

## CHAPTER 4

### ALCOHOLIC LIQUOR

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#### ARTICLE I. IN GENERAL

##### SEC. 4-1100. DEFINITIONS.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them:

- (1) **Alcohol:** 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.
- (2) **Alcoholic liquor:** Includes the four (4) varieties of liquor defined in this section, i.e., 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.
- (3) **Bar:** A counter or place where alcoholic liquor is served, poured, and/or mixed.
- (4) **Beer:** A beverage obtained by 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.
- (5) **Bowling Center:** A business conducted in any indoor building, room, space or area with a minimum of 3,000 square feet dedicated to bowling, which is open to or frequented by the public and operated for gain, and which is built, maintained, and operated in accordance with the rules and specifications set forth by the United States Bowling Congress.
- (6) **Caterer Retailer:** A person who serves alcoholic liquors for consumption off-site of the licensed premises, 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, which may include a cash bar.
- (7) **Civic Center:** One or more buildings or structures, within the same site, complex or campus, having a gross seating capacity of 8,000 persons or more, in each of which space is regularly rented or licensed for the viewing of or participation in conventions, exhibitions, sporting events, concerts or performances of plays, circuses or similar presentations.
- (8) **Club:** A corporation organized under the laws of the 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

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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.

- (9) **Hotel**: 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 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, structure or structures being provided with adequate and sanitary kitchen and dining room equipment and capacity.
- (10) **Live entertainment**: The offering or permitting of any amusement feature, including music, vaudeville, singing, acting, dancing or contests, whether by personal performance or instrumental device. In no instance shall live entertainment include nude or semi-nude conduct.
- (11) **Minor**: Any person under the age of twenty-one (21) years.
- (12) **Motel**: See definition of hotel.
- (13) **Original package**: 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.
- (14) **Private Function**: 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 and attendants are served in room, rooms, or area designated and used exclusively for the private party, function, or event.
- (15) **Rental Hall Business**: A business organization in such a way that it provides a place available for rental by members of the general public. The building housing the business must be designed to accommodate a minimum of two hundred fifty (250) persons safely. Such a business is typified by wedding celebrations, parties, or dances by private clubs or individuals. The lessor/licensee is paid a fee by the lessee for the use of the hall and for providing alcoholic liquor for a private function as an incidental part of food service. Prepared meals and alcoholic liquors are sold at a package price agreed upon under contract, which may include a cash bar.
- (16) **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 and without sleeping accommodations, the 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. A restaurant for purposes of this chapter shall also be considered a Category I facility pursuant to the Illinois Food Service Sanitation Code.
- (17) **Retail sale**: The sale for use or consumption and not for resale in any form.
- (18) **Spirits**: 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.
- (19) **Tavern**: Any public place kept, used, maintained or advertised and held out to the public as a place where sale of alcoholic liquors is the principal business carried on, primarily for consumption on the premises.

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- (20) **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, as defined in this section.

### **SEC. 4-1101. MISBRANDING.**

No person shall knowingly possess, sell or in any way dispose of any alcoholic liquor under any name 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 container of alcoholic liquor. All misbranded packages and containers are contraband.

### **SEC. 4-1102. POSSESSION OF ALCOHOLIC LIQUOR ON PUBLIC RIGHT-OF-WAY; IN MOTOR VEHICLE.**

(a) No person shall carry, transport, possess or have any alcoholic liquor in or upon or about such person on a street, alley or public right-of-way, or in or upon or about any motor vehicle in the City of Moline, except in the original package with the seal unbroken or in accordance with state law regarding the removal of open wine bottles from a restaurant pursuant to 235 ILCS 5/6-33. It shall not be a violation for any owner of a residence or such owner's lawful guest(s) to possess any alcoholic liquor on a public right-of-way immediately adjacent to said residence; provided, however, that such owner or guest(s), and each of them, are twenty-one (21) years old or older.

(b) For purposes of this Section 4-1102, the term "owner of a residence" shall include tenants in control of the premises.

### **SEC. 4-1103. REMEDIES FOR VIOLATION OF THE CHAPTER.**

(a) The liquor control commissioner or law enforcement officer shall issue or cause to be issued to any person in violation of the specified sections of this chapter a notice of ordinance violation. A person receiving a notice of ordinance violation will be adjudicated through the City's administrative adjudication system, MUNICES, or through circuit court.

(b) Any violation of the provisions of this chapter shall be punishable by a fine of not less than two hundred dollars (\$200.00) nor more than seven hundred fifty dollars (\$750.00), except for Section 4-5104, which shall be punishable by a fine of not less than one hundred dollars (\$100.00) nor more than seven hundred fifty (\$750.00). A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(c) The above violation fees are directed at the person who committed the ordinance violation and are separate and apart from the administrative proceedings against the licensee for such a violation. The administrative proceedings may include administrative fees and provisions for the suspension, revocation or forfeiture of a license issued pursuant to this chapter, and payment of said violation fee shall not constitute an admission of guilt or innocence for purposes of such administrative proceedings for administrative fees, and/or suspension, revocation, or forfeiture of license.

## **ARTICLE II. LIQUOR CONTROL COMMISSIONER**

### **SEC. 4-2100. MAYOR TO BE LIQUOR CONTROL COMMISSIONER; ENFORCEMENT RESPONSIBILITIES.**

The mayor shall be the liquor control commissioner for the City and shall be charged with the administration within the City of the laws of the state as they relate to liquor licenses within the City, and with the provisions of this Code and other ordinances of the City relating to liquor. The mayor shall serve in such position ex officio and without any additional compensation.

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**SEC. 4-2101. APPOINTMENT OF ASSISTANTS.**

The liquor control commissioner may appoint a qualified person or persons to assist in the exercise of the powers and performance of the duties imposed on the liquor control commissioner by law and the provisions of this Code or other City ordinances.

**SEC. 4-2102. COMPENSATION.**

The City Council may fix the compensation of the assistants and deputies of the liquor control commissioner as may be deemed necessary for the proper performance of the duties vested in them by law.

**SEC. 4-2103. POWERS.**

The liquor control commissioner shall have the following powers, functions and duties with respect to licenses, other than licenses of manufacturers, importing distributors, non-beverage users, railroads, airplanes and boats:

- (1) To issue or refuse to issue licenses or options connected therewith in accordance with the provisions of this chapter.
- (2) To renew or refuse to renew licenses or options connected therewith in accordance with the provisions of this chapter.
- (3) To suspend not more than thirty (30) days or revoke for cause all local licenses issued to persons for premises within the City.
- (4) To enter or to authorize any law enforcing officer to enter at any time upon any premises licensed pursuant to this chapter to determine whether any of the provisions of this chapter or state law or any rules or regulations adopted by the liquor control commissioner or by the state commission have been or are being violated and at such time to examine said premises of the licensee in connection therewith.
  - a. That upon determination that provisions identified in subparagraph (4) have been or are being violated, powers are hereby granted to the liquor control commissioner, any designee, and/or any authorized law enforcing officer, to order the licensed premises to cease and automatically suspend any and all sales of alcohol, and is automatically subject to a hearing on revocation or suspension of liquor license.
  - b. Violations of subsection (4) above include, but are not limited to, operating with an invalid state liquor license, and failure to provide dram shop insurance or other proof of financial responsibility on file to the liquor control commissioner's office.
- (5) To receive complaints from any resident within the City that any of the provisions of the state law or this chapter or any rules or regulations adopted pursuant hereto have been or are being violated and to act upon such complaints in the manner prescribed in this chapter.
- (6) To reduce or rescind the privilege for cause and after a liquor control commission hearing, any local option issued to persons for premises within the City. Any reduction or rescission shall be effective upon the annual renewal period of the license.
- (7) To grant a variance to Class E Licensees or holders of an Option III Caterer's Retailer to extend their hours of business to 1:00 a.m. for certain events, but no more than three (3) times per year per licensee. Such a request must be made in writing no less than ten (10) days prior to the event.

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- (8) To grant a variance to Class A and Class AA Licensees to allow up to three (3) private events per calendar year at the licensed premises during which time the entire premises may be closed to the general public. Such a request must be made in writing no less than ten (10) days prior to the event.

### **SEC. 4-2104. AUTHORITY TO EXAMINE APPLICANTS FOR LIQUOR LICENSES AND LICENSEES.**

The liquor control commissioner shall have the right to examine or cause to be examined under oath any applicant for a license required by this chapter or for renewal thereof or any licensee upon whom notice of revocation or suspension has been served in the manner provided in this chapter and to examine and cause to be examined the books and records of any such applicant or licensee and to hear testimony and take proof for said commissioner's information in the performance of the commissioner's duties and, for such purpose, to issue subpoenas which shall be effective in any part of the state. For the purpose of obtaining any of the information desired by the liquor control commissioner under this section, said commissioner may authorize said commissioner's agents to act on the commissioner's behalf.

### **SEC. 4-2105. RECORDS.**

(a) The liquor control commissioner shall keep a separate file for each license issued pursuant to this chapter, which file shall contain the following material:

- (1) A duplicate original of the license certificate;
- (2) Certificate of dram shop insurance or other proof of financial responsibility;
- (3) The application and attached documents;
- (4) The receipt showing payment of fees;
- (5) Property consents, if required;
- (6) A duplicate certificate of occupancy showing zoning, occupancy load, use, and compliance with building and related Codes;
- (7) A duplicate City of Moline food license and a duplicate Illinois food service sanitation manager certification, if applicable;
- (8) If a corporation, a duplicate original of articles of incorporation and subsequent certificates of good standing issued by Secretary of State of Illinois;
- (9) If a partnership, a duplicate of the partnership agreement;
- (10) A copy of any charges, transcripts of administrative hearings, and disposition of charges, if any, against the licensee or applicant;
- (11) A duplicate copy of State liquor license within ten (10) days of issuance.

