S" licenses. The application fee shall not apply to renewals of liquor licenses by the same licensee. Licensees who add or change corporate officers or partners so that said new corporate officer or partners now own 30% or more of stock shall not be deemed a renewal for the next application period and shall be subject to paying the Application fee.

D. 1. All licensees who change any part of their corporate structure including; changes to partnership agreements, articles of incorporation, or add or change partners or corporate officers who own 5% or more of ownership stock in the licensed entity shall notify the Commissioner of said change within 10 days after such change takes effect. The licensee shall have 60 days after notifying the Commissioner to have any new partners or corporate officers approved by the Commissioner. The application fee for changes to corporate officers shall be \$100 for each new officer. If the application of a new partner or corporate officer is approved within 60 days of said applicant assuming their new position, no application fee shall be required at renewal. Failure to comply with this provision shall result in the licensee being assessed the full application fee at the time their license renewal. Changes in ownership constituting 30% or more of stock shall be assessed the application fee at the next renewal, pursuant to subsection C. above of this Ordinance, regardless of compliance with this subsection.

2. New Partners or Officers: New partners or officers must file an application with the Commissioner prior to being interviewed and considered for approval by the Commissioner. New partners or officers shall be finger printed and photographed by the McHenry County Sheriff's Office. Thereupon, said photographs shall be placed in the Commissioner's files, and file with their application letters of recommendation from at least three (3) individuals, who are not to be owners or employees of the establishment for which they seek manager status; the letters must include the name, address, and telephone number of its maker. New partners and officers shall be subject to the same standards as the original applicant.

E. Licensees requiring a manager, because the licensee is not a resident of McHenry County and therefore ineligible to receive a license without a manager, must inform the Commissioner within 10 days

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after the prior manager's final day of employment. The licensee shall then have sixty (60) days by which to hire a new manager and have said new manager interviewed and approved by the Commissioner. Failure to comply with this provision shall result in the licensee being assessed the full application fee at the time their license is up for renewal.

1. New Managers: New managers must file an application with the Commissioner prior to being interviewed and considered for approval by the Commissioner. New Managers shall (1) be fingerprinted and photographed by the McHenry County Sheriff's Office. Said photographs shall be placed in the Commissioner's files, and (2) file with their application letters of recommendation from at least three (3) individuals, who are not to be owners or employees of the establishment for which they seek manager status; the letters must include the name, address, and telephone number of its maker. New managers must meet the same requirements as an owner and must not be disqualified from serving as a manager by any of the provisions of § 5.08.120 of this Ordinance.

2. On an annual basis, after the second manager application and interview, applicants shall pay an additional fee of \$75.00 (seventy-five and 00/100 dollars) per manager interview.

(Ord. O-201406-12-020, § 10, passed 6-17-2014)

**§ 5.08.110 REQUIREMENT OF RETAIL LIQUOR LICENSE.**

A. For licenses issued after May 1, 2010, for all original or renewal applications for class A, B, C, and E liquor licenses shall be accompanied with proof of completion of a State certified Beverage Alcohol Sellers and Servers Education and Training (BASSET) program for all persons who sell or serve alcoholic beverages, all management personnel working on premises, and anyone whose job description entails the checking of identification for the purchases of alcoholic beverages, pursuant to that license.

B. A state certified BASSET training program shall be defined as a BASSET program licensed by the State of Illinois Liquor Control Commission (ILCC) as required by 235 ILCS 5/3-12(11.1) and 6-27 and Title 77 of Illinois Administrative Code, Chapter XVI, § 3500. All licensed BASSET providers shall be required to have on file all licenses and certificates to prove current qualifications and provide a certificate of course completion and a card to participants.

C. Any new owner, manager, employee, or agent requiring BASSET training, shall within ninety (90) days from the beginning of their employment with that licensee, complete an ILCC BASSET approved seller/server training program and shall until completion of the BASSET program work under the supervision of a person who has completed BASSET training.

D. A photo copy of certificate of completion for all owners, managers, employees, or agents required by this ordinance to have BASSET training shall be maintained, by the establishment, in manner that will allow inspection, upon demand, by any designee of both the state or local liquor control authorities.

