

CITY OF BATAVIA
100 N. Island Ave., Batavia, IL 60510
(630) 454-2000 <http://www.cityofbatavia.net>

GOVERNMENT SERVICES COMMITTEE AGENDA

Monday, February 25, 2013

7:30 p.m. – City Council Chamber 1st Floor

1. Roll Call

2. Approve Minutes February 11, 2013

Documents: [GOV 13-02-11M.PDF](#)

3. Items Removed/Added/Changed

4. Municipal Code Revision Discussion: Liquor Code (WRM 2/22/13)

Documents: [FEBRUARY 21, 2013 BATAVIA DRAFT LIQUOR CODE FOR LICENSEES LETTER.PDF](#)

5. Project Status Update

6. Other

7. Matters From The Public

8. Adjournment

MINUTES
February 11, 2013
Government Services Committee
City of Batavia

PLEASE NOTE: These minutes are not a word-for-word transcription of the statements made at the meeting, nor intended to be a comprehensive review of all discussions. Minutes are intended to make an official record of the actions taken by the Committee/City Council, and to include some description of discussion points as understood by the minute-taker. Any references to discussion and/or statements are only to provide greater clarity to the public and they may not reference all, some, or any of an individual speaker's comments.

Vice Chairman Sparks called the meeting to order at 7:30 p.m.

1. Roll Call

Members Present: Aldermen Chanzit, Liva, Sparks, Stark, and Thelin Atac
Members Absent: Aldermen Dietz and Tenuta
Also Present: Alderman Volk, Jason Bajor (7:33 p.m.), Assistant City Administrator; Kevin Drendel, City Attorney; Gary Holm, Public Works Director; William McGrath (7:34 p.m.), City Administrator; Police Chief Schira, Mayor Schielke (7:37 p.m.), and Connie Rizo, Recording Secretary

2. Approve Minutes for January 14, 2013

Motion: To approve the 1/14/13 Government Services Committee meeting minutes.
Maker: Stark
Second: Chanzit
Voice vote: 5 Ayes, 0 Nays, Motion Carried.

3. Items Removed/Added/Changed

None.

4. Ordinance 13-07 2013 Prevailing Wage Adoption (1/23/13 AMP)

Ald. Volk commented that the City has to comply with the State of Illinois law.

Motion: To recommend to City Council approval of Resolution 13-07 for the adoption of the 2013 prevailing wage.
Maker: Liva
Second: Thelin Atac
Voice vote: 4 Ayes, 1 Nay, Motion Carried.

5. Municipal Code Revision Discussion: Liquor Code (WRM 2/8/13)

Vice Chairman Sparks opined that the most notable issue was relative to the Class C liquor license where the consumer could carry in their own liquor to an establishment. Chief Schira commented that Bill McGrath has lead the research on the liquor code and that Atty. Drendel had been closely involved in the process along with a number of other City Staff. Bill McGrath commented that his February 8, 2013, was self-explanatory. McGrath stated proposals would be made to address issues present in the community that are not clearly specified by the City Code (refer to Batavia Liquor License Provisions for Government Services 2-11-13 document). McGrath stated that after review by Atty. Drendel it was realized that there are requirements elsewhere in the code relating to the Class F and Class G liquor license application requirements. McGrath mentioned that Mayor Schielke had reviewed the entire liquor code and relayed that Mayor Schielke did not have any issues with the liquor code.

Ald. Stark stated she has been to events in Batavia where there is liquor being served, but not sold and inquired if that required a liquor license if it was a public event. McGrath stated alcohol cannot be given away except inside the confines of a private party or affair by invitation only and not open to the public. McGrath explained that communication has taken place to eliminate businesses from providing liquor without a proper liquor license. McGrath stated the liquor code also spells out how establishments that allow patrons to bring in their own liquor would need dram shop insurance.

Ald. Stark asked for clarification on the transparent one-time use tamper proof bag. McGrath replied there is a State Law that was put through by Mike Madigan a few years ago and the licensed establishment uses the bag to put an open, not empty bottle of liquor into the package and seal it for the patron to transport the liquor. McGrath stated that the transparent one-time use tamper proof bag can be used from any restaurant, not just carry in establishments.

Ald. Thelin Atac inquired about liquor tastings at establishments like Trader Joe's or Whole Foods. McGrath replied those establishments have a license to sell liquor. Ald. Thelin Atac pointed out the tastings are free. McGrath commented there is a license classification that allows for a certain amount of liquor for tastings. Atty. Drendel commented that State Law allows it, but it is not addressed in the local code. Atty. Drendel added that the City has a full rewritten code, but it is not ready to bring forward at this time. Atty. Drendel mentioned the City is not confident that there is enough time between now and when the licenses renew to be able to present the entire rewritten code, so what is being presented are the more urgent issues.

Vice Chairman Sparks inquired what would prevent area galleries or other businesses to call their free wine "tastings" and have smaller glasses. Atty. Drendel stated the State Law has certain parameters for wine tastings and those incidents would not fall within those parameters. Atty. Drendel stated there is a need for the City to educate businesses on these matters and bring the local liquor code in line with State Law.

Ald. Volk inquired if there was a provision to waive liquor license fees for the government and non-profit organizations. Ald. Volk commented if it was not explicitly stated in the liquor code it should be. Ald. Volk inquired if a total limit on the number of liquor licenses for special events (i.e. marathon) should be considered. Ald. Volk encouraged being more specific in the mechanics of outdoor sale and consumption of liquor, specifically requiring fences of a somewhat solid construction. Relative to outdoor Class F and Glass G licenses item C, Ald. Volk spoke in favor of having explicit wording stating "no one is to exit with alcohol in their possession" as well as changing the wording to prohibit those under 21 from entering outdoor event areas where liquor is sold. McGrath stated prohibiting those under 21 from entering outdoor event areas where liquor is sold would present a challenge and opined making these areas larger to accommodate families that are together makes for a more calming influence for these events.

Ald. Liva stated he was surprised that wording did not include being responsible to the current drinking age in Illinois. Atty. Drendel stated State Statute would apply. Ald. Liva commented for Class C – Carry in License Item A. 6. his concern was if State Law were to change then the City of Batavia would have to update the liquor code. Atty. Drendel stated that there has been discussion on this issue and simply referencing State Law might be an approach, but it has not been a consistent approach. Ald. Volk suggested wording could be incorporated reflecting the local liquor code was consistent with the existing state statutes. Vice Chairman Sparks inquired if the local liquor code had to follow the State Law relative to individuals bringing their own liquor to an establishment. Atty. Drendel stated the Carry In license is so that locally there can be regulation of the practice. Vice Chairman Sparks asked what the cost of the Carry In license would be. Atty. Drendel stated suggested fees have yet to be covered. McGrath indicated the fees for Carry In liquor licenses are generally lower than others and stated he would anticipate the fee would be approximately \$100 to \$150.

Ald. Stark inquired as to the purpose of dram shop insurance. McGrath replied dram shop insurance is to protect the bar against liability from a patron being injured due to being over served alcohol.