(b) The records of the liquor control commissioner shall be public unless otherwise exempt pursuant to the Illinois Freedom of Information Act. All proceedings of the liquor control commissioner shall be open to the public.

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ARTICLE III. RETAIL LICENSES

DIVISION 1. IN GENERAL

SEC. 4-3100. WHEN REQUIRED.

(a) It shall be unlawful for any person to sell alcoholic liquor at retail or to make any sale of liquor at retail within the City without first having obtained a liquor license as provided by this article.

- (1) A "sale at retail" or "to sell at retail" means sales for use or compensation, and not for resale, in any form.
(2) A "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 as principal, proprietor, agent, servant, or employee, and includes, but is not limited to, all of the following acts when done for consideration:
a. The selling of liquor;
b. The "giving away" of liquor;
c. The dispensing of liquor;
d. The providing of mix, ice, water or glasses for the purposes of mixing drinks containing alcoholic liquor for consumption on the same premises;
e. The pouring of liquor;
f. The providing of "set-ups" containing alcoholic liquor;
g. The maintaining of a private or public club which serves liquor on its premises to its patrons or members;
h. The maintaining of a restaurant, which serves liquor on its premises to its patrons;
i. The possessing in any business or commercial establishment alcoholic liquor to be served to patrons on the premises.

(b) It is the intent of this section to require a license for the sale of liquor at retail within the City for any consideration, whether direct or indirect, regardless of the form that the sale takes. If an establishment allows patrons to bring their own alcoholic liquors or "BYOB," such allowance shall be presumed to be valid consideration for purposes of this section and thus subjects the establishment to the requirements of this ordinance.

SEC. 4-3101. THE CLASSES OF LICENSES ESTABLISHED.

There shall be the following classes of liquor licenses available to qualified applicants in the City of Moline, Illinois:

Table with 2 columns: Classification and Description. Rows include Class A (Restaurant), Class AA (Restaurant-Beer & Wine Only), Class B (Tavern), Class C (Packaged Sales Only-Primary), Class CC (Packaged Sales Only-Secondary), Class CCC (Packaged Sales of Wine and Beer Only-Secondary), Class D (Clubs/Fraternal Organizations), Class E (Rental Hall), Class F (Hotel/Motel), Class FF (Hotel/Motel Limited), and Class G (Bowling Center).

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Class H	Civic Center
Class I	Special Event
Class J	Park Concession.

(Ord. No. 3012-2010; Sec. 4-3101 repealed; new Sec. 4-3101 enacted; 03/02/10)

### **SEC. 4-3102. FEES TO BE PAID TO THE ACCOUNTS AND FINANCE OFFICE.**

All fees to be paid under the provisions of this article shall be paid to the accounts and finance office, unless otherwise provided by law, and shall be forthwith deposited in the City treasury.

### **SEC. 4-3103. LICENSES TO BE USED ONLY FOR PREMISES FOR WHICH ISSUED.**

(a) No licensee under this article shall use said licensee's license to engage in the liquor business at any location other than the one named in the license.

(b) The use or attempted use of a license issued pursuant to this article at any premises other than the one (1) for which the license was issued shall be cause for revocation of the license.

(c) That the above subsections do not apply to a Caterer's Retail, or Retailer's Special Use license.

## **DIVISION 2. LICENSING PROCEDURE**

### **SEC. 4-3200. PREREQUISITES TO OBTAINING INITIAL LICENSE.**

The liquor control commissioner shall issue an original license required by this article where the applicant therefor is eligible for the license under this article, and has completed all of the following acts:

- (1) Fully completed the application prescribed in this division and submitted all required documents as set forth in Section 4-2105.
- (2) Filed a certificate of insurance protecting dram shop operators or other proof of financial responsibility satisfactory to the liquor control commissioner.
- (3) Paid the fees required by this division.

### **SEC. 4-3201. APPLICATION.**

(a) No license of any class required by this article shall be issued prior to the time that an application is wholly completed and verified by the person desiring the license. A license issued in violation of this section shall be void. The application form shall contain, at a minimum, the following information:

- (1) Full legal name (including alias, maiden name, nickname, *etc.*) of applicant(s) and birth date(s);
- (2) Address and telephone numbers of applicant(s);
- (3) Address and telephone number (must be a land line) of premises to be used by applicant(s);
- (4) Name of business under which premises will be operated;
- (5) Owner or landlord of premises to be used by applicant(s);

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- (6) Address of owner or landlord of premises to be used by applicant(s);
- (7) Class of license applied for and annual fee;
- (8) If a restaurant, hours of kitchen;
- (9) Date on which business is to commence;
- (10) Whether the applicant owns the premises or has the consent of the owner to use the premises for the purpose allowed in the license;
- (11) Whether the premises is leased;
- (12) Whether the applicant is a citizen of the United States;
- (13) Whether the applicant is a resident of the City of Moline, Illinois and /or County of Rock Island, Illinois;
- (14) Whether the applicant has ever been convicted of a felony under the laws of the State of Illinois or any of the United States or under federal law; if so, when, and what crime;
- (15) Whether the applicant has ever been arrested for a felony under the laws of the State of Illinois or any of the United States or under federal law and posted bail and then forfeited said bail;
- (16) Whether the applicant has ever been convicted of any crime or misdemeanor involving moral turpitude;
- (17) Whether the applicant has ever had a liquor license issued under the laws of the State of Illinois or any of its political subdivisions revoked for cause;
- (18) Whether the applicant has ever had a liquor license issued under the laws of any other state or any of its political subdivisions revoked for cause; if so, in what state or political subdivision;
- (19) Whether applicant is a co-partnership or limited partnership and who the partners are;
- (20) Whether the applicant is a corporation or is the general partner of a limited partnership or corporation, and all stockholders including full legal name (including alias, maiden name, nickname, *etc.*) and birth date(s) of those who own more than five percent (5%) of the stock of the corporation;
- (21) A signed statement from all stockholders owning more than five percent (5%) of the corporation's stock or all partners in a partnership acknowledging their ownership and assuming financial responsibility for all City fees, taxes or other monies owing;
- (22) Whether the applicant plans to actively manage the business and, if not, who will be the manager;
- (23) Qualifications of a manager;
- (24) Whether any of the following persons is in any way connected with the applicant in connection with the business for which this license is sought:
  - Mayor of Moline, Illinois
  - A council member of the City of Moline, Illinois
  - Any city attorney of the City of Moline, Illinois
  - Any police officer of the City of Moline, Illinois
  - Any building official of the City of Moline, Illinois
  - Any zoning administrator of the City of Moline, Illinois;

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- (25) The length of current residence of each person, partner, stockholder owning more than five percent (5%) of entity, and manager listed;
  - (26) Proof of adequate dram shop insurance as required by the Illinois Liquor Control Act of 1934, as it is now or may hereafter be amended, prior to being issued such license, including issuing company, policy number, and a certificate of insurance;
  - (27) For Class A Restaurant and Class AA Restaurant - Beer & Wine Only License: a copy of the Illinois Food Service Sanitation Manager Certification(s) for each applicable employee as required for a Category I facility under state law;
  - (28) A statement signed by owner acknowledging and certifying that if license is revoked for cause, no new license will be issued at the premises for a period of one (1) year from the date of revocation.
- (b) The liquor manager shall also submit an application containing the information set forth in subsection (a)(1-4 and 12-18) above and an affidavit as set forth in subsection (c) below.
- (c) All applicants shall sign an affidavit stating that the statements made in the application form are true and are material to the question of whether the applicants are entitled to a liquor license in the City of Moline and State of Illinois. The applicants shall further state under oath that they understand that making a false affidavit constitutes perjury where a false answer is made knowingly to a material question, that they have personally prepared the answers to the above questions, and that they have re-read them, and find them to be wholly true, and they wholly understand them. Said affidavit shall include a statement that the applicants agree to observe all laws of the United States, State of Illinois and the City of Moline in the conduct of their business.

### **SEC. 4-3202. PROPERTY CONSENTS REQUIRED FOR A LICENSE; EXCEPTION.**

- (a) No license of any class sought to be issued pursuant to this division, except a special event license, shall be issued unless the application therefor shall be accompanied by a consent to the granting of the license sought, signed by a majority of the property owners within one hundred fifty (150) feet in radius from the center of the front of the premises for which the license is sought are located. If any portion of any property falls within the one hundred fifty (150) foot radius, that property owner shall be included in obtaining the consent required herein.
- (b) If the property for which a license is requested abuts a residentially zoned parcel, or parcels, and the distance from the building housing that requested use is less than five hundred (500) feet from the residentially zoned parcel, the owner or owners of record of those residential parcels shall be included in the consent survey as required by subsection (a) above.
- (c) Property owners' consents are not required for renewals of licenses or for any original license if the premises for which the license is sought has been licensed within one hundred eighty (180) days prior to the application being made. The liquor control commissioner may extend said one hundred eighty (180) day period for purposes of remodeling or rehabilitation under the following conditions:
- (1) Application for license is made prior to the expiration of the one hundred eighty (180) days from the last valid license for said premises;
  - (2) Building permits are issued prior to the expiration of the one hundred eighty (180) days from the last valid license for said premises;
  - (3) The value of construction authorized by the building permits exceeds ten thousand dollars (\$10,000.00); and
  - (4) The extension shall not exceed one hundred eighty (180) days.