(Ord. O-201406-12-020, § 11, passed 6-17-2014)

**§ 5.08.120 PERSONS/ENTITIES INELIGIBLE TO RECEIVE LICENSE.**

A. No license of any kind issued by the Commissioner shall be issued to:

1. A person who is not domiciled in the County of McHenry, Illinois, unless eligible under subsection A.12. below except in the case of railroad or boat licenses.
2. A person who is not of good character and reputation in the community in which he resides;
3. A person who is not a citizen of the United States;
4. A person who has been convicted of a felony under any Federal or State law, if the Commissioner determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust. Burden of proof to show sufficient rehabilitation shall be on the applicant;

5. The Commissioner shall not require applicants to report the following information and shall not consider the following criminal history records in connection with an application for a license:

- a. Juvenile adjudications of delinquent minors as defined in Section 5-105 of the Juvenile Court Act of 1987, subject to the restrictions set forth in Section 5-130 of the Juvenile Court Act of 1987.
- b. Law enforcement records, court records, and conviction records of an individual who was 17 years old at the time of the offense and before January 1, 2014, unless the nature of the offense required the individual to be tried as an adult.
- c. Records of arrest not followed by a conviction.
- d. Convictions overturned by a higher court.
- e. Convictions or arrest that have been sealed or expunged.

6. The Commission, upon a finding that an applicant for a license was convicted of a felony or a violation of any federal or State law concerning the manufacture, possession or sale of alcoholic liquor, shall consider any evidence of rehabilitation and mitigating factors contained in the applicant's record, including any of the following factors and evidence, to determine if the conviction will impair the ability of the applicant to engage in the position for which a license is sought:

- a. the lack of direct relation of the offense for which the applicant was previously convicted to the duties, functions and responsibilities of the position for which a license is sought;
- b. whether 5 years since a felony conviction or 3 years since release from confinement for the conviction, whichever is later, have passed without a subsequent conviction;
- c. if the applicant was previously licensed or employed in this State or other states or jurisdictions, then the lack of prior misconduct arising from or related to the licensed position or position of employment;
- d. the age of the person at the time of the criminal offense;
- e. successful completion of sentence and, for applicants serving a term of parole or probation, a progress report provided by the applicant's probation or parole officer that documents the applicant's compliance with conditions of supervision;
- f. evidence of the applicant's present fitness and professional character;
- g. evidence of rehabilitation or rehabilitative effort during or after incarceration, or during or after a term of supervision, including, but not limited to, a certificate of good conduct under Section 5-5.5-10 of the Unified Code of Corrections; and
- h. any other mitigating factors that contribute to the person's potential and current ability to perform the duties and responsibilities of the position for which a license or employment is sought.

7. A person who has been convicted of being the keeper or is keeping a house of prostitution and/or gambling;

8. A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality;

9. A person whose license issued under this Ordinance or the Act has been revoked for cause;

10. A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application;

11. A partnership, or 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 citizenship and residence within the County;

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12. A corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in an 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 County;

13. 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" (805 ILCS 5/101 *et seq.*).

14. A person whose place of business is conducted by a manager or agent unless the manager/agent is domiciled in McHenry County and the manager or agent possesses the same qualifications required by the licensee;

15. A person who has been convicted of a violation of any Federal or State law concerning manufacture, possession or sale of alcoholic liquor or has forfeited his bond to appear in court to answer charges for any such violation;

16. A person or applicant who neither beneficially owns, nor leases for full period the premises for which license is issued;

17. Any law enforcing public official, including members of local liquor control commissions, any mayor, alderman, or member of a city council or commission, any president of a village board of trustees, any members of a village board of trustees, or any president or member of a county board, and no such official shall be interested directly in manufacture, sale or distribution of alcoholic liquor, except that license may be granted to such official in relation to premises which 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;

18. A person who is neither an owner nor a beneficial owner of the business to be operated by the licensee;

19. A person who has been convicted of a gambling offense as prescribed by any of subsections (a)(3) through (a)(10) of § 28-1 of, or as prescribed by § 28-3 of the "Criminal Code of 1961", approved July 28, 1961, as heretofore or hereto after amended (720 ILCS 5/28-1, 5/28-3), or as prescribed by a statute or replaced by any of the aforesaid statutory provisions;