Vice Chairman Sparks stated his concern with placing so many restrictions on establishments where patrons can carry in liquor was how costly it would be for those businesses if the local liquor code was changed as well as a reduction in those patronizing those businesses if the establishment could not keep up with all the proposed newly enforced regulations. McGrath stated the restriction the City of Batavia is interested in for these businesses is to make sure there is dram shop insurance coverage. Ald. Thelin Atac stated for businesses to cover these fees they could charge a corking fee. McGrath stated the matter could be researched further. McGrath commented the message heard from the City Council was a request for accountability relating to these types of liquor use situations.

Vice Chairman Sparks asked what would occur if an underage person was drinking in one of these establishments where currently there is no dram shop insurance for carry in and that individual was injured. Mayor Schielke replied the establishment would be

charged with serving liquor to a minor. Chief Schira stated the offending person is the minor in possession of the alcohol and potentially their parents. Chief Schira stated if the liquor license was in place the establishment would face the ramifications. Chief Schira stated dram shop insurance was important. Chief Schira stated it is important to have competitive liquor license fees. Vice Chairman Sparks reiterated his concern of how all of these issues would impact the small business owner. McGrath stated the City of Batavia would communicate with the businesses impacted by these potential liquor code updates. McGrath stated that in reviewing other cities that have carry in licenses in place they all require dram shop insurance coverage.

Vice Chairman Sparks inquired if the potential updated liquor code covered instances of consuming liquor outside of establishments. McGrath stated there would be separate license arrangements specifically tailored for drinking outside. Atty. Drendel stated the adjunct outdoor license provisions have yet to be brought to the City Council as they are still being worked on. Atty. Drendel stated there are anticipated community events to occur on River Street and that outside of those events the City would not want individuals leaving the area with open liquor, so some control would be needed.

Mayor Schielke relayed an incident of an establishment in the southern suburbs that had carry in with patrons serving underage drinkers in their party and that the underage drinker left the establishment and got into a vehicle accident resulting in personal injury. Mayor Schielke stated the lawsuit following this incident implicated the restaurant and that city where this took place. Mayor Schielke stated if there was a clearer definition on liquor codes for carry in it would reduce lawsuits such as this one in the southern suburbs. Atty. Drendel stated liability would attach whether or not there is an ordinance or requiring dram shop insurance. Atty. Drendel stated requiring dram shop insurance at least provides coverage protection. McGrath stated for the special event licenses there is a requirement that someone should be present who has had BASSET training and suggested the same requirement should also be for carry in licensees as well. Ald. Liva stated BASSET training should apply to all liquor licenses. Vice Chairman Sparks inquired how one obtains the BASSET training. McGrath indicated BASSET training is online. Chief Schira stated the State of Illinois charges a small fee for BASSET training. Ald. Stark compared license fee amounts with Freeport and Woodstock and indicated \$150 would not be an excessive liquor license fee amount.

Vice Chairman Sparks reiterated his concern over requiring small business owners to pay a liquor license fee, purchase dram shop insurance, and pay for BASSET training impacting their feasibility as a business. Ald. Stark stated the business can always opt not to serve alcohol at their establishment. McGrath stated the City can discuss these matters with the local businesses and return to the Committee afterward to discuss further.

6. Executive Session: Collective Bargaining (Jason Bajor 2/11/13)

Motion: To adjourn to Executive Session for the purposes of discussion of collective bargaining.

Maker: Thelin Atac

Second: Stark
Voice vote: 5 Ayes, 0 Nays, Motion Carried.

The meeting was adjourned to Executive Session at 8:07 p.m. and when Regular Session resumed at 8:16 p.m. all the same committee members were present.

7. Project Status Update

None.

8. Other

McGrath indicated the potential updated liquor code would be shared with licensees to get input from them. McGrath stated at the next Government Services Committee meeting a draft would be given for the proposed updated liquor code.

9. Matters From The Public

None.

10. Adjournment

A motion was made by Ald. Stark and seconded by Ald. Thelin Atac to adjourn the meeting at 8:17 p.m. All were in favor and the motion was carried.

Minutes prepared by
Connie Rizo

CHAPTER 3

LIQUOR CONTROL

3-3-1: CONSTRUCTION OF REGULATIONS.

This Chapter shall be liberally construed to the end that the health, safety and welfare of the people of the City and the people of the State of Illinois shall be protected, and temperance in the consumption of alcoholic beverages shall be fostered and promoted by sound and careful control and regulation of sale and distribution of alcoholic beverages. (1972 Code § 111.001)

3-3-2: DEFINITIONS.

All words and phrases used in this Chapter that are defined in The Liquor Control Act of 1934, [235 ILCS 5/1-1 et seq.] ("Liquor Control Act"), as now or hereafter amended, shall have the meaning accorded to such words and phrases in said Act. Unless the context otherwise requires, the following terms as used in this Chapter shall be construed according to the following definitions:

- A. The "Act" means the Illinois Liquor Control Act, 235 ILCS 5/1-1 et seq.
- B. "Adjacent premises" means any land or parking area adjacent to a licensed premises that is either owned by a liquor licensee, the licensee has a right to possession or use or is under the control of the licensee and is used incidentally for the licensed business.
- C. "Alcoholic liquor" includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and capable of being consumed as a beverage by a human being. The provisions of this chapter shall not apply to any liquid or solid containing one-half of one percent, or less, of alcohol by volume.
- D. "Bar" means an area, alone or in conjunction with area set aside for other purposes, primarily intended for the service and consumption of alcoholic liquor where patrons may be served and consume alcoholic liquors served by a bartender with or without food service.
- E. "Club" means a corporation organized under the laws of this state, not for pecuniary profit, solely for the promotion of some common object other than the sale and consumption of alcoholic liquors.
- F. "Disorderly Conduct" as used herein shall mean such act or behavior of any person that in any manner alarms or disturbs another person or would alarm or disturb a person of reasonable sensibility or provokes a breach of the peace in, on or around the premises for which a liquor license has been issued pursuant to this Chapter.
- G. "Event" means planned activity for a limited duration having a single theme.
- H. "General Manager" means the individual or individuals with the responsibility to oversee the business for which a liquor license is issued when the owner of the business is absent.
- I. "Holding Bar" means a bar area within a restaurant where patrons may consume alcoholic liquors served by a bartender with or without food service, while waiting for seating in the restaurant area or not.
- J. "Hotel" or "Motel" means every building or other structure kept, used, maintained, advertised and held out to the public to be a place where sleeping accommodations are offered for pay to travelers and guests on a less than permanent basis.
- K. "Live Entertainment" means the personal appearance and performance by a person or persons of music using string, brass, reed, woodwind, percussion, electronic or digital instruments, acting, singing, mime, dancing, comedy, the recital of poetry, music played by a DJ, as well as dancing by patrons to live music or music played on an electronic device and other forms of performance.
- L. "Local Registered Agent" means an attorney with an office in Kane County who has been identified by a liquor licensee or applicant for purposes of receiving notices pursuant to this Chapter.
- M. "Person" means any individual, partnership, association, corporation, limited liability company, or other organization or entity.
- N. "Private function" means a prearranged private party, function, or event for a specific social or business occasion, either by invitation or reservation and not open to the general public, where the guests in attendance are served in a room or rooms designated and used exclusively for the private party, function, or event.