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**SEC. 4-3203. PHOTOGRAPHING AND FINGERPRINTING OF CERTAIN PERSONS PREREQUISITE TO FILING APPLICATION.**

(a) Prior to filing an application for a license required by this article, the applicant, all partners of the applicant partnership, all persons who own more than five percent (5%) of stock of the corporation seeking a license, and the person to be named as liquor manager, shall be photographed and fingerprinted by the Moline Police Department.

(b) No application for license required by this article shall be considered, and no license issued until such time as the photographing and fingerprinting has been completed. The fee for such background checks is covered by the license application fee if an application is submitted and the application fee is paid. In the event that no license is issued, the fee for each background check performed shall be paid by the applicant within 30 (thirty) days of the date of the invoice for said payment.

(c) If at any time after the issuance of a license pursuant to this division, or during the course of the consideration by the liquor control commissioner of an application filed pursuant to this division, the composition of a partnership or corporation changes or if a new liquor manager is employed, the applicant or licensee shall submit a signed and notarized affidavit stating the change in the composition of the partnership or corporation, if applicable, and cause the new persons to be photographed and fingerprinted within fourteen (14) days, and such fingerprints and photographs submitted to the liquor control commissioner.

(d) Notice of any change contemplated by subsection (c), after the issuance of a license shall be given in writing to the liquor control commissioner within fourteen (14) days of the change. Failure to give the notice shall be grounds for revoking or suspending the license.

**SEC. 4-3204. PERSONS INELIGIBLE FOR LICENSE.**

No license of any kind shall be issued pursuant to this article to:

- (1) A person who has not met the residency requirements as set forth in the Illinois Liquor Control Act of 1934, specifically 235 ILCS 5/6-2;
- (2) A person who is not of good character and reputation in the community in which such person 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, unless the Liquor Control Commissioner 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 Commissioner's investigation; the burden of proof of sufficient rehabilitation shall be on the applicant;
- (5) A person who has been convicted of any crime or misdemeanor involving moral turpitude;
- (6) A person whose license issued under this article has been revoked for cause;
- (7) A person who at the time of application for renewal of any license issued pursuant to this article would not be eligible for the license upon a first application;
- (8) A co-partnership unless one of the members of the co-partnership shall be a resident of Rock Island County and each of the members of the co-partnership shall otherwise be qualified to obtain a license;

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- (9) 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 under this article for any reason other than citizenship and residence within the City;
- (10) A corporation, unless it is incorporated in the state and in good standing, or unless it is a foreign corporation which is qualified under Illinois Law to transact business in the state;
- (11) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses the same qualifications required of the licensee, including the residency requirements as set forth in the Illinois Liquor Control Act of 1934, specifically 235 ILCS 5/6-2;
- (12) A person who has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor, or has forfeited a bond to appear in court to answer charges for any such violation;
- (13) 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;
- (14) Any law enforcing City official, any mayor, alderman or other member of the City Council, any building official of the City of Moline, or zoning administrator of the City of Moline; and no such official shall be directly interested in the manufacture, sale or distribution of alcoholic liquor;
- (15) A person who is not a beneficial owner of the business to be operated by the licensee;
- (16) A person who has been convicted by a gambling offense as prescribed by 720 ILCS 5/28-1 through 720 ILCS 5/28-9, as heretofore or hereafter amended or as prescribed by statute replaced by any of the aforesaid statutory provisions, or any ordinance provisions similar in nature to said provisions;
- (17) A person or other entity recognized under Illinois law to whom a federal gaming device stamp or a federal wagering stamp has been issued by the federal government for the current tax period, unless person or other entity is eligible to be issued a license under the Illinois Raffles Act or the Illinois Pull Tabs and Jar Games Act or has obtained stamp pursuant to the Illinois Video Gaming Act, 230 ILCS 40/1 *et. seq.*, and local ordinance allowing same;
- (18) Any premises for which a federal gaming device stamp or a federal wagering stamp has been issued by the federal government for the current tax period unless stamp was issued pursuant to the Illinois Video Gaming Act, 230 ILCS 40/1 *et. seq.*, and local ordinance allowing same;
- (19) 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 subsection (a) of Section 6-21 of the Illinois Liquor Control Act.

### **SEC. 4-3205. PREMISES INELIGIBLE FOR LICENSE.**

Except in the case of hotels, motels and clubs, no alcoholic liquor shall be sold at retail upon any premises which has any access which leads from such premises to any other portion of the same building or structure used for dwelling or lodging purposes and which is permitted to be used or kept accessible for use by the public. This section shall not prevent any connection between such premises and such other portion of the building or structure which is used only by the licensee, such licensee's family and personal guests.

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**SEC. 4-3206. LOCATIONS INELIGIBLE FOR LICENSE.**

No license required by this article shall be issued for use in any of the following locations:

- (1) In any district under an ordinance entitled "Moline Zoning Ordinance," where the sale of liquor is not permitted by that ordinance.
- (2) In any area that is restricted geographically as set forth for specific license types in this ordinance.

**SEC. 4-3207. CHANGE IN LICENSE CLASSIFICATION.**

(a) Any licensee issued a license pursuant to this ordinance may request to change the type of license issued to it as long as the licensee meets all of the requirements of the requested license and there is a license of the requested classification available. To change licenses, a licensee must complete the application form and pay the application fee as if it were a new license. No additional annual fee need be paid for the change in classification until the next renewal date.

(b) A licensee may only change classification of license once during the year following issuance of the license. After the first year the license is issued, a change in classification may be made no more than once every three (3) licensing years.

**SEC. 4-3208. LICENSE FEES.**

(a) Before any class of license or local option is issued pursuant to this division, the applicant therefore shall pay the license and/or option fee prescribed in this section as well as any outstanding fines, fees, taxes, bills, or invoices due and owing the City by the licensee or its partners if the licensee is a partnership or its stockholders if the licensee is a corporation.

(b) A non-refundable application fee of two thousand dollars (\$2,000.00) shall be paid by all licensee applicants, except for Class D Clubs/Fraternal Organization, Class I Special Event, and Class J Park Concession license applicants. A non-refundable application fee of one thousand dollars (\$1,000.00) shall be paid by Class D Clubs/Fraternal Organization license applicants. A total fee of twenty-five dollars (\$25.00) per day shall be paid by Class I Special Event licensee applicants. Said application fees are not refundable and are intended to cover the cost of obtaining or reviewing property consents and the cost of reviewing the application and applicant as well as serve other regulatory purposes.

(1) For any licensee that has a current Moline liquor license and seeks to change location of the same business and close the existing licensed premises, the non-refundable application fee shall be five hundred dollars (\$500.00) as long as the City does not need to perform a background check for persons other than the liquor manager and any other owner/stockholder information remains the same.

(c) A license and option fee for a license and/or option to be issued pursuant to this division shall be payable annually. This payment must be made in full prior to or no later than 5:00 p.m. the 30<sup>th</sup> day of September.

(d) License and option fees are nonrefundable.

(e) The annual fees for the various classes of licenses to be issued pursuant to this division as well as the fees for various local options shall be as follows:

<b>Classification</b>	<b>Description</b>	<b>Annual Fee</b>
Class A	Restaurant	\$ 1,200.00
Class AA	Restaurant-Beer & Wine Only	\$ 700.00
Class B	Tavern	\$ 1,200.00

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Class C	Packaged Sales Only-Primary	\$ 1,200.00	
Class CC*	Packaged Sales Only-Secondary	\$ 1,200.00	
Class CCC	Packaged Sales Beer and Wine		
	Only- Secondary	\$ 1,200.00	
Class D	Clubs/Fraternal Organizations	\$ 1,200.00	
Class E	Rental Hall	\$ 1,200.00	
Class F	Hotel/Motel	\$ 1,600.00	
Class FF	Hotel/Motel Limited	\$ 700.00	
Class G	Bowling Center	\$ 1,200.00	
Class H	Civic Center	\$ 6,800.00	
Class I	Special Event	\$ 25.00	Per Day
Class J	Park Concession	\$ 250.00	

<b>Options</b>	<b>Description</b>	<b>Annual Fee</b>	<b>Classification Eligible</b>
Option I	Outdoor Use	\$ 100.00	A, AA, B, D, E, F, FF, G, H
Option II	Additional Bar Station	\$ 400.00	A, AA, B, D, E, G
Option III	Caterer's Retail	\$ 350.00	A, AA, CC*
Option IV	Restaurant Alternate	\$ 400.00	A, AA
Option V	Extended Hours-3 a.m. Tavern	\$ 1000.00	B
Option VI	Retailer's Off-Site Special Use	\$ 100.00	A, AA, B, D, F

\*Class CC licensed premises must be over 10,000 square feet

(f) The option fees are in addition to the annual fees and are available only for those licenses as listed under "Classification Eligible" in the table above and as set forth in Division III of this Article.

(g) In the case of renewal of license issued pursuant to this article, the licensee shall pay a penalty of one percent (1%) for each day payment is late. (Ord. No. 3012-2010; Sec. 4-3208 repealed; new Sec. 4-3208 enacted; 03/02/10)

**SEC. 4-3209. TERM AND CONTENTS OF LICENSE.**

A license issued pursuant to this division shall exist for a term of one (1) year from the first day of October. At the end of the license term, the license shall expire and cease to be a license. The license certificate issued by the liquor control commissioner pursuant to this division shall show the following:

- (1) The name of licensee and the name under which the licensee does business, if applicable;
- (2) The class of the license and any options attached thereto;
- (3) The address of the licensed premises;
- (4) The signature of the liquor control commissioner and seal;
- (5) The term of the license;
- (6) If a restaurant, the hours the kitchen is open.