20. A person to whom a Federal Wagering Stamp has been issued by the Federal Government for the current tax period;

21. A partnership to which a Federal Wagering Stamp has been issued by the Federal Government for the current tax period, or if any of the partners have been issued a Federal Gambling device stamp or Federal Wagering Stamp by the Federal Government for the current tax period;

22. A corporation, if any officer, manager or director thereof, or any stockholder owning in an aggregate more than twenty percent (20%) of such corporation's stock has been issued a Federal Wagering Stamp for the current tax period;

23. Any premises for which a Federal Wagering Stamp has been issued by the Federal Government for the current tax period;

24. Any person or entity, not eligible for a State Retail Liquor Dealer's License;

25. Any person or entity indebted for any delinquent real estate or personal property taxes, sales ROT, debt or other financial obligation to the County of McHenry;

26. Any person or entity not able to provide a Certificate of Insurance that shows currently in force Liquor Law Liability (Dram Shop) Insurance;

27. For any other reason as outlined in the Act.

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(Ord. O-201406-12-020, § 12, passed 6-17-2014)

**§ 5.08.130 FORM OF LICENSE ISSUED.**

All licenses issued by the Commissioner shall state thereon the name of the licensee, the address and description of the premises and of the building for which the license is granted, and the date of its issuance and expiration.

A. Where two or more locations, places, or premises are under the same roof, or are located at one street address, a separate license shall be obtained for each such location, place, or premises, unless all rooms in which it is intended to serve alcoholic liquors are directly connected or are adjacent to, and accessible to each other without leaving the building. Each licensee shall define with certainty the room or rooms in which liquor is to be sold.

B. *Separate license for each premise; transfer to other premises.* Licenses issued hereunder apply only to the premises described in the application and in the license issued thereon, and only one location shall be so described in each license. After a license has been granted for particular premises, the State Commission or the local commissioner, as the case may be, upon proper showing, may endorse upon said license permission to abandon the premises therein described and remove there from to other premises approved by him or it, but in order to obtain such approval the licensee shall file with the State Commission and local commissioner a request in writing and a statement under oath which shall show that the premises to which removal is to be made comply in all respects with the requirements of this Act. A transfer may only be requested to a premise within the same jurisdiction that issued the original local liquor license. A transfer fee of \$75.00 will be charged for each request.

(Ord. O-201406-12-020, § 13, passed 6-17-2014)

**§ 5.08.140 DISPLAY OF LICENSE.**

Each licensee shall cause his license issued under the provisions of this Ordinance to be framed and hung in plain view in a conspicuous place on the licensed premises. All licensees shall comply with the State mandated display of warning signs as cited in the Act.

(Ord. O-201406-12-020, § 14, passed 6-17-2014)

**§ 5.08.150 PRIVILEGE GRANTED BY LICENSE— NATURE AS PROPERTY— EXPIRATION OF LICENSE—NOT LIABLE TO ATTACHMENT, GARNISHMENT OR EXECUTION— TRANSFERABILITY.**

A license shall be purely a personal privilege and shall expire on April 30th next following the date of issuance, unless sooner revoked as in this Ordinance 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 laws of testate or intestate devolution, but it shall cease upon death of the licensee, provided that executors or administrators of an estate of any deceased licensee, and a trustee of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale or manufacture of alcoholic liquor under order of an appropriate court, and may exercise the privileges of the deceased or such insolvency or bankruptcy until expiration of such license but not longer than six months after the death, bankruptcy or insolvency of such licensee.

(Ord. O-201406-12-020, § 15, passed 6-17-2014)

**§ 5.08.160 RENEWAL OF LICENSES.**

A. Any licensee may renew his license at the expiration thereof, provided he is qualified to receive a license and the premise for which such renewal license is sought is suitable for such purpose; and provided further that the renewal privilege herein provided for shall not be construed as a vested right

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which shall in any case prevent the McHenry County Board from decreasing the number of licenses to be issued within McHenry County.

B. Any license issued to a corporation for profit shall terminate upon transfer of ownership from one individual or individuals to another of more than thirty percent (30%) of the corporation stock, and any application for renewal of the license in the corporation's name subsequent to transfer of the ownership of more than thirty percent (30%) of the corporate stock shall be considered and treated as a new application.

C. Whenever a non-corporate licensee under this Ordinance forms a corporation to operate in lieu of said licensee, a new application and fee is required, even when the shareholder or shareholders of said corporation and the licensee or licensees are one and the same persons (see § 5.08.100C.).