CHAPTER 3

LIQUOR CONTROL

- O. "Public place" means any premises on which an enterprise or activity is conducted that is open to the general public, whether conducted for profit or not-for-profit and whether owned by a private person or governmental agency.
- P. "Restaurant" means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served, and where meals are regularly served, without sleeping accommodations, such space being provided with adequate 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. The intent of this definition is that the primary business conducted on the premises to be licensed as a restaurant shall be the service of meals.
- Q. "Restaurant and Tavern" means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served, and where meals actually are served and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests and having a Bar or Holding Bar.
- R. "Sale" means any transfer, exchange or barter in any manner for consideration, or by any means whatsoever, and includes and means all sales made by any person, whether principal, proprietor, agent, servant or employee.
- S. "Sell at retail" and "Sale at retail" refer to and mean sales for use or consumption and not for resale in any form.
- T. "Service bar" means a permanent fixture or portable furniture from which waitpersons pick up alcoholic beverages for delivery to tables or other locations where patrons are seated. A service bar does not have seats or stools or areas for patrons to sit or stand while drinking alcoholic beverages and is not intended as a place where patrons may be served directly.
- U. "Serving bar" means a bar fixture or counter from which alcoholic liquor may be served directly to patrons standing or seated at the bar.
- V. "Special event" means a planned event conducted by an educational, fraternal, political, civic, religious or nonprofit organization having a particular theme conducted solely for the promotion of some object related to the organization's purposes and not solely for the sale or consumption of alcoholic liquors.
- W. "Special Event Retailer" means a church, service club, fraternal or charitable organization, or other not-for-profit corporation or not-for-profit organization existence for more than two (2) years, and which has been organized solely for the promotion of some common object other than the sale or consumption of food and alcoholic liquor.
- X. "Tavern" or "Saloon" means any public place kept, used, maintained, advertised and held out to the public as a place where alcoholic liquor may be purchased at retail, and not for resale, and consumed on the premises, with or without food service, for consumption on the premises. The intent of this definition is that the primary business conducted on the premises may be the sale and consumption of alcoholic liquors.

3-3-3 LICENSE REQUIRED.

- A. **Sale at Retail.** No person shall sell or offer for sale, at retail, in the City, or allow alcoholic liquor to be brought into and/or consumed on the premises of a business open to the public in the city without first having obtained a city retail liquor license for each location, place or premises where the retailer is located to sell the same, or in violation of the terms of such license. This provisions is not intended to prohibit a person from selling or offering for sale alcoholic liquor at retail if such person is acting as an employee or agent of a person who has a valid liquor license in the City for the premises on which the alcoholic liquor is being sold or offered for sale.
 - 1. **Multiple Businesses in one Location.** Multiple persons or businesses operating at one location having one street address shall not sell or offer for sale alcoholic liquor at retail unless each business selling or offering for sale the alcoholic liquor has obtained a local retail liquor dealer's license for such premises, or portion thereof. Nothing contained in this Section shall be construed to prevent any hotel operator licensed under the provisions of this Chapter from serving alcoholic liquor to registered guests of the hotel in any room or part of the hotel;

CHAPTER 3 LIQUOR CONTROL

provided that such alcoholic liquor shall be served from and consumed in the hotel premises conducted by the hotel operator.

2. **Multiple Businesses in Multiple Locations.** No person shall sell or offer for sale alcoholic liquor at multiple locations, places or premises, unless such person obtains a separate license for each separate location, place or premises.
- B. **Other Transfer/Delivery.** No person may transfer or deliver alcoholic liquor to another person, with or without consideration, except in compliance with the provisions of this Chapter.
- C. **Personal and other Lawful Use.** Nothing herein contained shall prevent the possession and transportation of alcoholic liquor by the possessor for the personal use of the possessor, his family and guests, nor prevent the making of wine, cider or other alcoholic liquor by a person from fruits, vegetables or grains, or the products thereof, by simple fermentation and without distillation, if it is made solely for the use of the maker, his family and guests; and provided further that nothing herein contained shall prevent the possession and delivery of alcoholic liquor by the possessor at a purely private function limited to invited guests in a building or room(s) within a building to which entry is limited to invited guests; and provide further, that the possession and dispensing of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church shall not be prohibited by this Chapter.
- D. **Owner of Property.** No person who owns legal or equitable title to real estate in the City shall allow another person to sell or offer for sale alcoholic liquor on the premises unless the person selling or offering for sale the alcoholic liquor has obtained and maintains a valid local retailer's liquor license for such premises; and no person who owns legal or equitable title to real estate in the City shall allow alcoholic liquor to be possessed, delivered or transferred in violation of this Chapter or State law.

3-3-4 PROHIBITION AGAINST GIVING ALCOHOL AWAY

Except as allowed pursuant to Section 3-3-35, no licensee or other person shall:

- A. Give away any alcoholic liquor for commercial purposes or in connection with the sale of non-alcoholic products or to promote the sale of non-alcoholic products; or
- B. Advertise or promote in any way, whether on or off licensed premises, any of the practices prohibited under subsection A of this Section, which includes, but is not limited to, advertisements using the words "free" or "complimentary" with alcoholic liquor.

Subsection A shall not apply to test marketing or tasting that is authorized by a particular state or local license.

3-3-5 REGISTRATION OF PRIVATE FUNCTIONS

The owner of any non-residential property on which any Private Function exceeding one hundred (100) invited guests is held at which alcoholic liquor will be given away shall register the Private Function with the City Police Department at least forty eight (48) hours prior to the start of the Private Function and provide the following information:

- A. The host name, address and contact information;
- B. The date, time and location of the Private Function;
- C. The room(s) to which the Private Function will be limited and means for limiting attendance;
- D. The beginning and ending time of the Private Function.

3-3-6 LOCAL LIQUOR CONTROL COMMISSIONER – DESIGNATED

The Mayor of the City is the Local Liquor Control Commissioner pursuant to the Liquor Control Act and is charged with the administration of the ordinances, resolutions and rules relating to alcoholic liquor as may be enacted. The Mayor may appoint a person or persons as deputy liquor commissioner(s) to assist him in the exercise of the powers and the performance of the duties provided for such Local Liquor Control Commissioner.