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**SEC. 4-3210. RENEWAL OF LICENSE; PROCEDURES.**

(a) A license of a licensee under this chapter may be renewed at the expiration thereof, if said licensee is then qualified to receive a license and if the premises for which the renewal license is sought are suitable for the purpose. The renewal privilege provided for in this section shall not be construed as a vested right.

(b) The holder of a license issued pursuant to this article, who is eligible for an initial license pursuant to this chapter and who desires to procure renewal of such license, shall perform the following acts:

- (1) Pay the annual fees required by this chapter as well as any outstanding fines, fees, taxes, bills, or invoices due and owing the City by the licensee or its partners if the licensee is a partnership or its stockholders if the licensee is a corporation.
- (2) Update proof of financial responsibility, if needed.
  - a. Seven (7) days advanced notice shall be required of the expiration of dram shop insurance or other proof of financial responsibility of licensee. Failure to provide said notification is in violation of this chapter and is subject to a hearing on revocation or suspension of liquor license, and costs associated thereto.
- (3) File certificate of good standing from Secretary of State of Illinois, if corporation.
- (4) File a copy of the State liquor license and annual food license held by the licensee.
- (5) Amend application of license holder to show any change in any of the matters stated in the first application.
- (6) For Class A Restaurant and Class AA Restaurant- Beer & Wine Only License Only: Provide a Copy of the Illinois Food Service Sanitation Manager Certification(s) for each applicable employee as required for a Category I facility under state law.

(c) Licenses issued pursuant to this ordinance may be renewable annually in September to be effective October 1.

(d) Upon granting the renewal of a license issued pursuant to this chapter, the liquor control commissioner shall issue a new license.

(e) Upon renewal of a license hereunder, the local liquor control commissioner or deputy shall notify the Moline Police Department which shall review and update all background checks performed at the time of the first application.

**SEC. 4-3211. NATURE OF PRIVILEGE GRANTED BY LICENSE.**

A license issued pursuant to this chapter shall be purely a personal privilege, extending for its stated term only unless sooner revoked for cause, and shall not constitute property; and it shall not be subject to attachment, garnishment, or execution. The license shall not be alienable or transferable, voluntarily or involuntarily, or be subject to being encumbered or hypothecated. The 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 or administrators of the estate of any deceased licensee and the trustee of any insolvent or bankrupt licensee, when the estate consists in part of an alcoholic beverage license, may continue the business of the sale of alcoholic liquor under order of an appropriate court, and may exercise the privileges of the deceased or insolvent or bankrupt licensee after said licensee's death or declaration of insolvency or bankruptcy by a court, but not longer than six (6) months after the death, bankruptcy or insolvency of the licensee.

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**DIVISION 3.            PRIVILEGES CONFERRED BY VARIOUS  
CLASSES OF LICENSES**

**SEC. 4-3300.            IN GENERAL.**

The privileges authorized by the issuance of one of the various classes of licenses or the options connected therewith shall be as prescribed in this division.

**SEC. 4-3301.            COMPLIANCE REQUIRED.**

No licensee under this chapter shall engage in any conduct allowable under any license except as specifically allowed by said licensee's own license or engage in any conduct otherwise prescribed by law or this chapter except as specifically allowed by said licensee's license.

**SEC. 4-3302.            CLASS A RESTAURANT LICENSE AND  
CLASS AA RESTAURANT- BEER & WINE ONLY LICENSE.**

(a) A Class A Restaurant license or a Class AA Restaurant - Beer & Wine Only license may be issued only to those restaurants as defined in Section 4-1100. The sale of liquor at a restaurant shall be considered incidental to the principal purpose of the sale of food. Class A and Class AA Restaurant licensees shall not include grocery stores, supermarkets, drugstores, or other retail stores.

(b) A Class A or a Class AA license issued pursuant to this chapter shall entitle the licensee to make the following sales of alcoholic liquor from one (1) bar room only:

(1) Sales for consumption on the premises only, with allowance for the removal of open wine bottles from a restaurant pursuant to 235 ILCS 5/6-33.

(c) A Class A or a Class AA licensee may maintain the following hours of business:

<u>Day</u>	<u>Hours</u>
Sunday	10:00 a.m. until 1:00 a.m. the next day
Monday through Thursday	For each day: 6:00 a.m. until 1:00 a.m. the next day
Friday and Saturday	For each day: 6:00 a.m. until 2:00 a.m. the next day.

(d) A Class A or a Class AA licensee may provide live entertainment.

(e) A Class AA license permits the sale of beer and wine only. No other alcoholic liquors may be sold at a Class AA licensed establishment.

(f) Minors may be allowed on premises licensed as a Class A or Class AA Licensee pursuant to this chapter for purposes other than the purchase or consumption of alcoholic liquors; however, no minor may be allowed to sit or stand within three (3) feet of a bar or be served from a bar.

(g) There is no limit to the number of Class A or AA licenses issued within the City.

**SEC. 4-3303.            CLASS B TAVERN LICENSE.**

(a) A Class B Tavern license issued pursuant to this chapter shall entitle the licensee, a tavern as defined in Section 4-1100, to make the following sales of alcoholic liquor from one (1) bar room only:

(1) Sales for consumption on the premises.

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(2) Package sales of alcoholic liquor in sealed packages of fifty one milliliters (51 ml) or larger effective January 1, 2010.

(b) A Class B licensee may maintain the following hours of business:

<u>Day</u>	<u>Hours</u>
Sunday	10:00 a.m. until 1:00 a.m. the next day
Monday through Thursday	For each day: 6:00 a.m. until 1:00 a.m. the next day
Friday and Saturday	For each day: 6:00 a.m. until 2:00 a.m. the next day.

(c) A Class B licensee may provide live entertainment.

(d) No minor shall be on any premises licensed as a Class B licensee.

(e) A Class B licensed premises may not be located within three hundred (300) feet of any church, school, other than an institution of higher learning, hospital, home for aged or indigent persons or for veterans, their spouses or children, any military or naval station. The distance of three hundred (300) feet shall be measured from the nearest part of the licensee's building to the nearest part of a church, school, other than an institution of higher learning, hospital, home for aged or indigent persons or for veterans, their spouses or children, or any military or naval station.

(f) There shall be no more than thirty (30) Class B licenses issued at any one time within the City.

### **SEC. 4-3304. CLASS C PACKAGED SALES ONLY- PRIMARY LICENSE; CLASS CC PACKAGED SALES ONLY- SECONDARY LICENSE AND CLASS CCC PACKAGED SALES BEER AND WINE ONLY- SECONDARY.**

(a) A Class C Packaged Sales Only-Primary license, a Class CC Packaged Sales Only-Secondary license, and a Class CCC Packaged Sales Beer and Wine Only- Secondary license issued pursuant to this chapter shall entitle the licensee to make the following sales of alcoholic liquor only:

(1) Package sales of alcoholic liquor in sealed packages of fifty one milliliters (51 ml) or larger.

(b) A Class C, Class CC and Class CCC licensee may maintain the following hours of business:

<u>Day</u>	<u>Hours</u>
Sunday	10:00 a.m. until 1:00 a.m. the next day
Monday through Thursday	For each day: 6:00 a.m. until 1:00 a.m. the next day
Friday and Saturday	For each day: 6:00 a.m. until 2:00 a.m. the next day.

(c) A Class C, Class CC or Class CCC license may not be located within three hundred (300) feet of any church, school, other than an institution of higher learning, hospital, home for aged or indigent persons or for veterans, their spouses or children, any military or naval station. The distance of three hundred (300) feet shall be measured from the nearest part of the licensee's building to the nearest part of a church, school, other than an institution of higher learning, hospital, home for aged or indigent persons or for veterans, their spouses or children, or any military or naval station.

(d) A Class C Packaged Sales Only-Primary license shall be issued when the sale of alcoholic liquors is the primary business of the licensee. "Primary business" shall mean that twenty-five percent (25%) or more of the square footage of the store available for sales is dedicated to the displays or promotion of alcoholic liquors.

(1) Minors are not allowed in a Class C licensed premises.

(2) There shall be no more than three (3) Class C licenses issued at any one time within the City.

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(e) A Class CC Packaged Sales Only-Secondary license shall be issued when less than twenty-five percent (25%) of the square footage of the store available for sales is dedicated to the displays or promotion of alcoholic liquors.

(1) Minors are allowed in a Class CC licensed premises except that where a Class CC licensee has a specific section or department dedicated to the sale of alcoholic liquor, no minor shall be permitted in said section or department unless accompanied by an adult aged twenty-one (21) or older.

(2) There shall be no more than thirty (30) Class CC licenses issued at any one time within the City.

(f) A Class CCC Packaged Sales Beer and Wine Only-Secondary license shall be issued when less than twenty-five percent (25%) of the square footage of the store available for sales is dedicated to the displays or promotion of alcoholic liquors and the licensee sells only beer and wine.

(1) Minors are allowed in a Class CCC licensed premises except that where a Class CCC licensee has a specific section or department dedicated to the sale of alcoholic liquor, no minor shall be permitted in said section or department unless accompanied by an adult aged twenty-one (21) or older.

(2) There shall be no more than five (5) Class CCC licenses issued at any one time within the City.”

### **SEC. 4-3305. CLASS D CLUBS/FRATERNAL ORGANIZATIONS LICENSE.**

(a) A Class D Club/Fraternal Organization license issued pursuant to this chapter shall entitle the licensee, a club as defined in Section 4-1100, to make the following sales of alcoholic liquor from one (1) bar room only:

(1) Sales for consumption on the premises.

