

CHAPTER 52

ALCOHOLIC LIQUOR

1. **WORDS AND PHRASES.** Words and phrases in this Chapter which are defined in the Liquor Control Act of 1934, as amended, shall have and be given the same meaning and definition as therein set out unless expressly otherwise provided herein.

2. **LOCAL LIQUOR CONTROL COMMISSIONER.** The Mayor, or his designee, shall be the Local Liquor Control Commissioner with such duties and powers as may be provided by law or ordinance. (Amended, Ordinance No. 2009-33, May 4, 2009)

3. **LICENSE REQUIRED.** No person, firm or corporation shall sell alcoholic liquor at retail without then having a currently in force local liquor license issued to such person or entity as provided herein for the premises whereon such sale takes place. Each license and the privileges there under shall expire and terminate on the 30th day of June next following the issue date thereof, except for the year 2020 in which each license and the privileges there under shall expire and terminate on the 31st day of August, 2020. (Amended, Ordinance No. 2020-93, May 26, 2020)

4. **LICENSE CLASSIFICATIONS.** Classes of local liquor licenses are hereby established and are hereby authorized as follows:

Class A, under which alcoholic liquor may be sold for consumption on or off the licensed premises, which said Class A license shall not be issued for any premises situated in any Residence, Office, Park Mobile Home or Neighborhood Shopping District established by the Zoning Ordinance and shall not be issued to any retail establishment, commonly described as a convenience store, which typically offers such items including but not limited to groceries, tobacco, soft drinks, beer and wine, or snack foods, or any retail establishment, commonly described as a gas station, which typically offers automotive fuel or services, or similarly

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operated businesses. Those license holders that are not currently in compliance with the limitations as of December 4, 2017 shall be allowed to sell alcoholic liquor for consumption off the licensed premises only. (Amended, Ordinance No. 2017-54, December 4, 2017)

Class B, under which alcoholic liquors may be sold only in packages for consumption off the licensed premises, which said Class B license shall not be issued for any premises located within One Thousand (1,000) feet of any church, school, park or subsidized disabled adult and elderly multi-story housing facility, unless the sale of alcoholic liquors is not the principal business carried on at any such location by such licensee, nor shall such Class B license be issued for any premises situated in any Residence, Office or Park Mobile Home District established by the Zoning Ordinance. The prohibition regarding distance from churches, schools, parks, or subsidized disabled adult and elderly multi-story housing facilities shall not apply to premises licensed on October 4, 2004, and continuously so licensed since that date. The restriction of off-premise sales shall not apply to sampling or test marketing. (Amended, Ordinance No. 2004-55, July 6, 2004) (Amended, Ordinance No. 2001-67, September 4, 2001) (Amended, Ordinance No. 97-47, June 2, 1997)

Class BYOB, under which a licensed premises is authorized to allow for the consumption of beer and wine brought onto the premises by a patron over the age of twenty-one (21) for on-site consumption on the premises of a restaurant, which does not otherwise possess a City of Decatur liquor license. BYOB shall only be permitted in conjunction with the purchase of consumption of a meal, is limited to the licensed premises, and is limited to no more than one (1) seven hundred fifty (750) milliliter bottle of wine or thirty-six (36) ounces of beer. The establishment may provide glassware and ice to patrons, and may uncork, pour, serve or otherwise control the consumption of the beer or wine. A certificate of insurance reflecting coverage for the dram shop or equivalent liability for BYOB service shall be provided upon application. Video gaming shall be prohibited in establishments that possess a Class BYOB license. (Amended, Ordinance No. 2023-01, January 17, 2023)

Class C, under which only a club shall be licensed and alcoholic liquor may be sold for consumption on or off the licensed premises only to members of such club and invited guests of said members personally being attended by a member, which said Class C license shall not be issued for any premises situated in any Residence, Office, Park Mobile Home or Neighborhood Shopping District established by the Zoning Ordinance unless the licensed premises are a club house connected with a private golf course.

Class D, under which the licensed premises may only be a hotel having not less than 100 rooms used for the sleeping accommodations of guests, or a motel having not less than 100 such rooms and having the same accommodations as a hotel, which said Class D license shall not be issued for any premises situated in any Residence, Office, Park Mobile Home or Neighborhood Shopping District established by the Zoning Ordinance.