- A. **Local Liquor Control Commissioner - Powers, Duties and Functions.** The Local Liquor Control Commissioner shall have the following powers, duties and functions with respect to local liquor licenses:
 1. To grant and/or suspend for not more than thirty (30) days or revoke for cause, all local liquor licenses issued to persons or entities for premises within the City, and to impose fines as authorized in this Chapter;

CHAPTER 3

LIQUOR CONTROL

2. To enter or to authorize any law enforcement officer to enter, at any time, upon the premises licensed hereunder to determine whether any of the provisions of the Liquor Control Act or City ordinance, or any rules or regulations adopted by the City or by the Illinois Liquor Control Commission have been or are being violated, and at such time to examine the premises of the licensee in connection therewith;
 3. To receive complaints from any citizen within the City that any provision of the Liquor Control Act or of this chapter have been or are being violated and to act upon such complaints in the manner provided by law;
 4. To receive local liquor license fees and pay same to the City Finance Director. The Local Liquor Control Commissioner also has the duty to notify the Secretary of State of any convictions or dispositions of court supervision for violation of Section 6-20 of the Liquor Control Act;
 5. To examine or cause to be examined, under oath, any applicant for a local liquor license or for a renewal thereof, or any licensee upon whom notice of revocation, suspension or fine has been served, or any licensee against whom a citation proceeding has been instituted by the State of Illinois Liquor Control Commission; to examine or cause to be examined, the books and records of any such applicant or licensee; and to hear testimony and take evidence for his information in the performance of his duties, and for such purposes to issue subpoenas which shall be effective in any part of this State;
 6. To issuing a written order suspending alcoholic liquor sales for not more than seven (7) days, giving the licensee an opportunity to be heard during that period, if the Local Liquor Control Commissioner has reason to believe that any continued sale of alcoholic liquor on a particular licensed premises poses an immediate or imminent threat to the public, health, safety or welfare.
 7. To notify the Secretary of State of Illinois where a club incorporated under the General Not for Profit Corporation Act of 1986 (805 ILCS 105/101.01 et seq., as amended) or a foreign corporation functioning as a club in this State under a certificate of authority issued under that Act has violated this Chapter by selling or offering for sale at retail alcoholic liquors without a local liquor license pursuant to this Chapter.
 8. To keep or cause to be kept a complete record of all licenses issued by him, and furnish the Clerk, Finance Director, and Chief of Police with copies thereof. Upon issuance of any new license or the revocation of an old license, the City Liquor Commissioner shall give written notice of such action to each of these officers within forty-eight (48) hours of such action. (1972 Code § 111.045).
- B. Appointed Deputy Liquor Commissioner - Powers, Duties and Functions.** Any Deputy Liquor Commissioner appointed by the Mayor shall have all of the powers, duties and functions of the Local Liquor Commissioner except for the power to issue licenses, revoke licenses or to suspend licenses, provided that the Deputy Liquor Commissioner may suspend a license in an emergency pursuant to Section 3-3-45.A.

State law references: Local liquor control commissioners, 235 ILCS 5/4-2 et seq.

3-3-7 TERM OF LICENSE; RENEWALS; AUTOMATIC SUSPENSION OR TERMINATION

- A. It is unlawful to sell or offer for sale at retail in the City any alcoholic liquor without a local retail liquor license ("local liquor license"), or in violation of the terms of such license. Each local liquor license issued under this Chapter shall terminate on April 30 following date of issuance.
- B. Any period of termination, non-renewal or lapse in dram shop insurance shall automatically suspend the license, and all of the rights and privileges of the license shall remain suspended until dram shop insurance is obtained, renewed or reinstated.
- C. If, during the license period, the licensee no longer owns or has a valid lease on the premises for which a liquor license has been issued, the license shall become automatically suspended, and all of the rights and privileges of the license shall remain suspended until the licensee obtains, renews or reinstates lawful possession of the premises by ownership or lease.
- D. Any license held but not used for the actual operation of the licensed business at any time for a continuous period of six (6) months shall, after the expiration of the six (6) months, automatically terminate.
- E. A license shall terminate if the licensee moves the business for which the license was issued to a new location, subject to the provisions in Section 3-3-22 below;

CHAPTER 3

LIQUOR CONTROL

- F. Any sale, transfer, or assignment of fifty (50) percent or more of the ownership of the business shall terminate the license, requiring a new application for a license. No sales of alcoholic liquor shall continue after such a sale, transfer or assignment until the new ownership applies, qualifies and is granted a license.
- G. A license shall terminate with the cessation of the licensee's business as provided in Section 3-3-21 below.
- H. A license shall terminate upon a change in ownership of more than five percent (5%) of the licensee or management personnel if the new ownership or personnel is ineligible for a liquor license as provided more specifically in Section 3-3-24.
- I. Any license that is issued pursuant to this Chapter for which the required State license is not obtained and a copy submitted to the City within thirty (30) days after issuance of the local license shall be automatically suspended retroactive to the date of issuance until such time as the requisite State license is obtained.
- J. Any person who sells or continues to sell alcoholic liquor during a time when the liquor license has been not been renewed, has been suspended or has terminated is guilty of violating this Section.

3-3-8 NO ISSUANCE TO CITY DEBTOR

No local liquor license shall be authorized for issuance and no initial local liquor license or renewal local liquor license shall be issued if the applicant, or any sole proprietor, partner, co-partner, member, officer, manager, director, or any stockholder or stockholders owning in the aggregate more than 5% of the stock thereof (either individually or in the foregoing capacities) is a debtor to the City for any reason whatsoever, regardless of whether the debt has been discharged such that the City can no longer collect such debt in any legal proceeding and regardless of the capacity in which such debt is owed including:

- A. Individually/personally; or
- B. In the capacity as a sole proprietor, partner, co-partner, member, officer, manager, director, or any stockholder or stockholders owning in the aggregate more than 5% of the stock of any other legal entity, other than the applicant, that is a debtor to the City for any reason whatsoever, and regardless of whether the debt has been discharged such that the City can no longer collect such debt in any legal proceeding.

3-3-9 DRAM SHOP INSURANCE REQUIRED

- A. No local liquor license shall be granted to an applicant or renewed until the applicant has furnished evidence satisfactory to the Local Liquor Control Commissioner that the applicant is covered by a policy of dram shop insurance issued by a responsible insurance company authorized and licensed to do business in the state insuring such applicant against liability which such applicant may incur under the provisions of 235 ILCS 5/6-21 or similar State law.
- B. No licensee or person requiring a license pursuant to State law and/or this Chapter shall sell alcohol at retail or transfer or deliver alcoholic liquor to another person unless the sale, transfer or delivery is covered by a policy of dram shop insurance issued by a responsible insurance company authorized and licensed to do business in the state insuring such applicant against liability which such applicant may incur under the provisions of 235 ILCS 5/6-21.
- C. The insurance required by this Section shall have a May 1st renewal date and be issued subject to a requirement that the insurance carrier shall give the City at least thirty (30) days' notice prior to cancellation, termination or amendment of the policy. If license is issued for an event to take place on City property, the policy of dram shop insurance shall also name the City as an additional insured.