(b) A Class D licensee may maintain the following hours of business:

<u>Day</u>	<u>Hours</u>
Sunday	10:00 a.m. until 1:00 a.m. the next day
Monday through Thursday	For each day: 6:00 a.m. until 1:00 a.m. the next day
Friday and Saturday	For each day: 6:00 a.m. until 2:00 a.m. the next day.

(c) A Class D licensee may provide live entertainment.

(d) Minors may be allowed on premises licensed as a Class D Licensee pursuant to this chapter for purposes other than the purchase or consumption of alcoholic liquors; however, no minor may be allowed to sit at a bar.

(e) There is no limit to the number of Class D licenses issued within the City.

### **SEC. 4-3306. CLASS E RENTAL HALL.**

(a) A Class E Rental Hall license issued pursuant to this chapter shall entitle the licensee, a rental hall business as defined in Section 4-1100, to make the following sales of alcoholic liquor from one (1) bar room only:

(1) Sales for consumption on the premises used exclusively for private functions. Hors d'oeuvres, meals or other food from the licensee or a licensed food establishment must be served continually at every private function.

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(b) A Class E licensee may maintain the following hours of business unless a variance is otherwise granted pursuant to Section 4-2103(7):

<u>Day</u>	<u>Hours</u>
Sunday	10:00 a.m. until 12:00 a.m. the next day.
Monday through Saturday	For each day: 6:00 a.m. until 12:00 a.m. the next day.

(c) A Class E licensee may provide live entertainment.

(d) Minors may be allowed on premises licensed as a Class E Licensee pursuant to this chapter for purposes other than the purchase or consumption of alcoholic liquors; however, no minor may be allowed to sit at a bar.

(e) For each event held at the premises of a Class E Licensee, the Licensee shall provide notice of the event to the liquor control commissioner at least five (5) business days prior to the start time of the event. Said notice shall be given on the form provided by the liquor control commissioner and shall include the following information: Type of event, date of event, number of people scheduled to attend including number of minors, name and telephone number of contact person for event, whether event includes the sale or service of alcoholic liquors, and if so, whether event includes a cash bar or open bar or combination thereof, and the scheduled hours of the event. Depending upon the size and nature of the event, the liquor control commissioner may require security to be hired by the licensee for the event.

(f) There is no limit to the number of Class E licenses issued within the City.

### **SEC. 4-3307. CLASS F HOTEL/MOTEL LICENSE.**

(a) A Class F Hotel/Motel license issued pursuant to this chapter shall entitle the licensee, a hotel or motel as defined in Section 4-1100, to make the following sales of alcoholic liquor:

- (1) Package sales in sealed packages of fifty one milliliters (51 ml) or larger effective January 1, 2010.
- (2) Sales for consumption on the premises, whether for private events or public consumption in tavern, lounge area, and banquet rooms.

(b) A Class F licensee may maintain the following hours of business:

<u>Day</u>	<u>Hours</u>
Sunday	10:00 a.m. until 1:00 a.m. the next day
Monday through Thursday	For each day: 6:00 a.m. until 1:00 a.m. the next day
Friday and Saturday	For each day: 6:00 a.m. until 2:00 a.m. the next day.

(c) A Class F licensee may provide live entertainment.

(d) Minors may be allowed on premises licensed as a Class F Licensee pursuant to this chapter for purposes other than the purchase or consumption of alcoholic liquors; however, no minor may be allowed to sit at a bar.

(e) There is no limit to the number of Class F licenses issued within the City.

### **SEC. 4-3308. CLASS FF HOTEL/MOTEL LIMITED.**

(a) A Class FF Hotel/Motel Limited license issued pursuant to this chapter shall entitle the licensee, a hotel or motel as defined in Section 4-1100, to make the following sales of beer and wine only as part of a hotel package:

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- (1) Sales for consumption on the premises in the area specifically designated in the license application for the hours of 4:00 p.m. through 8:00 p.m. each day.
- (2) The licensee need not have a manager on the premises, but a person of the minimum age of twenty-one (21) years must be present in the designated area at all times while the beer and wine is available to the public.
- (3) Hors d'oeuvres or other food must be served continually between 4:00 p.m. and 8:00 p.m. while beer and wine is being sold.
- (b) A Class FF licensee may provide live entertainment.
- (c) A Class FF license permits the sale of beer and wine only. No other alcoholic liquors may be sold as part of a hotel package at a Class FF licensed establishment.
- (d) Minors may be allowed on premises licensed as a Class FF Licensee pursuant to this chapter for purposes other than the purchase or consumption of alcoholic liquors; however, no minor may be allowed to sit at a bar.
- (e) There is no limit to the number of Class FF licenses issued within the City.

### **SEC. 4-3309. CLASS G BOWLING CENTER LICENSE.**

(a) A Class G Bowling Center license issued pursuant to this chapter shall entitle the licensee, a bowling center as defined in Section 4-1100, to make the following sales of alcoholic liquor from one (1) bar room only and only during times when the premises is being used for bowling:

- (1) Sales for consumption on the premises.
- (b) A Class G licensee may maintain the following hours of business:

<u>Day</u>	<u>Hours</u>
Sunday	10:00 a.m. until 1:00 a.m. the next day
Monday through Thursday	For each day: 6:00 a.m. until 1:00 a.m. the next day
Friday and Saturday	For each day: 6:00 a.m. until 2:00 a.m. the next day.

- (c) A Class G licensee may provide live entertainment.
- (d) Minors may be allowed on premises licensed as a Class G Licensee pursuant to this chapter for purposes other than the purchase or consumption of alcoholic liquors; however, no minor may be allowed to sit or stand at a bar or be served from a bar.
- (e) There is no limit to the number of Class G licenses issued within the City.

### **SEC. 4-3310. CLASS H CIVIC CENTER LICENSE.**

(a) A Class H Civic Center license issued pursuant to this chapter shall entitle the licensee, a civic center as defined in Section 4-1100, to make the following sales of alcoholic liquor:

- (1) Sales for consumption on the premises, whether for private events or public consumption in bar or lounge area, banquet rooms, or event area.

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(b) A Class H licensee may maintain the following hours of business:

<u>Day</u>	<u>Hours</u>
Sunday	10:00 a.m. until 1:00 a.m. the next day
Monday through Thursday	For each day: 6:00 a.m. until 1:00 a.m. the next day
Friday and Saturday	For each day: 6:00 a.m. until 2:00 a.m. the next day.

(c) A Class H licensee may provide live entertainment.

(d) Minors may be allowed on premises licensed as a Class H Licensee pursuant to this chapter for purposes other than the purchase or consumption of alcoholic liquors; however, no minor may be allowed to sit at a bar.

(e) There is no limit to the number of Class H licenses issued within the City.

**SEC. 4-3311. CLASS I SPECIAL EVENT LICENSE.**

(a) A Class I Special Event license shall be issued only to organized clubs, societies, associations, fraternal organizations, duly constituted churches or benevolent organizations organized not for pecuniary profits.

(b) A Class I license may be issued pursuant to this article for a specific time period not to exceed ten (10) days per licensee per location in any twelve (12) month period.

(c) A Class I license issued pursuant to this chapter shall entitle the licensee to sell alcoholic liquor for consumption on the premises at any banquet, picnic, bazaar, fair, or similar special event. The application for a special event license must be received by the liquor control commissioner no less than forty-eight (48) hours prior to the start time of the event.

(d) A Class I licensee may maintain the following hours of business:

<u>Day</u>	<u>Hours</u>
Sunday	10:00 a.m. until 1:00 a.m. the next day
Monday through Thursday	For each day: 6:00 a.m. until 1:00 a.m. the next day
Friday and Saturday	For each day: 6:00 a.m. until 2:00 a.m. the next day;

provided, however, that any event described in subsection (c) above which takes place outside of an enclosed building shall cease the sale of liquor at midnight of the same day upon which sales commenced.

(e) If the sale of alcoholic liquor is to be conducted outside of an enclosed building, certain requirements must be met as set forth below. If the outdoor use is to operate on public right-of-way, the special event license may be granted only with a City Council approved licensing agreement executed by the licensee which licensing agreement shall require proof of insurance on behalf of the City in appropriate amounts, insuring for the use of right-of-way. The requirements for an outdoor event are as follows:

- (1) Adequate lighting must be maintained at all times such that law enforcement personnel may visually identify patrons;
- (2) Sound amplification is permitted only if granted prior to the event by the City Council;
- (3) Security provided by Moline Police Department and paid for by licensee if the liquor control commissioner deems it necessary;

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- (4) If the event occurs on public right-of-way, appropriate fencing, chains, or other lines of demarcation shall be required herein to identify the event area and shall be approved in writing by the liquor control commissioner;
- (5) Only non-glass containers may be used.
- (f) A Class I licensee may provide live entertainment.
- (g) Minors may be allowed on premises licensed as a Class I Licensee pursuant to this chapter for purposes other than the purchase or consumption of alcoholic liquors; however, no minor may be allowed to sit or stand at a bar or be served from a bar.

### **SEC. 4-3312. CLASS J PARK CONCESSION LICENSE.**

(a) A Class J Park Concession license issued pursuant to this chapter shall entitle the licensee, the City of Moline, to make the following sales of alcoholic liquor:

- (1) Sales for consumption on the premises at Green Valley Sports Complex excluding parking areas.
- (b) A Class J licensee may maintain the following hours of business:

<u>Day</u>	<u>Hours</u>
Sunday	10:00 a.m. until 1:00 a.m. the next day
Monday through Thursday	For each day: 6:00 a.m. until 1:00 a.m. the next day
Friday and Saturday	For each day: 6:00 a.m. until 2:00 a.m. the next day.