Class E, under which the licensee may only be the State or a department, agency, or instrumentality thereof, or a unit of local government, and alcoholic liquor may be sold only for consumption on the licensed premises, or on other premises owned by a licensed unit of local government if at a specific, non-continuous event such as a wedding reception, private party or

charity benefit, or a sport/athletic tournament not to exceed a three day consecutive period; or to a licensed food service company contracted for a period of five years or more with an institution of higher learning accredited through the Higher Learning Commission of NCA (a commission of the North Central Association of Colleges and Schools) for use at said accredited institution and only for purposes related to theatre, cultural or sports/athletic events of the accredited institution of higher learning; wherever or however said licensed or other premises are situated or however classified for zoning purposes within the City. (Amended, Ordinance No. 2023-12, March 6, 2023) (Amended, Ordinance No. 2005-100, November 7, 2005) (Amended, Ordinance No. 2002-40, May 20, 2002) (Amended, Ordinance No. 2001-55, July 16, 2001)

Class F, under which the licensee may only be the State or a department, agency or instrumentality thereof, a unit of local government or tenant thereof, or a not-for-profit charitable foundation having as one of its purposes the conduct and promotion of at least one outdoor sport such as baseball, football, rugby, soccer, golf, or the like, or the conduct and promotion of outdoor dining or spectator sports or events such as horse racing, fairs, expositions or shows, and which operates an outdoor facility appropriate to said dining, sport or event whereat alcoholic beverages are sold for consumption on the premises, and which is situated in a zoning district other than the Residence, Office, Park Mobile Home or Neighborhood Shopping District unless the licensee is a unit of local government or a tenant thereof, or unless the licensed premises are a clubhouse or restaurant connected with a golf course. (Amended, Ordinance No. 2002-41, May 20, 2002) (Amended, Ordinance No. 93-18, March 29, 1993) (Amended, Ordinance No. 92-69, July 20, 1992)

Class G, under which the licensed premises may only be a restaurant in which the licensee has invested therein after May 10, 1985 not less than \$250,000.00 (which may include the capitalized value of the first ten years only of a leasehold interest) as reasonably determined by the Local Liquor Control Commissioner using general recognized accounting practices, which said Class G license shall not be issued for any premises situated in any Residence, Office, or Park Mobile Home established by the Zoning Ordinance unless the licensed premises are a club house connected with a golf course. Restaurant shall be defined as any public place kept, used, maintained, advertised and held out to the public primarily as a place where meals are served and where meals are actually prepared and served without sleeping accommodations, such space being provided with adequate and sanitary kitchen which shall include, but not limited to, sink; refrigerator with the minimum capacity of 20 cubic feet; and oven with the minimum capacity of 4.3 cubic feet or a range or a grill; and dining equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests, where the sale or consumption of alcoholic liquor is only incidental to the serving of meals and where 50% or more of the gross revenue of the business must be from the serving of meals. (Amended, Ordinance No. 2020-98, June 15, 2020) (Amended, Ordinance No. 2015-22, May 18, 2015) (Amended, Ordinance No. 96-27, May 6, 1996) (Amended, Ordinance No. 89-13, January 30, 1989)

Class H, under which alcoholic liquor may be sold only for consumption on the licensed premises, and also under which the licensed premises may only be a hotel having not fewer than four (4) nor more than fifteen (15) rooms used for sleeping accommodation of guests, and kitchen and dining room facilities for serving meals to guests and the public. A Class H license

shall be personal to the licensee and exclusively limited to the premises, and such license may be transferred to another applicant for such license only after the Local Liquor Control Commissioner finds that such new licensee will operate an establishment of like kind and character as that which was previously licensed, which said Class H license shall not be used for any premises situated in any Residence, Office, or Park Mobile Home established by the Zoning Ordinance unless the licensed premises are a private club and / or banquet facility establishment as an approved Historic Neighborhood Use. (Amended, Ordinance No. 2020-98, June 15, 2020) (Amended, Ordinance No. 2002-74, August 19, 2002) (Amended, Ordinance No. 2000-95, November 6, 2000)

Class I, under which the licensed premises may only be a restaurant at which alcoholic liquor may be sold by the drink or pitcher only, for consumption on the premises and only at tables and incidental to the service of meals. A Class I licensee shall not be permitted to operate on the licensed premises a bar or lounge area at which alcoholic liquors alone may be purchased, which said Class I license shall not be issued for any premises situated in any Residence, Office or Park Mobile Home or Neighborhood Shopping District as established by the Zoning Ordinance unless the licensed premises are a club house connected with a golf course or a restaurant establishment as an approved Historic Neighborhood Use. Restaurant shall be defined as any public place kept, used, maintained, advertised and held out to the public primarily as a place where meals are served and where meals are actually prepared and served without sleeping accommodations, such space being provided with adequate and sanitary kitchen which shall include, but not limited to, sink; refrigerator with the minimum capacity of 20 cubic feet; and oven with the minimum capacity of 4.3 cubic feet or a range or a grill; and dining equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests, where the sale or consumption of alcoholic liquor is only incidental to the serving of meals and where 50% or more of the gross revenue of the business must be from the serving of meals. (Amended, Ordinance No. 2015-22, May 18, 2015) (Amended, Ordinance No. 2000-95, November 6, 2000) (Amended, Ordinance No. 89-13, January 30, 1989)