3-3-10 APPLICATION REQUIREMENTS

- A. Applications for a local liquor retailer's license shall be made to the Local Liquor Control Commissioner, in writing, signed by the owner of the business for which the license is sought, if an individual, or by a duly authorized agent thereof if not an individual, verified by oath or affidavit. For purposes of this Section, the applicant must be the owner or an agent of the owner with authority to bind the owner.
- B. The verified application shall contain the following statements and information:
 - 1. The applicant's full name, address, phone number(s), facsimile number(s), email address(es), date of birth and place of birth.
 - a. In the case of an individual, the full name, age and address of the applicant;
 - b. In the case of a partnership, the full name, address, date of birth and place of birth of the persons entitled to share in the profits thereof;

CHAPTER 3

LIQUOR CONTROL

- c. In the case of a corporation, the objects for which it is incorporated, the names and addresses of the officers and directors, and the name and address of each person, or his nominee or nominees, who owns five percent (5%) or more in interest in the stock of such corporation;
 - d. In the case of a limited liability company, the objects for which it is organized, the names and addresses of the managers, if any, and the name and address of each person, or his nominee or nominees, who owns five percent (5%) or more in interest in the membership of such limited liability company;
 - e. If the owner or the individuals having an interest in the licensed entity, or some combination thereof, are not present to supervise the licensed premises at all times, the name(s) of the general manager(s) who will supervise the licensed premises in the owners' absence. For purposes of this Section, "present" means able to respond to issues as they arise in a matter of a few hours.
2. The citizenship of the applicant, his date and place of birth and, if a naturalized citizen, the time and place of his naturalization;
 3. The full name, address, phone number(s), facsimile number(s), email address(es), date of birth and place of birth of the person(s) acting as manager(s) or other agents(s) having supervisory authority of the business for which the application is made, including any general manager;
 4. The name, address, phone number(s), facsimile number(s), email address(es), of the Local Registered Agent, if required per Section 3-3-11.A & B below;
 5. The character and description of business of the applicant and, in the case of a corporation or limited liability company, the objects for which it was formed;
 6. The length of time said applicant has been in business of that character and description and, in the case of a corporation, the date when its charter was issued. In addition:
 - a. If an Illinois corporation or limited liability company, the date of incorporation or organization shall be provided
 - b. If a foreign corporation or limited liability company, the date of becoming qualified under the Business Corporation Act of 1983 [805 ILCS 5/1.01 et seq.] or the Illinois Limited Liability Company Act [805 ILCS 180/1-1 et seq.] to transact business in the state shall be provided;
 - c. A Statement that the corporation or limited liability company is in good standing with the state of incorporation or organization.
 7. The location and description of the premises or place of business which is to be operated under such license; and if premises or place of business is leased, the applicant shall provide
 - a. A copy of the executed lease which must be for a term of sufficient length to encompass the period of the license sought, which lease may have be conditioned upon the granting of the license to applicant.
 - b. The name and address of the owner or owners of the premises or place of business, including the names and addresses of all the owners of the beneficial interest of any trust if said premises is held in trust;
 8. A statement whether applicant has made similar application for a liquor license on premises other than described in this application, and the disposition of such application;
 9. A statement that applicant has never been convicted of a felony, or other crime or misdemeanor opposed to decency or morality, and is not disqualified to receive a license by reason of any matter or thing contained in the laws of the State or the ordinances of the City;
 10. Whether a previous license by any state or subdivision thereof or by the federal government has been issued to the applicant; if so, where and when; or if any such license has been revoked, the reason therefore;
 11. A statement that the applicant will not violate any of the laws of the state, or of the United States, or any ordinance of the City in the conduct of his place of business;
 12. Pursuant to any application for a newly created city liquor license, the following persons shall be fingerprinted
 - a. If the applicant is an individual, the applicant;
 - b. If the applicant is a partnership, the general partners;
 - c. If the applicant is a corporation or limited liability company, one or more of the following at the discretion of the Local Liquor Control Commissioner or Chief of Police:
 1. the officers, managers or directors;

CHAPTER 3

LIQUOR CONTROL

2. any stockholder or member owning in the aggregate of more than five percent (5%) of the capital stock or membership interest of said corporation or limited liability company; and
3. any general manager of the premises;

The City police department shall do the fingerprinting.

13. The Local Liquor Control Commissioner or Chief of Police may also, within their discretion, require fingerprinting in connection with any applicant for renewal of a city liquor license.
 14. All original or renewal applications shall be accompanied with proof of completion of a State certified Beverage Alcohol Sellers and Servers Education and Training (BASSET) program for all persons will who sell or serve alcoholic beverages, all management personnel working on premises, and anyone whose job description entails the checking of identification for the purchases of alcoholic beverages, except as provided in Section 3-3-23, providing that original applicants shall have ninety (90) days to provide the necessary proof after the license is issued.
- C. Every application for a liquor license shall have attached thereto a site drawing of the proposed licensed premises, drawn to scale, showing the following:
1. The location of all rooms, segregated areas, including outdoor seating areas and the square footage thereof;
 2. The designated use of each room or segregated area (e.g. dining room, holding bar, service bar, kitchen, restrooms, including all rooms and segregated areas);
 3. The seating capacity of rooms or segregated areas where the public is permitted to consume food and/or alcoholic beverages;
 4. The site drawing is subject to the approval of the Local Liquor Control Commissioner and the Chief of Police. The Local Liquor Control Commissioner may impose such restrictions as he deems appropriate on any licensee by noting same on the approved site drawing or as provided on the face of the license.
 5. A copy of the approved site drawing shall be attached to the approved license and shall be made a part of said license.
 6. It shall be unlawful for any licensee to operate and/or maintain the licensed premises in any manner inconsistent with the approved site drawing.
- D. Each application shall be accompanied by cash, postal money order, draft or cashier's check in the entire amount of the annual license fee required for the class of license sought.
- E. In addition, each application for a new license shall be accompanied by a non-refundable application fee of two hundred fifty (\$250) dollars.
- F. A nonrefundable fee of thirty five (\$35) shall be charged for each person that is required to be fingerprinted, regardless of whether an application is made for a new license or a renewal license or whether the fingerprinting is required by a change in ownership or management.
- G. The Local Liquor Control Commissioner shall accept or reject each completed application with all information and documentation provided within sixty (60) days of its receipt or the completion of the criminal background check, whichever is later. Only the annual license fee for the class of license sought shall be refunded if an application is rejected.
- H. All licensees to whom a license is issued pursuant to this Chapter shall obtain the requisite State license and submit a copy of the State issued license to the City within thirty (30) days of the issuance of the local license.

3-3-11 RESTRICTIONS ON ISSUANCE/RENEWAL

No such license shall be issued to or renewed for:

- A. A sole proprietor who does not reside within the City of Batavia at the filing of the application for license, unless the sole proprietor has designated a Local Registered Agent in writing;
- B. A partnership, joint venture or other business entity, other than a corporation or LLC that has a lawful registered agent, of which one of the partners, joint venturers or owners of the entity does not reside in the City of Batavia, unless the partnership, joint venture or other business entity has designated a Local Registered Agent in writing.
- C. A person who is not of good character and reputation in the community in which he resides or in the City of Batavia;
- D. A person who is not a citizen of the United States;