- (c) A Class J licensee may provide live entertainment.
- (d) Minors may be allowed on premises licensed as a Class J Licensee pursuant to this chapter for purposes other than the purchase or consumption of alcoholic liquors; however, no minor may be allowed to sit at a bar.
- (e) Certain requirements for the sale of alcoholic liquor at Green Valley Sports Complex must be met as set forth below:
  - (1) Adequate lighting must be maintained at all times such that law enforcement and park personnel may visually identify patrons;
  - (2) Sound amplification is permitted only if granted prior to the event by the City Council;
  - (3) Security provided by Moline Police Department and paid for by licensee if the liquor control commissioner deems it necessary; and
  - (4) Only non-glass containers may be used.
- (f) To ensure compliance with all requirements of the ordinance, at least one (1) employee of the premises must physically frequent such premises where park patrons are present at least once every thirty (30) minutes to monitor and require such compliance. (Ord. No. 3015-2010; Sec. 4-3312 repealed; new Sec. 4-3312 enacted; 03/23/10)

### **SEC. 4-3313. RESERVED.**

### **SEC. 4-3314. OPTIONS GENERALLY.**

(a) All of the options permitted by this ordinance are granted in conjunction with a license and are not granted unless the specific class of license held by the licensee is eligible for such an option.

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(b) An option may be granted only if the licensee meets all requirements for the option requested; said request is approved by the local liquor control commissioner and the fees set forth for each option are paid.

(c) The purchase of an option shall not enlarge the licensee's privileges and limitations under the license except as specified by the option purchased.

### **SEC. 4-3315. OPTION I OUTDOOR USE.**

(a) The following classes of licenses are eligible for the outdoor use option: Class A, AA, B, D, E, F, FF, and G, and H.

(b) The outdoor use option allows a licensed premises to conduct activities licensed under the provisions of this chapter outside of an enclosed building for the purpose of serving patrons when no residential neighborhood will be adversely affected; provided, however, that all activities take place on the licensed premises or, if the outdoor use is to operate on public right-of-way, the outdoor use option may be granted only with a City Council approved licensing agreement executed by the licensee which licensing agreement shall require proof of insurance on behalf of the City in appropriate amounts, insuring for the use of right-of-way. In addition, no outdoor use option shall be granted by the liquor control commissioner unless all of the following terms are included within the permitted option:

- (1) Adequate lighting must be maintained at all times such that law enforcement personnel may visually identify patrons from the public right-of-way;
- (2) The maximum hours of operation for outdoor use shall be the exact hours of operation of the licensee;
- (3) All parking requirements of City ordinances must be satisfied;
- (4) No sound amplification equipment will be used outside; provided, however, that ambient background music is permissible; for purposes of this subsection, "ambient background music" shall mean quiet music played at a minimal volume such that it is not audible from adjoining property or public rights-of-way;
- (5) That appropriate fencing, chains, or other lines of demarcation shall be required herein to identify the outside premises licensed hereunder and the proposed fencing, chains or other lines of demarcation shall be approved in writing by the local liquor control commissioner; said demarcation shall be comprised of sturdy materials and be of sound construction and consistent with existing and proposed streetscape design elements, if any; and
- (6) Only non-glass containers may be used if the outdoor premises is located on public property or public right-of-way.

(c) To ensure compliance with all requirements of the ordinance, at least one (1) employee of the premises must physically frequent such outside portion at least once every five (5) minutes to monitor and require such compliance; provided, however, that such requirement is only effective when patrons or other individuals are present at the outdoor portion of the licensee.

### **SEC. 4-3316. OPTION II ADDITIONAL BAR STATION.**

(a) The following classes of licenses are eligible for the additional bar station option: Class A, AA, B, D, E, and G.

(b) The additional bar station option permits the licensee to maintain two (2) or more bar rooms or permanent dispensing points.

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(c) For purposes of this section, a licensee maintains separate bar rooms when two (2) or more bars are separated by walls, ceilings, or floors so that access from one bar to another can only be had by going through a door or doorway or by going up or down a flight of stairs.

(d) Any applicant desiring to purchase an additional bar station option shall supply the local liquor control commissioner with the number of bar rooms and the specific location of the bar rooms in the building or on the premises in addition to any other information required by this ordinance. The fee for this option is assessed for each additional bar station requested.

(e) A copy of the liquor license must be posted in a conspicuous location at each additional bar station.

**SEC. 4-3317. OPTION III CATERER’S RETAIL.**

(a) The following classes of licenses are eligible for the caterer’s retail option: Class A, AA, and CC (if the square footage of the Class CC premises is greater than 10,000 square feet) if licensee meets the definition of a caterer retailer as set forth in Section 4-1100.

(b) A licensee may select the caterer’s retail option to authorize the holder to provide catering services at an off-site catering location during the following hours of business unless a variance is otherwise granted pursuant to Section 4-2103(7):

<u>Day</u>	<u>Hours</u>
Sunday	10:00 a.m. until 12:00 a.m. the next day
Monday through Saturday	For each day: 6:00 a.m. until 12:00 a.m. the next day

(c) Catering location is defined as a location that is not open to the general public where, pursuant to an agreement with the event sponsor, the licensee is providing prepared food for serving at private parties, such as wedding receptions or similar events, in room, rooms, or areas designated and used exclusively for the private party or event.

(d) To exercise this option, a licensee must provide verification to the local liquor control commissioner that its dram shop insurance covers catering events and locations.

**SEC. 4-3318. OPTION IV RESTAURANT ALTERNATE.**

(a) If a Class A or AA licensee elects to close its kitchen or otherwise ceases to serve the same menu served prior to the times identified in Section 4-3302, but remains open to serve beverages, including alcoholic liquor, said licensee must select the restaurant alternate option and comply with the following regulations concerning minors and hours of operation:

<u>Day</u>	<u>Hours</u>
Sunday	10:00 a.m. until 1:00 a.m. the next day; minors dismissed or otherwise barred from premises no later than 10:00 p.m.
Monday through Thursday	For each day: 6:00 a.m. until 1:00 a.m. the next day; minors dismissed or otherwise barred from premises no later than 10:00 p.m.
Friday and Saturday	For each day: 6:00 a.m. until 2:00 a.m. the next day; minors dismissed or otherwise barred from premises no later than 11:00 p.m.

(b) There shall be no more than fifteen (15) Option IV licenses issued at any one time within the City.

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**SEC. 4-3319.            OPTION V EXTENDED HOURS 3 A.M. TAVERN.**

- (a)     The following classes of licenses are eligible for the extended hours tavern option: Class B.
- (b)     The extended hours option permits a Class B licensee to remain open to 3:00 a.m. daily to serve alcoholic liquor for consumption on the premises only.
- (c)     The following shall be considered in determining whether to grant an application for Option V:
  - (1)     The number of off-street parking places available to the licensee;
  - (2)     The distance from the licensed premises and any off-street parking to residentially zoned property;
  - (3)     The hours live entertainment will be provided;
  - (4)     Whether any other licensed premises exists within the vicinity of the licensee;
  - (5)     Whether conditions exist that are conducive to disturbing the quiet of residential neighborhoods or to producing blight in commercial neighborhoods.
- (d)     All applicants for the extended hours option must provide proof that all on-site personnel, including managers and employees, have successfully completed a Beverage Alcohol Sellers and Servers Education Training (“BASSET”) certified program as evidenced by a currently valid BASSET certification or a Training for Intervention Procedures (“TIPS”) course as evidenced by a currently valid TIPS certification. Applicants shall further maintain on-site evidence of current BASSET or TIPS certification of all employees and, as a condition of the extended hours option, shall provide an affidavit that all new hires will be BASSET or TIPS certified within thirty (30) days of hiring.
- (e)     There shall be no more than fifteen (15) Option V licenses issued at any one time within the City.

**SEC. 4-3320.            OPTION VI OFF-SITE RETAILER’S SPECIAL USE.**

- (a)     The following classes of licenses are eligible for the off-site retailer’s special use option: Class A, AA, B, and D.
- (b)     The off-site retailer’s special use option shall allow an eligible licensee to sell alcoholic liquor on any approved City property or right-of-way other than the premises covered by the existing license for a period of three (3) days or less per year as determined by the local liquor control commissioner.
- (c)     Any event described in subsection (b) above shall cease the sale of liquor at midnight of the same day upon which sales commenced. If the sale is to be conducted outside of an enclosed building, the provisions of this code, including without limitation, all regulations set forth in Section 4-3311 for outdoor special events must be followed.
- (d)     Application for the retailer’s special use option along with the option fee may be made to the local liquor control commissioner no less than fourteen (14) days prior to the special event. To exercise this option, a licensee must provide verification to the local liquor control commissioner that its dram shop insurance covers the special event.
- (e)     The licensee shall immediately cease the sale and serving of alcoholic liquor at a special event if the City of Moline Police Department informs the licensee that a violation of any of the City ordinances or state law has occurred at the event. (Ord. No. 3012-2010; Div. 3 repealed; new Div. 3 enacted; 03/02/10)

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### DIVISION 4. ADMINISTRATIVE PROCEEDINGS

#### SEC. 4-3400. INITIAL APPLICATIONS.

The local liquor control commissioner may refuse to grant any initial application for a license or options connected thereto without hearing; however, said commissioner shall state in writing any reasons for such refusal and mail same to the applicant at the address on the application. The applicant may request in writing a hearing before the local liquor control commissioner within ten (10) days from the date of refusal and at such hearing be entitled to present evidence on said applicant's behalf as to why said applicant should be entitled to a license and to be represented by counsel at such hearing. The local liquor control commissioner shall make a decision in writing within fifteen (15) days from the close of the hearing which decision shall be appealable to the state commission. If the local liquor control commissioner fails to make a decision within fifteen (15) days from the date an application is completed and all required submissions have been filed or within fifteen (15) days from the close of the hearing, the application shall be considered approved.