Class J, under which alcoholic liquor may be sold only in packages for consumption off the licensed premises, and under which the licensed premises may only be a retail establishment which derives more than 50% of its gross income from the sale of goods other than alcoholic liquors and in which the licensee has invested, after January 1, 1991, not less than \$1,000,000 (which may include the capitalized value of the first ten years only of a leasehold interest), and, which establishment employs a minimum of 50 full-time employees, or the equivalent thereof, at the licensed premises, which said Class J license shall not be issued for any premises situated in any Residence, Office, Park Mobile Home or Neighborhood Shopping District established by the Zoning Ordinance unless the licensed premises are a club house connected with a golf course. (Amended, Ordinance No. 2000-95, November 6, 2000) (Amended, Ordinance No. 92-06, January 21, 1992)

Class K, under which the licensed premises may only be a theater in which the licensee has invested therein after January 1, 2004 not less than Two Hundred Fifty Thousand Dollars (\$250,000.00) as reasonably determined by the Local Liquor Control Commissioner using generally recognized accounting practices and said licensed premises must be located in the B-4

Central Business District of downtown Decatur. A Class K license shall authorize beer and wine only to be sold by the drink only for consumption on the premises incidental to the viewing of motion pictures or live theatrical or stage performances and shall not be permitted to operate on the licensed premises a bar or lounge area at which alcoholic liquors alone may be purchased. A Class K license shall be personal to the licensee and exclusively limited to the premises and shall not be used for any premises situated in any Residence, Office, Park Mobile Home or Neighborhood Shopping District established by the Zoning Ordinance. (Amended, Ordinance No. 2021-34, June 7, 2021) (Amended, Ordinance No. 2007-12, March 19, 2007) (Amended, Ordinance No. 2005-37, May 2, 2005)

Class L, under which the licensed premises may only be a retail store of not more than 5,000 square feet and in which the licensee has invested therein not less than Fifty Thousand Dollars (\$50,000.00) (which may include the capitalized value of the first five (5) years only of a leasehold interest) as reasonably determined by the Local Liquor Control Commissioner using generally recognized accounting practices, which said Class L license shall not be issued for any premises located within two hundred (200) feet of any church, school, or subsidized disabled adult and elderly multi-story housing facility. Said licensed premises must be located in the B-4 Central Business District of downtown Decatur. A Class L license shall authorize the sale of alcoholic liquor to be sold for consumption on or off of the licensed premises between the hours of 10:00 A.M. and 10:00 P.M. No video gaming, drive through, walk-up or drive-up liquor sales shall be permitted on the premises. A Class L license shall be personal to the licensee and exclusively limited to the premises and shall not be used for any premises situated in any Residence, Office, Park Mobile Home or Neighborhood Shopping District established by the Zoning Ordinance. Issuance of this Class shall be limited to two (2). Class L licenses are non-transferrable. (Amended, Ordinance No. 2023-01, January 17, 2023) (Amended, Ordinance No. 2021-34, June 7, 2021) (Amended, Ordinance No. 2006-15, March 20, 2006)

Class M, under which the licensed premises may be a retail store of not less than Ten Thousand (10,000) square feet and in which the licensee has invested therein not less than One Million Dollars (\$1,000,000.00), which investment may include the capitalized value of the first ten (10) years only of a leasehold interest as reasonably determined by the Finance Director of the City of Decatur using generally recognized accounting practices. Said licensed premises may only be located in a B-2 Commercial District, Planned Development or B-3 Planned Shopping Center District. A Class M license shall authorize liquor to be sold in packages between the hours of 9:00 A.M. and 10:00 P.M. for consumption off of the licensed premises. No drive through, walk-up or drive-up liquor sales shall be permitted on the premises. A Class M license shall be personal to the licensee and exclusively limited to the premises. Issuance of Class M licenses shall be limited to three (3). (Amended, Ordinance 2014-19, May 5, 2014) (Amended, Ordinance 2012-94, December 17, 2012)

Class N, under which alcoholic liquor may be sold to the general public for consumption on the licensed premises only during scheduled public performances or events. Class N licenses shall be valid for up to fifteen (15) events per year, each event lasting no longer than three (3) consecutive days. A Class N license shall be personal to the licensee and exclusively limited to the premises and shall not be used for any premises situated in any Residence, Office, Park Mobile Home or Neighborhood Shopping District established by the Zoning Ordinance.

Issuance of Class N licenses shall be limited to three (3). (Amended, Ordinance No. 2013-90, November 18, 2013)

Class O, under which the licensed premises may only be a Brewer, Brewpub, Distiller or similar business as defined under the Illinois Liquor Control Act and has received a Federal permit, and under which at least 50% of its annual gross income from the sale of alcoholic liquors shall be derived from alcoholic liquor manufactured on the premises, and which said Class O license shall not be issued for any premises situated in any Residence, Office, Park Mobile Home or Neighborhood Shopping District established by the Zoning Ordinance. (Amended, Ordinance No. 2021-34, June 7, 2021) (Amended, Ordinance No. 2017-12, March 20, 2017) (Amended, Ordinance No. 2015-22, May 18, 2015)