D. Failure to apply for renewal of a liquor license and to accompany such renewal application with an appropriate fee by the expiration date of the present valid liquor license may be considered by the Commission as a decision not to renew.

E. Every submitted renewal license shall be in all respects identical with the previous year's license and application. Applications for renewal licenses shall be made in the same manner except that a statement shall be endorsed on the face of the renewal application that such application is for renewal. Submittal of renewal applications must be filed with the Commissioner no less than 30 days prior to the expiration of the license. Failure to meet submittal deadlines could result in a lapse of liquor license, denial of a renewal, and/or a fine.

F. Renewal applications determined to be identical shall be submitted for the Commissioner's signature and subsequently issued a renewal license unless the Commissioner requests that application for renewal be submitted to the Law & Government/Liquor Committee for review and recommendation. Should the application for a renewal license fail to be identical to the previous year's application, that application and liquor license may be submitted to the Law & Government/Liquor Committee for review and recommendation.

(Ord. O-201406-12-020, § 16, passed 6-17-2014)

**§ 5.08.170 ANNUAL REPORT BY LICENSED CORPORATION.**

A. Each corporation licensed under this Ordinance shall file an annual report on a form provided by the Commission setting forth:

1. Name of the corporation, the address, including street and number, if any, of its registered office in this State, and the name of its registered agent at such address;
2. Names and respective addresses, including street and number, if any, of its directors and officers;
3. A statement of the aggregate number of shares issued by the corporation;
4. Names and respective addresses, including street and number, if any, of all shareholders owning greater than 5% of any class of its corporate stock;
5. Such annual report shall be delivered to the Commissioner at the time of any new or renewal application and shall be made a part of said application.

B. Each corporation that fails or refuses to file its annual report within the time prescribed, or fails or refuses to answer truthfully and fully questions on the annual report or fails or refuses to report any change in ownership of its shares to the Commissioner within the time prescribed by this Ordinance, shall be subject to suspension, as provided under § 5.08.300.

C. Each corporation shall file a report with the Commissioner within thirty (30) days of the issuance of either a new class or new shares of stock or of the transfer of five percent (5%) or more of already issued shares to new shareholders.

(Ord. O-201406-12-020, § 17, passed 6-17-2014)

**§ 5.08.180 SALES IN STATE AND COUNTY BUILDINGS.**

No alcoholic liquors shall be sold, delivered or consumed in any building belonging to or under control of the County of McHenry. No person shall furnish any alcoholic liquor to any prisoner confined in jail, except on a physician's prescription for medicinal purposes. No person shall furnish any alcoholic liquor to any patient of Valley-Hi Nursing Home, except on a physician's prescription for medicinal purposes.

(Ord. O-201406-12-020, § 18, passed 6-17-2014)

**§ 5.08.190 SALES.**

A. 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 an age of twenty-one (21) years, or to any intoxicated person. No person, after purchasing or otherwise obtaining alcoholic liquor, shall sell, give or deliver such alcoholic liquor to another person under an age of twenty-one (21) years, except in performance of a religious ceremony or service.

B. If a licensee or his agents or employees believes or has reason to believe that a sale or delivery of any alcoholic liquor is prohibited because of non-age of a prospective recipient, he shall, before making such sale or delivery, demand presentation of written evidence of age and identity of the person in a document issued by a Federal, State, county or municipal government, or subdivision or agency thereof, including, but not limited to a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act (50 U.S.C., App. §§ 451 et seq.), or an identification card issued to a member of the Armed Forces.

(Ord. O-201406-12-020, § 19, passed 6-17-2014)

**§ 5.08.200 ATTIRE, ENTERTAINERS, VISUAL DISPLAYS, CONDUCT, ETC. ON PREMISES.**

A. The following acts or conduct are prohibited on licensed premises.

1. Performance of acts, or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or other sexual act.

2. Actual or simulated touching, caressing or fondling of breasts, buttocks, pubic hair, anus or genitals.

3. Actual or simulated display of breasts, buttocks, pubic hair, anus, vulva, or genitals.

4. Permitting any person to remain upon licensed premises that exposes to public view any portion of his or her breasts, buttocks, genitals, vulva, or anus.