#### SEC. 4-3401. RENEWALS.

The local liquor control commissioner may refuse to renew a license or options connected thereto for cause; however, an applicant for renewal shall first be provided notice in writing of the cause or causes for non-renewal mailed to said applicant at the address of the applicant and be afforded a hearing where said applicant may confront witnesses against said applicant, be represented by counsel, and present evidence on said applicant's own behalf. Said hearing shall be held within ten (10) days of the notice, and the local liquor control commissioner shall render a decision in writing within five (5) days after the close of the hearing. Said decision shall be appealable to the state commission. Except for nonpayment of fees, no applicant for renewal shall be denied the right to continue operation of the business as provided in the expired license until the local liquor control commissioner has rendered a decision in writing and the time for appeal has expired and no appeal has been taken.

#### SEC. 4-3402. ADMINISTRATIVE FEES, REVOCATION AND SUSPENSION.

(a) If a licensee or its agents, officers, or employees commit any violation of the provisions of this Chapter of the Moline Code of Ordinances, Chapter 235, Illinois Compiled Statutes, or any provision of the Moline Code of Ordinances relating to the business of the licensee, including but not limited to any payments due and owing the City for services or taxes, or any rule or regulation established by the state liquor commission which is not inconsistent with law, or any criminal offense on the licensee's premises, the local liquor control commissioner shall impose an administrative fee and may suspend or revoke the licensee's license. The amount of the fee to be imposed and whether a license is suspended or revoked is based upon the previous violations committed by the licensee.

- (1) If a licensee commits a first violation, the local liquor control commissioner shall impose an administrative fee of not less than two hundred fifty dollars (\$250.00) up to seven hundred fifty dollars (\$750.00).
- (2) If a licensee commits a second violation, the local liquor control commissioner shall impose an administrative fee of not less than five hundred dollars (\$500.00) up to seven hundred fifty dollars (\$750.00) and may suspend the licensee's license for one (1) business day or longer to be imposed on the same day of the week upon which the violation occurred.
- (3) If a licensee commits a third violation, the local liquor control commissioner shall impose an administrative fee of not less than seven hundred fifty dollars (\$750.00) and may suspend the licensee's license for three (3) consecutive business days or longer, the suspension to begin on the same day of the week upon which the violation occurred.

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- (4) If a licensee commits a fourth or subsequent violation, the local liquor control commissioner shall impose an administrative fee of not less than seven hundred fifty dollars (\$750.00) and may suspend the licensee's license for seven (7) consecutive business days or longer, the suspension to begin on the same day of the week upon which the violation occurred.

(b) Notwithstanding subsection (a) above, the local liquor control commissioner may revoke or suspend any license issued if said commissioner determines that the licensee or its agents, officers or employees has violated any of the provisions of Chapter 235, Illinois Compiled Statutes, or as amended, any provision of the Moline Code of Ordinances relating to the business of the licensee, or any rule or regulation established by the state liquor commission which is not inconsistent with law, or any criminal offense on the licensee's premises, and if said commissioner determines that circumstances warrant a greater penalty than those outlined in subsection (a).

### **SEC. 4-3403. NOTICE AND HEARING.**

No license shall be so revoked or suspended except after a public hearing by the local liquor control commissioner upon at least three (3) days' notice in writing to the licensee mailed to the address on file in the local liquor control commissioner's office. Said licensee shall have the opportunity to appear and defend either by oneself or through legal counsel and to confront those bringing charges against said licensee.

### **SEC. 4-3404. WITNESSES.**

(a) No natural person may be required at said hearing to present testimony against oneself or against another if such testimony would tend to incriminate the witness unless such person is awarded use immunity from such statements or has already been tried for such conduct or the statute of limitations has run out for such offense. Nothing herein is intended to prevent the local liquor control commissioner from gaining access to business records of a licensee or from drawing an adverse inference from the refusal to testify.

(b) The city attorney only can grant such immunity from municipal prosecution and shall also obtain in writing from the State's Attorney of Rock Island County such immunity if the offense also violates state law.

### **SEC. 4-3405. FINAL ORDER OF REVOCATION OR SUSPENSION.**

The local liquor control commissioner shall, within five (5) days after the close of a revocation or suspension hearing, render in writing a decision upon the charges stated in the notice stating the facts relied upon and the conclusions drawn therefrom and enter an order of either acquittal or guilt and, if guilty, assess the administrative punishment therefor. A copy of said order shall be mailed to the licensee at the address on file with the local liquor control commissioner within five (5) days of its entry.

(a) It shall be within the authority of the liquor control commissioner to order costs of any hearing which can include, but are not limited to, those associated with reporter costs, administration costs, attorney costs, departmental overtime costs, administrative fines, and any other costs that are deemed appropriate.

(b) That upon receipt of dram shop insurance or other proof of financial responsibility at any hearing for failure to provide same, costs and fines as identified in subsection (a) above shall not be automatically waived.

### **SEC. 4-3406. ADMINISTRATIVE APPEALS.**

(a) All proceedings provided for in this division shall be recorded by a certified court reporter; however, no transcription of such record shall be made unless requested in writing by an interested party who shall also order a copy of said transcription for all other interested parties and one (1) official transcript for filing with the state commission.

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(b) Appeals from the decision of the local liquor control commissioner shall be as provided in Chapter 235 of the Illinois Compiled Statutes, or as amended; however, appeals shall not be heard de novo but shall be made upon the record provided for in subsection (a) above all as authorized by said Chapter 235 for appeals originating from home rule units of local government.

(c) An appeal properly and timely taken shall stay the imposition of any administrative punishment.

### ARTICLE IV. OPERATION

#### SEC. 4-4100. POSTING.

(a) Every holder of a license issued pursuant to this chapter shall at all times keep it posted in a conspicuous location on a wall of the business premises.

(1) A copy of valid dram shop insurance or other proof of financial responsibility shall at all times be posted in a conspicuous location on a wall of the business premises.

(b) No person shall post any license issued under this chapter in any premises other than the premises named in the license as issued.

(c) It shall be the duty of any peace officer to seize any license issued pursuant to this chapter which has been posted in any premises other than the premises for which it was issued.

#### SEC. 4-4101. PERSONS NOT TO REMAIN ON PREMISES AFTER CLOSING HOUR.

(a) Except as otherwise provided in this section, no licensee shall permit other persons to remain on the licensed premises after the closing hours applicable to the class of license held by the licensee. However, the licensee may remain on the premises and a person on the licensee's payroll may remain on the premises solely for the purpose of tallying the day's sales and for cleanup.

(b) All lights must be turned off at the premises licensed pursuant to this chapter at or before the closing hour prescribed for the class of license held, except:

(1) Outside lights;

(2) Inside lights for police protection;

(3) Lighting as necessary for cleanup until said cleanup is complete.

(c) Class A and Class AA licensees shall close down their business with regard to the sale of liquor at the closing hour prescribed in their licenses but may remain open for the sale of food.

(d) Class CC licensees may remain open with persons on the premises after the closing hours for sales of alcoholic liquors for the purpose of sale of the primary goods sold at the licensed premises.

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**SEC. 4-4102. LICENSED PREMISES SHALL BE PUBLIC ACCOMMODATION.**

No person licensed under the provisions of this chapter shall deny or permit said licensee's agents and employees to deny any person the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of any premises in which alcoholic liquor is authorized to be sold subject only to the conditions and limitations established by law and applicable alike to all citizens. All licensed premises under this chapter are required to be open to the public unless provided otherwise in this chapter. Private functions are allowed only in rental halls or other licensed premises that have private party rooms or facilities separate and apart from its public rooms or facilities.

**SEC. 4-4103. CREDIT SALES.**

No person shall sell or furnish alcoholic liquor at retail to any person on credit or on a passbook, or order on a store, or in exchange for any goods, wares, or merchandise, or in payment for any services rendered; and, if any person shall extend credit for such a purpose, the debt thereby attempted to be created shall not be recoverable at law. However, nothing in this section shall be construed to prevent any club from permitting checks or statements for alcoholic liquor to be signed by members or bona fide guests of members, or guests according to the bylaws of the club. Nothing contained in this section shall be construed as preventing any hotel from permitting checks or statements for alcoholic liquor to be signed by regular guests residing at said hotel and charged to the accounts of the guests, and nothing contained in this section shall be construed to prevent payment by credit card or other credit devise for the purchase of alcoholic liquor in the original package for consumption off the premises or consumed with a meal at a restaurant.

**SEC. 4-4104. RESTRAINT OF TRADE.**

No person licensed pursuant to this chapter shall enter into any contract with any manufacturer, distributor, or importing distributor of alcoholic liquor whereby the licensee agrees not to sell any alcoholic liquor manufactured or distributed by any other manufacturer, distributor, or importing distributor.

**SEC. 4-4105. PANDERING BY LICENSEE.**

No licensee shall in any advertisement state or imply that obscene conduct or immoral conduct, or obscene entertainment or immoral entertainment can be found or seen at the licensed premises. For the purposes of this section, "obscene conduct or immoral conduct, or obscene or immoral entertainment" shall mean the same as the definition of obscenity as contained in Section 22-7200 of the Moline Code of Ordinances.