Class P, under which the licensed premises may only be a Video Gaming Parlor, defined as an establishment or business whose primary purpose is to operate video gaming terminals as defined under the Illinois Video Gaming Act and in which the sale of foods or snacks and alcoholic beverages is only incidental to the operation of the video gaming terminals, and which said Class P license shall not be issued for any premises situated in any Residence, Office, Park Mobile Home or Neighborhood Shopping District established by the Zoning Ordinance nor shall said Class P license be issued for any premises located within 1500 feet of another establishment which offers video gaming terminals. (Amended, Ordinance No. 2016-62, September 6, 2016) (Amended, Ordinance No. 2015-22, May 18, 2015)

Class C, Class D, Class G, Class I, Class J and Class N licenses shall not be issued or reissued to replace a license of any other class established hereunder or transferred either to another licensee or for other premises. (Amended, Ordinance No. 2013-90, November 18, 2013) (Amended, Ordinance No. 92-06, January 21, 1992) (Amended, Ordinance No. 89-13, January 30, 1989)

If on April 24, 1978, premises were licensed under the then provisions of this Chapter, even though issuance of a Class A or Class C license would otherwise now be prohibited in the Zoning district into which said premises are classified, said premises so long as the same use thereof is continued shall be exempt from said prohibition.

5. **APPLICATION.** Application shall be made as required by this Code and shall be delivered by the City Clerk to the Local Liquor Control Commissioner for action. The application shall show the name, age and address of an individual applicant, and of the persons

entitled to participate in the profits, if a partnership applicant, and the objects, the names and addresses of the officers and directors, if a corporate applicant, and whether or not one person owns a controlling interest in such corporation, and if so, the name and address of such person; the citizenship, place of birth, and place of naturalization, if foreign born, of an individual applicant; the location and description of the premises where such liquor will be sold and served or consumed; whether or not any previous similar license has been applied for, the place of application, and the disposition of such application, and if revoked the reasons therefor, and whether or not applicant has ever been convicted of a felony. No license will be issued for any person ineligible under Section 2 of the Article 6 of the Act above referred to. A manager or agent, including bartenders, must have the same qualifications as the person or firm to whom the license is issued. All applications shall be verified by the applicant or, if a corporation, by an authorized corporate officer thereof.

6. **CHANGES IN LICENSE.** If during a license period there is any change pertaining to shareholders individually holding in the aggregate more than 5 percent of the corporate shares, or pertaining to the officers or manager, of a licensee, such change shall be reported to the Local Liquor Control Commissioner by filing with the City Clerk appropriately completed forms furnished by the Clerk, accompanied by the proper required shareholders' individual or manager's statements, within 10 days of such change.

7. **LICENSE FEE.** Payment of an annual license fee of Two Thousand Two Hundred Dollars (\$2,200.00) shall accompany each application for all classes of license except Class F as to which the amount of said fee shall be \$725.00; and except Class N as to which the amount of said fee shall be \$1,400.00; and except Class P as to which the amount of said fee shall be \$2,000.00 until August 17, 2015, then \$6,000 beginning August 18, 2015 and thereafter provided

that, said fee shall be prorated for the issuance of any license during a license period. The payment of a fee for any license shall be credited toward the payment of a fee for any other license if the first license is surrendered prior to the issuance of the second license to the same licensee during the same license year. For all classes of license, a late fee of \$100.00 plus \$20.00 per day shall be charged for all days after June 1st of any year for which an application for renewal is incomplete except for those in the year 2020 in which for all classes of license, a late fee of \$100.00 plus \$20.00 per day shall be charged for all days after July 31st of 2020 for which an application for renewal is incomplete. Each initial application and each application for transfer, whether to another licensee or to other premises, shall also be accompanied by a processing fee of \$100.00 in addition to the annual fee. Payment of an annual fee in amount of \$200.00 shall accompany the request for a caterer's permit. Payment of a fee shall accompany the request for a temporary permit or winery special use permit, in accordance with the following schedule:

1st permit / year	- \$100.00 per day
2nd permit / year	- \$150.00 per day
3rd permit / year	- \$200.00 per day
4th permit / year	- \$250.00 per day
5th permit / year	- \$250.00 per day
6th permit / year	- \$250.00 per day

In the event a license does not issue responsive to an application, the payment of the annual fee accompanying the same shall be refunded, otherwise, there shall be no rebate or prorate of a fee once paid. (Amended, Ordinance No. 2020-93, May 26, 2020) (Amended, Ordinance No. 2017-12, March 20, 2017) (Amended, Ordinance No. 2016-90, November 21, 2016) (Amended, Ordinance No. 2016-09, February 16, 2016) (Amended, Ordinance No. 2015-43, August 17, 2015) (Amended, Ordinance No. 2015-22, May 18, 2015) (Amended, Ordinance 2014-08, March 17, 2014) (Amended, Ordinance No. 2013-90, November 18, 2013) (Amended,