5. A display, showing, or viewing of any type depicting a live performance of anything prohibited in subsections A.1., A.2., A.3., or A.4. above.

6. Subject to those provisions as set out above herein, entertainers shall perform only upon a stage at least eighteen (18) inches above the immediate floor level and removed at least six (6) feet from the nearest patron.

B. *Common Entrances and Passageways.* No licensed premises shall have a common entrance or passageway with a place of entertainment or business in which any of the acts prescribed above are performed or allowed to be performed.

C. *Noise Prohibited.*

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1. An emission beyond boundaries of a licensed premise of any noise that unreasonably interferes with enjoyment of life or with any lawful business or activity including but not limited to any one or more of the following is prohibited:

a. Noise constituting a violation (as determined by findings and order of the Illinois Pollution Control Board) of 415 ILCS 5/23 *et seq.* as from time to time amended or any regulation or standard adopted by the IPCB pursuant thereto as set forth in the Illinois Administrative Code, subsequently entitled "Noise", §§ 900.101 *et seq.*

b. Noise emitted by use or operation of a sound amplifying device so that the device produces a loud, disturbing or raucous sound which can be heard by persons at a distance greater than 100 feet from the boundaries of the licensed premises at any time.

2. Amplified live or recorded music or entertainment is permitted on any licensed premises, as long as subsections C.1.a. and C.1.b. above are not violated, except that no licensee shall permit any live or recorded music or entertainment to be amplified by any means outside any building on the premises after 9:00 p.m. on Sunday, Monday, Tuesday, Wednesday and Thursday, and 12:00 midnight on Friday and Saturday.

D. *Other Nuisances.* Any conduct or activity occurring on the licensed premises which constitutes a nuisance as defined by:

- 1. 740 ILCS 55/221 as from time to time amended, adopted herein by reference.
- 2. Article III of the Public Health Ordinance, adopted herein by reference.

E. *Citations under the McHenry County Nuisance Noise Ordinance.* Any finding or complaint issued under the McHenry County Noise and/or Nuisance Ordinance shall subject the licensee to a hearing on the citation before the Commissioner or the Law & Government/Liquor Committee at the discretion of the Commissioner.

(Ord. O-201406-12-020, § 20, passed 6-17-2014)

**§ 5.08.210 SANITARY AND SAFETY CONDITIONS OF PREMISES.**

Failure to conform to the McHenry County Public Health Ordinance may be considered sufficient cause for revocation or suspension of license.

(Ord. O-201406-12-020, § 21, passed 6-17-2014)

**§ 5.08.220 DISORDERLY CONDUCT NOT TO BE PERMITTED ON PREMISES.**

No licensee under this Ordinance shall permit any disorderly conduct or disturbance of peace thereon.

(Ord. O-201406-12-020, § 22, passed 6-17-2014)

**§ 5.08.230 RECORDS OF LICENSES ISSUED.**

The Commissioner shall keep or cause to be kept a record of all such licenses issued by him/her and shall furnish a list of such licenses to the County Clerk, Sheriff and State's Attorney, and upon issuance of any new license or upon expiration and failure to renew or revocation of any old license, the Commissioner shall give written notice of such action to each of these officers within 48 hours of such action.

(Ord. O-201406-12-020, § 23, passed 6-17-2014)

**§ 5.08.240 OPENING AND CLOSING HOURS.**

A. No alcoholic liquor shall be sold or furnished at retail in McHenry County outside the corporate limits of any city, village or incorporated town between the hours of 2:00 a.m. and 6:00 a.m. on any day

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of the week. Time referred to herein shall be Central Standard Time, except that portion of the year when Central Daylight Savings time is in effect.

B. During the times when alcoholic liquor may not be sold at retail, the premises for which the license has been issued shall be closed for the sale of alcoholic liquor and such premises shall be totally closed to the public one-half hour thereafter, provided that the premises of restaurants, hotels or clubs, as defined in this Ordinance and in the Act, and the premises of a convenience store, as defined in this Ordinance, may be kept open in addition to the hours referred to in subsection A. above of this Section for purposes other than the sale of alcoholic liquor.