**SEC. 4-4106. SELF SERVICE.**

(a) No licensee or agent or employee thereof shall allow any person to serve themselves alcoholic liquor for purposes of consumption on the premises of the licensee except as otherwise provided herein.

(b) The restrictions imposed pursuant to Section 4-4106(a) above concerning the disallowance of self service of alcohol shall not be applied to licensees, agents or employees thereof which are situated in the circumstances described as follows:

After proper identification of the prospective recipient as an eligible consumer of alcohol (as required elsewhere in this Code or by state law) has been obtained, any adult person occupying a separately compartmentalized and separately accessed suite at a sporting or entertaining event where such suites are used, which event takes place in a facility of any sort where the gross seating capacity of such facility is eight thousand (8,000) persons or more, may be furnished with a key to a locked container (such as a refrigerator or a cabinet) located entirely within the suite, for the purposes of serving alcohol to himself or other adult suite guests for consumption in the suite only.

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To ensure compliance with the age requirements of the ordinance for the separately compartmentalized and separately accessed suites referenced above, at least one (1) employee of the licensee must physically frequent such suite not less than once each hour to monitor and require such compliance; provided, however, that such monitoring requirement is only effective when suite holders or other individuals are present at the suite portion of the licensee.

(c) The exemptions specified in Section 4-4106(b) shall be strictly construed.

(d) All other licensing requirements of this Code shall still apply and shall remain in full force and effect.

(e) Under no circumstances shall a room or suite described in this Section 4-4106 be construed to constitute a "home" pursuant to Section 4-5101, and in no circumstances shall any minor children be served or otherwise provided alcohol in such respective suite during any period of service or consumption.

### **SEC. 4-4107. DRIVE-IN OR WALK-IN SERVICE WINDOWS.**

No licensee or agent or employee thereof shall allow any person to purchase alcoholic liquor through a "drive-in service window" or "walk-in service window." No licensee or agent or employee thereof shall sell at retail any alcoholic liquor through a "drive-in service window" or "walk-in service window."

For the purposes of this section, a "drive-in service window" or "walk-in service window" shall mean any opening on the premises of the licensee whereby a person may purchase, obtain, or in any other way get alcoholic liquor without physically entering the premises or building of the licensee.

### **SEC. 4-4108. OPERATION WITHIN ENCLOSED BUILDING.**

No licensee or agent or employee thereof shall operate or permit the operation of licensed activities under the terms of this chapter, except within enclosed buildings on licensed premises unless otherwise permitted by this chapter.

### **SEC. 4-4109. CONDUCT ON PREMISES.**

(a) No licensee shall allow or permit any drunken or intoxicated person to be or remain upon the licensed premises. No loud, obscene or boisterous talking, or lewd touching or disorderly conduct shall be permitted upon the licensed premises.

(b) No licensee shall allow or permit any loitering, gathering of unruly individuals or crowds or any unlawful or dangerous or disorderly behavior whether in the premises or in any parking lot or other adjacent area serving the premises; and the licensee shall have primary responsibility for hiring such security personnel and taking other appropriate measures to observe compliance with this subsection.

(c) No licensee under this article, nor any agent or employee of the licensee, shall appear, be present, or perform while nude upon the licensed premises, nor shall any such licensee, or any agent or employee of the licensee, allow or permit any other person on the licensed premises to appear, be present, or perform while nude upon the licensed premises. For the purposes of this subsection, the term "nudity" shall mean the showing of the human male or female genitals, pubic area or buttocks or the human female breast including the nipple or any portion below the nipple with less than a full opaque covering.

(d) No licensee under this article, nor any agent or employee of the licensee, shall conduct or perform any specified sexual activity upon the licensed premises, nor shall any such licensee, or any agent or employee of the licensee, allow or permit any other person to conduct or perform any specified sexual activity upon the licensed premises. For purposes of this subsection, the term "sexual activity" shall mean acts of intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sex act prohibited by law.

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(e) In the event a violation of law has occurred on the premises or in any adjacent areas serving the premises, the licensee or its agents shall immediately notify the police department.

### **ARTICLE V. MINORS**

#### **SEC. 4-5100. ACTIVITIES EXEMPT FROM THIS ARTICLE.**

The possession and dispensing or consumption by a person under the age of twenty-one (21) years of age of an alcoholic beverage in the performance of a religious ceremony or service or the consumption of alcoholic beverage by a person under the age of twenty-one (21) years of age under the direct supervision and direct approval of the parents or parent or guardian of such person in the privacy of a home is not prohibited by this Article V.

#### **SEC. 4-5101. PREPARATION OF ALCOHOLIC LIQUOR.**

No minor shall be employed by a licensee, except for the purpose of serving food, providing entertainment, providing maintenance, preparing food, and providing cleanup after preparation and service of food and at no time shall a minor tend any bar or pour, draw, mix, sell or serve any alcoholic liquor in the premises licensed by the City.

#### **SEC. 4-5102. POSSESSION.**

No minor shall have on or about said minor's person, or in said minor's custody, or in said minor's possession, or in said minor's control, any alcoholic liquor, whether the seal is or is not broken.

#### **SEC. 4-5103. PURCHASE.**

Any person to whom the sale, gift or delivery of alcoholic liquor is prohibited because of age, shall not purchase or accept a gift of alcoholic liquor or have alcoholic liquor in said person's possession.

#### **SEC. 4-5104. CONSUMPTION.**

(a) It shall be unlawful for any person to whom the sale, gift, delivery or service of any alcoholic beverage is prohibited because of age to consume or to possess in any manner, including by consumption, any such alcoholic beverage, except as otherwise provided by law. The violation referred to in this section which relates to the possession of alcohol after it has been consumed may be identified as the "Illegal Possession of Alcohol by Consumption" or by the number of this chapter and section of this article. This violation may be proven by evidence which indicates that the breath of the person charged with such offense had a smell associated generally or specifically with any alcoholic beverage and no additional evidence relating thereto shall be necessary to find the defendant to be in violation of this article. It shall not be necessary to show that the person charged with an offense hereunder was at the time in question under the influence of any alcoholic beverage in any manner, but such evidence shall be admissible to prove a violation of this section.

(b) The defendant in a case brought under subsection (a) above has the duty of producing as affirmative defenses the lawful consumption of alcoholic liquor in a religious ceremony or in the privacy of a home under the direct supervision of the parents or parent or guardian or at a location where consumption by said minor is otherwise permitted by law and once said defendant has met said duty, it shall be the duty of the prosecutor to persuade the trier of fact that said minor consumed or possessed by consumption alcoholic liquor in violation of subsection (a) above by a preponderance of the evidence.

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**SEC. 4-5105.            GIVING ALCOHOLIC LIQUOR TO MINORS.**

No person shall have, sell, or deliver any alcoholic liquor to any minor within the City, including alcoholic liquor in a container with the seal unbroken.

**SEC. 4-5106.            AUTHORITY AND DUTY OF LICENSEE UNDER  
THIS CHAPTER TO REQUIRE PROOF OF AGE.**

If a person licensed pursuant to this chapter or agent or employee thereof shall believe or have reason to believe that a sale or delivery of alcoholic beverage is prohibited because of the non-age of the prospective recipient, licensee, agent or employee thereof, shall, before making the sale or delivery, demand presentation of some form of positive identification containing proof of age and identity issued by a public officer in the performance of official duties. No attempt at proof of identification shall be considered effective unless said identification contains a picture of the holder thereof.

**SEC. 4-5107.            FRAUDULENT IDENTIFICATION CARDS.**

(a) No person shall transfer, alter, or deface an identification card issued by a federal, state, county or municipal government or subdivision or agency thereof; use the identification card of another; carry or use any false or forged identification card; or obtain an identification card by means of false identification.

(b) Any person under the age of twenty-one (21) years who presents or offers to any licensee, said licensee's agent or employee, any written, printed or photostatic evidence of age and identity which is false, fraudulent, or not actually said person's 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, shall be subject to a fine of not less than two hundred fifty dollars (\$250.00).

**SEC. 4-5108.            PROOF OF AGE NOT A DEFENSE.**

No licensee or agent or employee thereof shall raise as a defense to this article the fact that compliance has been had with Section 4-5107 hereof. However, such fact shall be considered by the local liquor control commissioner in way of aggravation or mitigation of the finding of guilt for violation of this article.

**SEC. 4-5109.            PARENTAL RESPONSIBILITY.**

It shall be unlawful for the parents or parent or guardian to suffer or permit a child or ward under their custody and control and under the age of eighteen (18) years to violate any provision of this Article V, except as expressly permitted by Section 4-5100.

**SEC. 4-5110.            RESPONSIBILITY OF OWNER OR OCCUPANT  
OF PREMISES.**

It shall be unlawful for any owner or occupant of any premises located within the City to knowingly allow any person under the age of twenty-one (21) years to remain on such premises while in possession of alcoholic liquor or while consuming alcoholic liquor in violation of this Article V.

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**ARTICLE VI. VICARIOUS LIABILITY**

**SEC. 4-6100. LICENSEE'S LIABILITY FOR VIOLATIONS OF STATE OR LOCAL LAW.**

Every act or omission constituting a violation of Chapter 235 of the Illinois Compiled Statutes, or any of the provisions of this chapter, by any officer, director, manager, agent or employee of any licensee under this chapter shall be deemed and held to be the act or omission of the licensee, even though such act may be done without the knowledge, authorization, or consent of the licensee.

(Ord. No. 3024-2009; Chapter 4 repealed; new Chapter 4 enacted; 09/22/09; scrivener's error to Sec. 4-3208(e) corrected by changing Restaurant Alternate from \$200.00 to \$400.00 – 11/02/09; see individual sections for subsequent amendments)