Ordinance No. 2005-100, November 7, 2005) (Amended, Ordinance No. 2003-16, April 7, 2003) (Amended, Ordinance No. 2002-62, July 22, 2002) (Amended, Ordinance No. 2000-95, November 6, 2000) (Amended, Ordinance No. 97-47, June 2, 1997)

8. TEMPORARY PERMIT/WINERY SPECIAL USE PERMIT

A. TEMPORARY PERMIT. The Local Liquor Control Commissioner may issue a temporary permit for the sale of alcoholic liquors to be consumed only on the premises at a banquet, picnic, bazaar, fair or similar private or public assembly where food or drink is sold, served or dispensed. Such temporary permit shall be issued only to a club, society, fraternity, benevolent or civic organization not for pecuniary profit, and shall be for a period of not more than three days. The maximum number of temporary permits issued to the same entity in one calendar year shall not exceed six (6) and not more than one temporary permit shall be granted to any one organization in any one period of thirty (30) days.

B. WINERY SPECIAL USE PERMIT. The Local Liquor Control Commissioner may issue a winery special use permit for the sale of wine sold in the original containers which bear the vintner's label and which are corked, capped or otherwise securely sealed at the place of vintning at a market-type, special or festival event. Such license shall be issued to a winery licensed by the State of Illinois with a winemaking premises license or a special use permit license, and shall be for a period of not more than three days. The maximum number of winery special use permits issued to the same winery in one calendar year shall not exceed six (6) and not more than one winery special use permit shall be granted to any one winery in any one period of thirty (30) days. (Amended, Ordinance No. 2016-09, February 16, 2016) (Amended, Ordinance No. 2003-16, April 7, 2003)

C. **CATERER'S PERMIT.** The Local Liquor Control Commissioner may issue an annual caterer's permit for the sale of alcoholic liquor to an existing holder of a Class A, C, G or O liquor license in connection with the sale of prepared food, for service at private parties, weddings or other similar private events which are not open to the general public, at a location other than the premises listed on the current license. For the purposes this permit, the location of the catered event shall be deemed the licensed premises. Holders of caterer's permits must comply with all other requirements in this Chapter. No person shall possess alcoholic beverages other than those provided by the licensee on the premises of the catering location and consumption of alcoholic liquor shall only be permitted on the premises where the food is catered. Gross revenues from the sale of alcoholic liquor at any event shall not exceed forty (40) percent of the total gross revenues generated from the sale of alcohol and food at that event and the licensee shall submit to the City an affidavit on a quarterly basis certifying compliance with this requirement. No event shall exceed three (3) days in length nor shall alcoholic liquor be served at such an event for more than eight (8) consecutive hours. (Amended, Ordinance No. 2017-12, March 20, 2017)

9. **TRANSFER OF LICENSE.** The Local Liquor Control Commissioner may permit a licensee to transfer their license to other premises if the transfer is solely to change locations and not to transfer to another holder which comply with the provisions of this Chapter and with applicable provisions of law, code, ordinance, rule or regulation and with such reasonable conditions to preserve the general health, safety and welfare as said Commissioner shall attach thereto. Class P licenses are non-transferrable. The Local Liquor Control Commissioner may permit a licensee to transfer a license to another if the transfer is for the same geographic location and in conjunction with the sale of the license holder's business and inventory.

Furthermore, said Local Liquor Control Commissioner shall consider for either transfer: (1) the zoning classification of the licensed premises, (2) the character of the surrounding area, (3) the traffic and parking situation, including any off-street parking requirements of the licensed business, within a 300-foot radius, (4) any statements of interested persons, either oral or written, (5) the impact of such proposed license on the character of and the traffic and parking situation in the immediate neighborhood, and (6) the applicants' history of compliance with all laws, ordinances and building and property maintenance codes. (Amended, Ordinance No. 2016-62, September 6, 2016) (Amended, Ordinance No. 2014-28, June 30, 2014) (Amended, Ordinance No. 2010-01, January 19, 2010)

10. **NUMBER OF LICENSES.** The issuance of a maximum number of Class A licenses is limited to 40 and the issuance of a maximum number of Class B licenses is limited to 53. There shall be no maximum number for the issuance of the respective Class C, Class D, Class E, Class F, Class G, Class I, Class J, Class K, or Class O licenses. Issuance of Class H licenses is limited to one (1). Issuance of Class L is limited to two (2). Issuance of Class M and Class N licenses is limited to three (3). Issuance of Class P licenses is limited to 20. If on August 29, 2016, premises were licensed as a Class P or had applied for a Class P license under the then provisions of this Chapter, said premises so long as the same use thereof is continued shall be exempt from said limitation. (Amended, Ordinance No. 2018-33, August 6, 2018) (Amended, Ordinance No. 2017-54, December 4, 2017) (Amended, Ordinance No. 2016-62, September 6, 2016) (Amended, Ordinance No. 2015-22, May 18, 2015) (Amended, Ordinance No. 2013-90, November 18, 2013) (Amended, Ordinance No. 2006-84, September 5, 2006) (Amended, Ordinance No. 2006-15, March 20, 2006) (Amended, Ordinance No. 2005-37, May 2, 2005) (Amended, Ordinance No. 2000-57, July 17, 2000) (Amended, Ordinance No. 95-13, March 20,