CHAPTER 3

LIQUOR CONTROL

- E. A person who has been convicted of a felony under any Federal or State law, unless the Local 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 investigation. The burden of proof of sufficient rehabilitation shall be on the applicant;
- F. A person who has been convicted of keeping a place of prostitution or keeping a place of juvenile prostitution, promoting prostitution that involves keeping a place of prostitution, or promoting juvenile prostitution that involves keeping a place of juvenile prostitution;
- G. A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality;
- H. A person whose license under this chapter or the Liquor Control Act has been revoked for cause;
- I. A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application;
- J. A partnership, if any general partner thereof, or any limited partner/s thereof, owning more than 5% of the aggregate limited partner interest in such co-partnership would not be eligible to receive a license hereunder for any reason other than residence in the City;
- K. A corporation or limited liability company, if any member, officer, manager or director thereof, or any stockholder or stockholders owning more than 5% of the stock of such corporation, would not be eligible to receive a license hereunder for any reason other than citizenship and residence within the City;
- L. A corporation or limited liability company unless it is incorporated or organized in Illinois, or unless it is a foreign corporation or foreign limited liability company which is qualified under the Business Corporation Act of 1983 or the Limited Liability Company Act to transact business in Illinois. The Local Liquor Control Commissioner shall permit and accept from an applicant for a license under this Act proof prepared from the Secretary of State's website that the corporation or limited liability company is in good standing and is qualified under the Business Corporation Act of 1983 or the Limited Liability Company Act to transact business in Illinois;
- M. A person whose place of business is supervised by a manager or agent unless said manager or agent possesses the same qualifications required by the licensee;
- N. 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 who shall have forfeited his bond to appear in court to answer charges for any such violation;
- O. A person who does not legally or 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;
- P. An elected public official, law enforcement officer, the Mayor or member of the City Council of the City, or employee, or member of any City board or commission;**
- Q. Any person, firm or corporation not eligible for a state retail liquor dealer's license;
- R. Any applicant who fails to obtain a state liquor license;
- S. A person who is not a legal or beneficial owner or authorized agent of the business to be operated by the licensee;
- T. A person who has been convicted of a gambling offense as proscribed by any of subsections (a)(3) through (a)(11) of 720 ILCS 5/28-1, or Sections 28-1.1 or 28-3 of, 720 ILCS 5/28-1.1, or as proscribed by a statute replacing any of the aforesaid statutory provisions;
- U. A person or entity to whom a federal wagering stamp has been issued by the federal government, unless the person or entity is eligible to be issued a license under the Illinois Raffles Act or the Illinois Pull Tabs and Jar Games Act;
- V. A person who does not have liquor liability (dram shop) insurance coverage for that premises in an amount that is at least equal to the maximum liability amounts set out in the Liquor Control Act;
- W. A criminal conviction of a corporation or limited liability company is not grounds for the denial, suspension, or revocation of a license applied for or held by the corporation if the criminal conviction was not the result of a violation of any Federal or State law concerning the manufacture, possession or sale of alcoholic liquor, the offense that led to the conviction did not result in any financial gain to the corporation or limited liability company and the corporation or limited liability company has terminated its relationship with each director, officer, employee, or controlling shareholder whose actions directly contributed to the conviction of the corporation. The Local Liquor Control Commissioner shall determine if all provisions of this subsection (V) have been met before any action on the corporation's or limited liability company's license is initiated;

CHAPTER 3

LIQUOR CONTROL

- X. In addition to other grounds specified in this Chapter, the Local Liquor Control Commissioner shall refuse the issuance or renewal of a local liquor license, or suspend or revoke such license, for any of the following violations of any Tax Act administered by the Illinois Department of Revenue:
1. Failure to make and file a tax return,
 2. The filing of a fraudulent return,
 3. Failure to pay all or any part of any tax or penalty finally determined to be due,
 4. Failure to keep books and records,
 5. Failure to secure and display a certificate or sub-certificate of registration, if required,
 6. Willful violation of any rule or regulation of the Department relating to the administration and enforcement of a tax liability.

3-3-12 EXAMINATION OF APPLICANT FOR LOCAL LICENSE:

The Local Liquor Control Commissioner shall have the right to examine or cause to be examined, under oath, any applicant for a local license or for a renewal thereof, or any licensee upon whom notice of revocation or suspension has been served as provided by statute, and to examine or cause to be examined the books and records of any applicant or licensee; to hear testimony and take proof for his information in the performance of his duties, and for such purpose to issue subpoenas which shall be effective in any part of this State. For the purpose of obtaining any of the information desired by the Local Liquor Control Commissioner under this Section, he may authorize his agent to act on his behalf, as provided by statute. Submittal of an application pursuant to this Chapter is evidence of consent to the examination provisions of this Section 3-3-12.

3-3-13 CONDITIONS OF LICENSE - PRIVILEGE, NATURE AND TRANSFERABILITY

- A. **Consent to Inspection:** The act of applying for and accepting a local liquor license pursuant to this Chapter shall be considered consent to the powers of entry and audit provided in Section 3-3-14 below.
- B. **Transferability, Attachment:** A local liquor license is purely a personal privilege, shall remain in effect only for the duration stated in the license, not to exceed one year after issuance, unless sooner revoked or terminated as in this Chapter provided. A local liquor license does not constitute property and, therefore, may not be sold, transferred or assigned to another person; is not subject to attachment, garnishment or execution; is not alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. A local liquor license entitles only the licensee and the licensee's employees and agents to sell alcoholic liquor at retail in the City. One person may not obtain a liquor license for another person.
- C. **Death of Licensee:** When a license is issued to an individual, such license shall not descent 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 such estate consists in part of alcoholic liquor, may continue the business of the sale of alcoholic liquor under order of the appropriate court, and may exercise the privileges of the deceased or insolvent or bankrupt licensee after the death of such licensee but not longer than six (6) months after the death, bankruptcy or insolvency of such licensee. A refund shall be made of that portion of the license fees paid for any period in which the licensee shall be prevented from operating under such license in accordance with the provisions of this subsection.
- D. **Sale of Business:** any licensee, under the terms of this Chapter, who sells the business located in the licensed premises to a person who thereupon qualifies under the terms of this Chapter and secures a license hereunder for the remainder of the license year, shall be entitled to a refund of a proportionate share of the license fee paid for the unexpired term of the period for which such license was issued.
- E. **Discontinuation of Business:** Nothing herein contained shall be construed to entitle any licensee to a refund when the business in the premises is discontinued and no license applied for or granted to a successor licensee in such premises immediately upon discontinuation. (1972 Code § 111.025)
- F. **Posting of License:** Every licensee shall cause the license(s) for the premises to be framed and hung in plain public view in a conspicuous place on the licensed premises. (1972 Code § 111.035)

3-3-14: POWERS OF ENTRY/AUDIT:

CHAPTER 3 LIQUOR CONTROL

- A. The Local Liquor Control Commissioner and any law enforcement or health officer acting at the direction of the Local Liquor Control Commissioner is hereby authorized to enter at any time upon any building or premises licensed hereunder pursuant to the consent given by virtue of the conditions of accepting a license, as provided in Section 3-3-13 above, except for residential or dwelling portions of such buildings, to determine whether or not the provisions of the Illinois Liquor Control Act and this Ordinance, and any rules or regulations promulgated by the Local Liquor Control Commissioner are being complied with, as authorized by 235 ILCS 5/4-4 and 5/10- 8, et seq.
- B. The Local Liquor Control Commissioner and any person in the Administrative or Finance Department acting at the direction of the Local Liquor Control Commissioner is hereby authorized to at any time upon any building or premises licensed hereunder pursuant to the consent given by virtue of the conditions of accepting a license, as provided in Section 3-3-13 above, to review or audit the financial and other records of the licensee for the purpose of determining compliance with provisions of this Chapter.