(Ord. O-201406-12-020, § 24, passed 6-17-2014)

**§ 5.08.250 COMPLAINT OF VIOLATION—HEARING.**

A complaint may be filed with the Commissioner by no less than any five residents of the County of McHenry stating that any retailer licensee, subject to jurisdiction of the Commissioner, has been or is violating the provisions of the Commissioner, has been or is violating the provisions of this Ordinance or the act or the rules or regulations issued pursuant thereto. Such complaint shall be in writing in a form of an affidavit signed and sworn to by those parties complaining. The complaint shall state the particular provision, rule or regulations believed to have been violated and those facts in detail upon which belief is based. If the Commissioner is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for such belief, he/she shall set the matter for hearing in accordance with §§ 5.08.290, 5.08.300 and 5.08.310 of this Ordinance, and shall serve a copy of the Complaint and notice upon the licensee of the time and place of such hearing. Such notice shall be served at least three (3) days prior to the hearing.

(Ord. O-201406-12-020, § 25, passed 6-17-2014)

**§ 5.08.260 PROCEDURE BEFORE COMMISSION ON CITATIONS.**

A. The Commissioner shall have a right to proceed originally by citation and notice of hearing to require any licensee of said Commissioner to appear at a time and place specified in said notice and to show cause why the local liquor license issued to said licensee by this Commissioner should not be suspended or revoked for violations of the provisions of this Ordinance or the Act or the rules and regulations issued pursuant thereto.

B. All such original proceedings shall be instituted by citation in writing, shall state the particular provision, rule or regulation alleged to have been violated and the facts in detail upon which such allegation is based and shall be signed by the Commissioner or the members of the Law & Government/Liquor Committee.

C. The licensee against whom the citation has been filed shall be entitled to be served with a copy of the citation and shall be given notice of the time and place set for the hearing of said citation.

D. Said citation and notice of hearing shall be served on the licensee named therein, not less than three (3) days prior to the date specified in said notice of hearing. Service of the Citation on the manager shall constitute service on the licensee. If the licensee's whereabouts are unknown or reasonable attempts to serve the licensee have failed, service shall be by publication in a newspaper of general circulation within McHenry County.

E. Said licensee named in said citation and notice of hearing shall appear at the time and place designated in said citation and notice hearing.

(Ord. O-201406-12-020, § 26, passed 6-17-2014)

**§ 5.08.270 REVOCATION OR SUSPENSION OF LOCAL LICENSE—NOTICE—HEARING— APPEAL—PENALTIES.**

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A. The Commissioner may fine any license-issued if he or she has determined that the licensee has violated any of the provisions of this Ordinance, any applicable rule or regulation established by the Commissioner or the State Commission or any provision of the Act; the licensee shall be fined not more than one thousand (\$1,000.00) dollars for a first (1st) offense within a twelve (12) month period, one thousand five-hundred dollars (\$1,500.00) for a second (2nd) offense within a twelve (12) month period, and two thousand five-hundred dollars (\$2,500.00) for a third (3rd) or subsequent offense within a twelve (12) month period, and every day that such violation is continued shall constitute a separate and distinct offense. In addition thereto, the Commissioner may suspend for not more than thirty (30) days, or in lieu thereof the Commissioner may revoke said license. Not more than \$15,000 in fines under this Section may be imposed against any licensee during the period of his license. However, no such license shall be so revoked or suspended and no licensee shall be fined except after a public hearing by the Commission with a three (3) day written notice to the licensee affording the licensee an opportunity to appear and defend. All hearings conducted before the Commission shall be conducted by a Hearing Officer. The Commission shall appoint said Hearing Officer from a list provided by the State's Attorney. The Hearing Officer shall be an Attorney licensed to practice in the State of Illinois and shall preside over hearings and shall make rulings concerning the admission of evidence and the manner in which the hearing is conducted subject to this Ordinance. The Hearing Officer shall make all decisions and rulings with respect to the parties' rights to due process. The Hearing Officer may exclude irrelevant, immaterial, incompetent, or unduly repetitious testimony or other evidence. No ruling of the Hearing Officer shall be appealable to the Commission. All hearings conducted before the Commission shall be recorded by a certified court reporter or a certified shorthand reporter. If the Commissioner has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the community, he/she 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.

B. The Commissioner shall within five (5) days after such hearing, if he/she determines after such hearing that the license should be revoked or suspended, or that the licensee should be fined, state the reason or reasons for such determination in a written order, and either the amount of the fine, the period of suspension or that the license has been revoked, and shall serve a copy of such order within five (5) days upon the licensee.