1995) (Amended, Ordinance No. 92-06, January 21, 1992) (Amended, Ordinance No. 90-84, July 30, 1990) (Amended, Ordinance No. 89-13, January 30, 1989) (Amended, Ordinance No. 2020-148, October 19, 2020)

11. **ISSUANCE OF AVAILABLE LICENSES.** As to classes of license for which a maximum authorized number has been established, if it should occur that less than such number are issued, applications may be received for the issuance of the available license or licenses. If after 30 days from the date such a license has become available, no qualified application has been received such license shall be issued responsive to the first qualified application received after such 30 day period. If during said 30 day period, more qualified applications are received than the number of licenses available, the Local Liquor Control Commissioner shall by lot select the application for which license shall issue. Applications made pursuant to the provisions of this section may be supported by agreements, undertakings or other reasonable evidence of an ability and willingness to satisfy physical and possessory requirements as to the premises proposed to be licensed, in lieu of evidence of ownership or possessory interest, building and fire code compliance and the like. Any person, firm, or corporation which has been successful in acquiring a liquor license by lot shall be prohibited from entering any subsequent lottery for a period of three years from the issuance of such license. If additional numbers of any class or classes of license are authorized by the Council for the purpose of issuing such licenses to owners of newly-annexed properties previously licensed by another jurisdiction, the provisions hereof shall not apply to such newly-authorized but unissued licenses. (Amended, Ordinance No. 2003-16, April 7, 2003)

12. **POSTING OF LICENSE.** Every person licensed in accordance with the provisions of this Chapter shall immediately post and keep posted while in force, in a conspicuous place on

the premises, the license so issued. Whenever such license shall be lost or destroyed, a duplicate in lieu thereof shall be issued by the City Clerk upon the direction of the Local Liquor Control Commissioner.

13. **USE OF LICENSE.** Except as to a Class F license, after a license has issued the privileges there under shall be actively exercised on the licensed premises. Suspension of the exercise of said privileges for a period of 90 days may be cause for revocation of such license absent the showing of substantial reason for the same not within the control of the licensee.

14. **SUSPENSION OR REVOCATION OF LICENSE.**

A. The Local Liquor Control Commissioner may in the manner provided by law suspend or revoke local liquor license privileges for violation of a provision of this Chapter or of applicable provisions of law, ordinance, code, rule or regulation.

B. The Local Liquor Control Commissioner, when suspending local liquor license privileges for violation of a provision of this Chapter or other applicable law, in the manner provided herein and by statute, may order that the licensee cease and desist all business operations at the licensed premises for the duration of the suspension of local liquor license privileges, to the extent permitted by law, if such commissioner determines that such a closure would assist the enforcement of the suspension in light of the severity of the violation or the frequency of past violations, whether of the same nature or not. (Amended, Ordinance No. 89-13, January 30, 1989)

C. The Local Liquor Control Commissioner may assess costs including reasonable attorney's fees against the licensee in any proceeding regarding such license held pursuant to law. (Amended, Ordinance No. 92-28, May 4, 1992)

15. **TOILETS.** Class A, C and D licensed premises shall have separate sanitary toilets maintained in clean and sanitary condition for males and females respectively.

16. **COMPLIANCE WITH LAW.** Local liquor licensed premises and the operations therein and thereof shall comply, in addition to the provisions of this Chapter, with the applicable provisions of law, ordinance, code, rule or regulation.

17. **HOURS.** No person shall sell, deliver or consume alcoholic liquor, and no licensee shall permit the same, on or in the premises licensed hereunder with a liquor license except for Class H between 2:00 A.M. and 6:00 A.M. on Mondays through Sundays except that alcoholic liquor may be sold or consumed until 3:00 A.M. on January 1, each year, and, as of July 1, 2022, no alcoholic liquor may be sold between 10:00 P.M. and 6:00 A.M. by means of a window, porthole, aperture or similar opening accessible to persons from outside of the premises. No person shall sell, deliver or consume alcoholic liquor, and no licensee shall permit the same, on or in any premises licensed hereunder with a Class H license before 10:00 a.m. or after 11:00 p.m. on any day. (Amended, Ordinance No. 2022-07, March 7, 2022) (Amended, Ordinance No. 2021-34, June 7, 2021) (Amended, Ordinance No. 2015-45, September 8, 2015) (Amended, Ordinance No. 2013-90, November 18, 2013) (Amended, Ordinance No. 2006-15, March 20, 2006) (Amended, Ordinance No. 2005-37, May 2, 2005) (Amended, Ordinance No. 1992-06, January 21, 1992)