3-3-15 CLASSIFICATIONS

Local liquor licenses for the retail sale of alcoholic liquor shall be divided into the following classes and sub-classes:

A. Class A – Tavern License

Class A licenses authorize the retail sale of alcoholic liquors for consumption on the premises of a tavern or saloon in which liquor sales are the primary business and food service may or may not be included. A counter or Serving Bar must separate the stock alcoholic liquor from the patrons and must be served by the licensee and its agents. Incidental sales of packaged alcoholic liquor are allowed with an Overlay Package License. The hours of operation for a class A license holder are prescribed in Section 3-3-19. No entertainment is allowed except as provided in Section 3-3-16.B.

B. Class B – Package Sales

Class B licenses authorize the retail sale of alcoholic liquor in original packages only, and not for consumption on the premises. The hours of operation for said class B license holder shall be nine o'clock (9:00) A.M. to eleven o'clock (11:00) P.M. Sunday through Thursday, and nine o'clock (9:00) A.M. to twelve o'clock (12:00) midnight Friday and Saturday. No person under the age of 21 may sell or ring up the sale of packaged alcoholic liquor. Class B licenses are divided into the following sub-classes:

1. Class B-1: Class B-1 licenses authorize the retail sale of alcoholic liquors in original packages only, and not for consumption on the premises, where the retail sale of packaged alcoholic liquor is the primary or principle business, the minimum gross area of the premises is fourteen hundred square feet (1,400) and no petroleum products are sold.
2. Class B-2: Class B-2 authorize the retail sale of alcoholic liquors in original packages only, and not for consumption on the premises, where the retail sale of packaged alcoholic liquor is not the primary or principle business, a minimum of one thousand (1000) square feet is allocated to the sale of packaged liquor, but not more than one third (1/3) of the retail floor area is devoted to liquor, the retail floor area devoted to prepackaged food is at least eight thousand (8000) square feet and no petroleum products are sold.
3. Class B-3: Ancillary business – beer and wine only

Class B-3 licenses shall authorize the retail sale of domestic and imported wines, champagne, imported alcoholic liquor and gourmet beer in original packages only and not for consumption on the premises. The retail sale of alcoholic liquor shall be incidental to non-alcoholic liquor retail sales and shall not exceed twenty-five percent (25%) of the annual gross sales of said licensee. Class B-3 licenses shall also authorize the retail sale of wine, by the glass only, for consumption on the premises. Such licenses shall not be authorized for gasoline filling stations.

C. Class C – Carry In License

CHAPTER 3

LIQUOR CONTROL

A Class C licenses authorize the carry in of beer or wine to a commercial business or place of public accommodation in which food preparation and service of food is the principal business conducted for consumption on the premises subject to the following limitations:

1. The beer or wine is carried in unopened;
2. No more than one bottle of wine not exceeding seven hundred fifty milliliters and no more than a 6-pack of beer may be carried in per patron;
3. The beer or wine must be opened and served by the licensee;
4. The beer or wine may be only be consumed by persons who are served a meal;
5. The beer or wine may be served only during the hours that food is being served;
6. Proof of dramshop insurance.
7. Carry In alcohol may only be consumed outside if the Licensee has also obtained an outside adjunct license.
8. Carry In licensees are prohibited from storing alcohol on the premises, unless the Licensee also has an appropriate license allowing the retail sale of alcoholic liquors on the premises.
9. Carry In licensees shall be liable for violations of this Chapter in the same manner as the holder of any other classification of liquor license, including but not limited to violations for service to minors and the over-serving of patrons.
10. Illinois BASSET Alcohol Seller/Server Certification or equivalent training within the last twelve (12) months is required for at least one person who is on duty at all times that alcoholic liquor is allowed to be carried in to the premises.

D. Class D - Restaurant Licenses

Class D licenses authorize the retail sale of alcoholic liquors for consumption on the premises where preparation and service of food is the principal business conducted. All tables at which food is served shall only be served alcoholic liquor by waitpersons from a service bar. Alcoholic liquor may be served from a serving bar, provided, a full menu, including entrees and appropriate side dishes, shall be available at all times liquor sales are being conducted until eleven o'clock (11) p.m. After that time, in the event a full menu is not provided, a reduced menu, which includes only appetizers, sandwiches, snacks, hors d'oeuvres or other similar foods, shall be available, however provided in no event shall the kitchen cease operating sooner than one hour before closing. The hours of operation for a class D license holder are prescribed in Section 3-3-19. No entertainment is allowed except as provided in Section 3-3-16.B. Incidental sales of packaged alcoholic liquor are allowed with an Overlay Package License. Class D licenses are divided into the following sub-classes:

1. Class D-1: All Alcoholic Liquor;
2. Class D-2: Beer and wine only.

E. Class E – Consumption Only/Non-Restaurant

Class licenses authorize the retail sale of alcoholic liquors for consumption on the premises only where the primary business or purpose is not the sale of liquor or the sale of food. Class E licenses are divided into the following subclasses:

1. Class E-1 (Club) licenses authorize the retail sale of alcoholic liquors for consumption on the premises only of a club organized under the State Not-For-Profit Act, provided that the club has been in existence for at least two (2) years prior to the filing of an application for a license under this Chapter and has maintained clubrooms for such period of time immediately preceding the filing of its application.
2. Class E-2 (Bowling) licenses authorize the retail sale of alcoholic liquors for consumption on the premises only of a bowling alley. The alcoholic liquor sales and consumption shall be confined to the area of the bowling and shall be segregated from other areas of the premises in which other business or activities are conducted.

F. Class F - Special Event (Not-For-Profit) Licenses

Class F - Special Event (Not-For-Profit) License: A Class F license authorizes a Special Event Licensee to purchase less than \$500 of alcoholic liquors from a licensed liquor retailer or \$500 or more of alcoholic liquor from a licensed liquor distributor and to offer for sale and sell alcoholic liquors for use or consumption, but not for resale in any form, at the specific location, on specific date(s) and during the specific hours designated in the application. There is no limit to the number of Special Event (Not-For-

CHAPTER 3

LIQUOR CONTROL

Profit) Licenses that can be issued with City Council approval, but each Special Event Retailer shall be limited to no more than fourteen (14) days in the aggregate in a year. A Special Event (Not-For-Profit) License shall be valid only for a period of fifteen (15) hours during any given day, which hours must be during the hours of sale for alcoholic liquor as provided in Section 3-3-19. The following conditions shall apply to Special Event (Not-For-Profit) Licenses:

1. A Special Event (Not- For-Profit) License may only be issued to an educational, fraternal, political, civic, religious, or non-profit organization that has been in existence for at least two (2) years prior to the application for said license.
2. The Applicant must obtain a valid State of Illinois Special Event Retailer Liquor License, a copy of which must be filed with the City prior to any sale.
3. Each Special Event (Not-For-Profit) License must be approved by the City Council.
4. Every Special Event (Not-For-Profit) Licensee shall comply with the provisions of Section 3-3-15.1 below.
5. No sale or consumption of alcohol shall take place outdoors unless the applicant complies with the provisions in Section 3-3-15.2 below.
6. The applicant, president of the organization, or equivalent, and/or the executive director of the organization, or equivalent, shall submit to fingerprinting and/or a criminal background check at the discretion of the Chief of Police, providing that fingerprinting may not be required more than once per year.
7. The licensee shall obtain and maintain liability and dramshop insurance covering the licensee and the owner or tenant in possession of the premises if different from the licensee for the duration of the event.