C. After receipt of such order of suspension or revocation, the licensee shall have a privilege, within a period of twenty (20) days after receipt of such order of suspension or revocation, of appealing the order to the State Commission for a decision sustaining, reversing, or modifying the order of the Commissioner. The appeal shall be limited to a review of the official record of the proceeding before the Commission. If the State Commission affirms the Commissioner's order to suspend or revoke the license at the first hearing, the appellant shall cease to engage in the business for which the license was issued, until the Commissioner's order is terminated by its own provisions or reversed upon rehearing or by the Courts.

(Ord. O-201406-12-020, § 27, passed 6-17-2014)

**§ 5.08.280 PROCEDURE BEFORE COMMISSION ON REQUEST FOR CONTINUANCE OF ANY HEARING.**

A. A request for continuance of any hearing in any matter before the Commission will not be allowed by the Commission unless for a good and valid reason and unless made at least five (5) days prior to the date set for hearing.

B. The Commission may, in its discretion, grant a continuance if extenuating and unusual circumstances are presented in support of the request for continuance.

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(Ord. O-201406-12-020, § 28, passed 6-17-2014)

**§ 5.08.290 COMMISSIONER’S REPORT.**

A. The Commissioner shall report in writing to the Illinois Liquor Control Commission within ten (10) days after any hearing has been held before such Commissioner for a violation by any retail alcoholic liquor licensee of any State law or any provision of this Ordinance, or any rule or regulation established by the State Commission.

B. The report from the Commissioner shall specify the time and place where the hearing was held, whether a suspension or revocation was entered therein, or what other disposition was made or entered in such Commissioner’s report.

(Ord. O-201406-12-020, § 29, passed 6-17-2014)

**§ 5.08.300 APPEALS FROM ORDER OF COMMISSIONER.**

Any order or action by a 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 be appealed by any resident of the political subdivision under the jurisdiction of the Commissioner or any person interested to the State Commission. A certified official record of the proceedings taken and prepared by a certified court reporter or certified shorthand reporter shall be filed by the Commissioner within five (5) days after the notice of the filing of such appeal, if the appellant licensee pays for the costs of the transcript. The appeal shall be limited to a review of the official record of the proceedings before the Commission.

(Ord. O-201406-12-020, § 30, passed 6-17-2014)

**§ 5.08.310 OWNER OF PREMISES PERMITTING VIOLATION—ACTS OF AGENT OR EMPLOYEE—LIABILITY OF LICENSEE— KNOWLEDGE.**

A. 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 Ordinance or the Act, said owner, agent or other person shall be deemed guilty of a violation of this Ordinance or the Act to the same extent as said licensee and be subject to the same punishment.

B. Every act or omission of whatsoever nature constituting a violation of any of the provisions of this Ordinance or the Act, 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 and 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.

(Ord. O-201406-12-020, § 31, passed 6-17-2014)

**§ 5.08.320 PENALTIES.**

A. Whenever any licensee shall be convicted of any violation of this Ordinance or the Act, or his license shall be revoked and no appeal is taken from said order or revocations or any appeal taken therefore is decided adversely to the licensee, the licenses of said licensee may, in the discretion of the Commissioner, be revoked and forfeited.

B. Whenever any officer, director, manager or other employee in a position of authority of any licensee under this Ordinance shall be convicted of any violation of this Ordinance or the Act while engaged in the course of his employment or while upon the premises described by said license, said license shall be revoked and the fees paid thereon forfeited both as to the holder of said license and as to said premises.

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C. In addition to the above penalties, any person who violates any provision of the Ordinance shall be guilty of a petty offense and fined not more than \$500.00 (five hundred and 00/100 dollars).

(Ord. O-201406-12-020, § 32, passed 6-17-2014)

**§ 5.08.330 SEVERABILITY CLAUSE.**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

(Ord. O-201406-12-020, § 33, passed 6-17-2014)

**§ 5.08.340 REPEAL OF PRIOR ORDINANCES.**

All ordinances or parts thereof in conflict with the provision of this amended Ordinance are hereby repealed.

(Ord. O-201406-12-020, § 34, passed 6-17-2014)

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