18. **PUBLIC PLACES.** During those hours in which alcoholic liquor shall not be sold, delivered or consumed in premises licensed hereunder, alcoholic liquor shall not be consumed, possessed, stored, kept or otherwise permitted or maintained in any building, or portion thereof, used by members, or guests of members, of any club operating therein, in the meeting or public rooms of hotels or motels or any other business which leases or otherwise provides such rooms

for banquets, receptions, dances or other similar activities, or in any public place of accommodation or amusement or place of public resort, including but not limited to, places selling mix, ice, water and providing drinking utensils for the purpose of mixing drinks containing alcoholic liquors for consumption thereat, or those places commonly known as bottle clubs and similar places; provided that, alcoholic liquor may be stored or kept in any such building, or portion thereof, that is properly licensed for the sale of alcoholic liquor under the provisions hereof.

19. **VIOLATION.** No owner, possessor, manager, person in control or in charge of licensed premises, or of premises referred to in Section 18 of this Chapter, shall permit the violation on said premises of any provision of this Chapter. It shall not be a defense to a prosecution brought hereunder that the defendant did not have actual knowledge that alcoholic liquor was being consumed, possessed, stored, kept or otherwise maintained by patrons, guests, members or other individuals in violation of said Section 18. (Amended, Ordinance No. 89-03, January 3, 1990)

20. **GAMBLING.** No games of chance, or gaming device, shall be kept or used in any premises licensed hereunder, or shall any licensee permit any illegal, disorderly or immoral practices upon the premises. No gambling shall be permitted upon the premises at any time.

21. **INSPECTIONS.** The holder of a liquor license is hereby required to make available for inspection by police officers of the City any part of the premises where liquor is sold and served or consumed.

22. **OBSCENE CONDUCT.** The sale or dispensing of alcoholic liquor is prohibited at premises whereat, or at premises which have any access which leads from said premises to any premises whereat, the following acts or conduct is permitted:

a) The employment or use of any person in the sale or service of alcoholic liquors or for the entertainment or diversion of others while such person is unclothed or in such attire, costume or clothing as to expose to view or to show with less than a fully opaque covering any portion of the breast below the top of the areola or any portion of the pubic hair, anus, buttocks, vulva or genitals.

b) The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts prohibited by law.

c) The actual or simulated exhibition, displaying, touching or caressing or fondling of or on the breasts, buttocks, anus or genitals.

d) The permitting or encouragement of any person to remain in or upon said premises who exposes to view any portion of the body described in subparagraphs (a), (b) or (c) hereof.

e) The showing of film, still pictures, electronic reproduction or other visual reproduction depicting the acts or conduct described in sub-section (b) hereof, or any person being touched, caressed or fondled on the breasts, buttocks, anus or genitals, or scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray the activities described in this sub-paragraph (e).

23. OBSCENITY PROHIBITED. The engaging in, or performance of, any act or conduct described in Section 22 herein on premises as to which a license has been issued under the provisions of this Chapter is prohibited.

24. SALES TO MINORS. No licensee or any officer, associate, member, representative, agent or employee of a licensee shall sell, give or deliver alcoholic liquor to any person under the age of 21 years, or to any intoxicated person, or to any person known to be a habitual drunkard, spendthrift, insane, mentally ill, mentally deficient, or in need of mental treatment. No person after purchasing or otherwise obtaining alcoholic liquor shall sell, give or deliver such alcoholic liquor to any person under the age of 21 years, except in the performance of a religious ceremony or service.

25. REFUSAL OF MINORS. For the purpose of preventing a violation of this section, any licensee or his agent or employee, may refuse to sell or serve alcoholic beverages to any

person who is unable to produce adequate written evidence of identity and of the fact that he or she is of attained age of 21 years or over.

26. ADEQUATE WRITTEN EVIDENCE. Adequate written evidence of age and identity of the person is no less than two documents one of which is issued by a federal, state, county or municipal government or subdivision or agency thereof, and which document incorporates a photograph of such person along with a statement of the month, day and year of such person's birth.

27. SALE OF FALSE IDENTIFICATION. No person shall sell, give or furnish to any person under the age of 21 years any false or fraudulent written, printed or photostatic evidence of the age or identity of such person, or shall sell, give or furnish to any person under the age of 21 years evidence of age and identification of any other person.

28. USE OF FALSE IDENTIFICATION. No person under the age of 21 years shall present or offer to any licensee or the agent or employee of any licensee 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 to have in possession any false or fraudulent written, printed or photostatic evidence of age and identity.

29. POSSESSION BY MINORS. No person under the age of 21 years shall consume, purchase, accept delivery of, or possess alcoholic liquor; provided possession, dispensing or consumption of alcoholic liquor by such a person in the performance of a religious service or ceremony, the consumption of alcoholic liquor by such a person in the privacy of a home, under the direct supervision of, and with the approval of a parent or guardian of such person, or the

possession and delivery of alcoholic liquor in pursuance of the employment of, such person by a licensee as allowed in this Chapter, are not prohibited.

30. **WARNING DISPLAYED.** In each premise licensed under the provisions hereof there shall be displayed at all times in a prominent place a printed card supplied by the City Clerk which shall be substantially as follows:

"WARNING: If you are under twenty-one (21) years of age, you are subject to a fine up to \$500.00 if you PURCHASE alcoholic liquor or MISREPRESENT YOUR AGE for the purpose of purchasing or obtaining alcoholic liquor. OFFICIAL PHOTO IDENTIFICATION will be required to prove age before purchase."

31. **EMPLOYMENT OF MINORS.** No person under the age of 21 years shall tend bar or tend a package counter or window, or sell, draw, pour, mix or serve alcoholic liquor and no licensee or any officer, associate, member, representative, agent or employee of a licensee shall engage, employ or permit any person under the age of 21 years so to do; provided that, persons nineteen (19) years of age and over who have completed the Beverage Alcohol Sellers and Servers Education and Training (BASSET) program approved by the Educational Foundation of the National Restaurant Association may serve alcoholic beverages to patrons who are dining at the licensed premises if the service of such beverages is only incidental to their primary job function of serving food. (Amended, Ordinance No. 2000-53, June 19, 2000)

32. **PARENTS AND GUARDIANS.** It shall be unlawful for any parent, guardian or person in loco parentis to knowingly suffer or permit any person under the age of 21 years of which he or she may be such parent, guardian or person in loco parentis to violate any provision of this Chapter.

33. **OWNER OF PREMISES.** It shall be unlawful for any owner or occupant of any premises within the City to knowingly allow any person under the age of 21 years to remain on

such premises while in the possession of alcoholic liquor or while consuming alcoholic liquor in violation of the provisions hereof.

34. CONSUMPTION OR POSSESSION OF ALCOHOL IN AN OPEN CONTAINER IN PUBLIC PLACES.

A. Alcoholic liquor shall not be consumed or possessed in an open container at anytime within the City at, in or on the following places:

(1) The right of way of any public highway, street or alley, except as otherwise expressly provided in this Code;

(2) Downtown Parks, including Central Park, the Memorial Band Shell, and Preston Jackson Park, except as otherwise expressly provided in this Code, and not including the Transfer House if in conjunction with an approved event;

(3) Public places located in the Central Business District, as defined in this Code, not including any places that have been issued outdoor café permits;

(4) The Street Division and Transit buildings, garages and grounds;

(5) The South Water Treatment Plant and grounds; or any firehouse.

(Amended, Ordinance No. 90-35, March 19, 1990) (Amended, Ordinance No. 92-59, July 13, 1992) (Amended, Ordinance No. 2022-29, July 5, 2022, Amended, Ordinance No. 2022-42, November 7, 2022)

B. The Council may provide by ordinance for the consumption or possession of an open container of alcoholic liquor, or the consumption or possession of an open container of wine and beer only, and provide for the regulation of the manner of such consumption or possession of an open container, for limited periods of time at, in or on any or all of, or any portion of, those places listed in Section 34A of this Chapter. (Amended, Ordinance No. 2012-63, September 4, 2012)

35. PENALTY. Any person, firm or corporation who shall violate any provision of this Chapter shall be fined not less than Two Hundred Fifty Dollars (\$250.00) nor shall more than

Five Hundred Dollars (\$500.00) for each offense, and each day of a continuing violation be deemed a separate offense. The penalties or remedies provided herein shall be cumulative and resort to any one or more shall be no defense to prosecution of another. (Amended, Ordinance No. 2011-72, October 31, 2011)

36. LOCATION LIMITATIONS. Except as otherwise provided in Section 4 (M) of this Chapter, no license shall be issued for the sale at retail of any alcoholic liquor within five hundred (500) feet of any church or school, other than an institution of higher learning; provided that, this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs, or to restaurants, food shops or other places where the retail sale of alcoholic liquors is not the principal business carried on or licensed businesses located within the B-4 Central Business District. No license shall be issued for the sale at retail of any alcoholic liquor within one hundred (100) feet of any church or school, other than an institution of higher learning for licensed businesses located within the B-4 Central Business District. This prohibition shall not apply to locations licensed on December 18, 1995, or to locations where a church or school has been established within the prohibited distance since the issuance of the most recent license. The distance shall be measured from the property boundary of the licensed premises to the property boundary of the church or school, except for premises located within the main building of a shopping center of 35,000 square feet or more in gross floor area, the distance shall be measured from the lease line of the licensed premises to the property boundary of the church or school. (Amended, Ordinance No. 2016-51, July 18, 2016) (Amended, Ordinance No. 2015-54, October 5, 2015) (Amended, Ordinance No. 2012-94, December 17, 2012) (Amended, Ordinance No. 2004-55, July 6, 2004) (Amended, Ordinance No. 95-76, December 18, 1995)