G. Class G Special Use Licenses

A Class G licenses authorize a person who has an existing local and State retailer liquor license to transfer a portion of its alcoholic liquor inventory from its licensed retail premises to a designated site for a specific event and to sell or offer for sale at retail, only on the premises specified in the license, the transferred alcoholic liquor for use or consumption, but not for resale in any form. There is no limit to the number of Special Use Licenses that can be issued with City Council approval, but special use licenses shall be limited to no more than fourteen (14) days in the aggregate to any individual retail licensee in a year. The Special Use License shall be valid only for a period of fifteen (15) hours during the hours of sale for alcoholic liquor as provided in Section 3-3-19. The following conditions shall apply to Special Use Licenses:

1. The applicant must obtain a valid State of Illinois Special Use Permit Liquor License, a copy of which must be filed with the City prior to the event and any sale of alcoholic liquor.
2. Each Special Use License must be approved by the City Council.
3. An applicant who does not have a local liquor license issued by the City of Batavia shall submit to fingerprinting and/or a criminal background check if required by the Chief of Police.
4. Every Special Use Licensee shall comply with the provisions of Section 3-3-15.1 below.
5. No sale or consumption of alcohol shall take place outdoors unless the Applicant complies with the provisions in Section 3-3-15.2 below.
6. The licensee shall obtain and maintain liability and dramshop insurance covering the licensee and the owner or tenant in possession of the premises for the duration of the event.

3-3-15.1 CLASS F AND CLASS G LICENSE APPLICATION AND EVENT REQUIREMENTS

The following provisions shall apply to all Class F (Special Event (Not-For-Profit)) Licenses and all Class G (Special Use) Licenses:

A. The Applicant shall complete an application on the form required by the City and provide the following:

1. Designation of the location, the hours and the purpose of the event and indication whether the alcoholic liquor will be sold indoors only.

CHAPTER 3

LIQUOR CONTROL

2. If the premises where the event will be located is not owned by the Applicant, the Applicant shall provide a copy of the written lease or other evidence of right to occupy the premises from the owner or tenant along with written consent to hold the event on the premises and an undertaking by the owner or tenant of joint and several responsibility for compliance with all of the provisions of the license and this Chapter.
 3. Evidence of liability and dram shop insurance providing coverage for the premises, the licensee and the owner of the premises where the alcoholic liquor is to be sold and the sponsor of the event if the sponsor is someone other than the licensee, including the City if obtained for a City event.
 4. Consent to be fingerprinted and to a criminal background check as more specifically described in Subsection F.8 and G.3 above unless the Applicant has submitted to fingerprinting and a criminal background check by the City in the preceding twelve (12) months.
 5. The applicant shall provide the following information:
 - a. The estimated number of persons attending the event,
 - b. The location and layout of liquor sales at the event and at the premises,
 - c. The persons responsible for dispensing of alcoholic liquor,
 - d. Steps to be taken by the applicant to protect against any violations of the Village's ordinances, including the prohibition of sales to minors,
 - e. What type of liquor shall be dispensed and consumed, and
 - f. Any other information the Liquor Commissioner or Chief of Police requests relevant to issuance of the license.
 6. The Applicant shall submit in writing the plan for providing security at the event and the persons who shall be responsible for providing security at the event to control the entrances and exits, to maintain good order and to ensure that compliance with the provisions of this Chapter and any additional conditions that are required by the Police Department to protect the public health, safety and welfare are satisfied.
 7. The applicant shall pay the appropriate fee with the application, provided that the fee may be waived by the Liquor Commissioner for an applicant that is a governmental unit and/or not-for-profit organization at his sole discretion.
- B. The following rules and regulations shall apply to each event for which a Class F or Class G license is obtained:
1. All of the individuals who sell and serve liquor must be twenty-one (21) years of age or older;
 2. Illinois BASSET Off Premise Alcohol Seller/Server Certification or equivalent training within the last twelve (12) months is required for the service of alcoholic liquor as follows:
 - a. For Glass G licenses, all individuals, provided that no training is necessary for persons who are only pouring the alcoholic liquor and are not serving it directly; and
 - b. For Class F licenses, at least one person who is present at the time of serving the alcoholic liquor at all times, except as provided in Section 3-3-27 below;
 2. Adequate provisions shall be made for identifying persons who are of legal, drinking age and ensuring that minors are not served;
 3. A schedule of drink prices must be posted at the site of the event and shall remain the same for each day of the event;
 4. The approved license must be posted in plain view at the event;
 5. Alcoholic liquor may not be sold or consumed outdoors unless the Applicant is approved for outdoor service and consumption and complies with the conditions in Section 3-3-15.2 below;
 6. The Applicant shall comply with all other state and local regulations, including the prohibition against serving alcoholic liquors to intoxicated persons, and any other conditions imposed by the City Council, the Local Liquor Commissioner and Chief of Police, including any specific requirements for security at the event; and
 7. Alcoholic liquor shall not be given away pursuant to a Class F or Class G license unless the event is a private function.
- C. Class F and Class G licenses may be approved directly by the City Council without committee approval.

CHAPTER 3

LIQUOR CONTROL

3-3-15.2 OUTDOOR CLASS F AND CLASS G LICENSES

The outdoor sale and/or consumption of alcoholic liquor shall be allowed in conjunction with a Class F or Class G license subject to the following conditions:

- A. The site drawing submitted shall show the physical boundaries of the area of the outdoor sales and/or consumption in compliance with the provisions herein and must be approved by the City Council and the Chief of Police;
- B. The outdoor sale and/or consumption area shall be fully enclosed by some combination of fencing, walls, partitions, or similar materials with clearly marked entrances and exits, and the alcoholic liquor may only be sold and consumed in the area so designated;
- C. The entrances and exits to and from the designated outside area for sale and consumption shall be monitored, and no person under the age of 21 shall be allowed into the designated area unless accompanied by an adult parent or guardian;
- D. The Applicant shall comply with any other conditions on the outside sale and/or consumption of alcoholic liquor that are imposed by the City Council when the license is approved or is otherwise required by the Chief of Police for the public health, safety and welfare;
- E. A plan for security to maintain order, to ensure compliance with the conditions of the license and to ensure compliance with all applicable rules and regulations shall be tendered and must be approved; and
- F. An additional fee may be charged for an outdoor Class F or G license based on the amount of staff time required to process and supervise the licensing.

3-3-16 OVERLAY LICENSE CLASSIFICATIONS

The following licenses may be obtained by the holder of a valid primary license:

A. **Adjunct Outdoor Licenses.**

The holder of a valid Class D (Restaurant) license issued under this title may apply to the City Council for an adjunct liquor license to allow the serving of alcoholic liquor outside of the licensed premises on private or public property immediately adjacent to the premises for which the Class D has been issued upon the following conditions and restrictions:

1. The site drawing submitted with the application for an outdoor adjunct license must clearly identify the outdoor area for service and consumption of alcoholic liquor, must include all of the detail necessary to meet the conditions of an outdoor adjunct license and must be approved as a condition of the license.
2. The outdoor area upon which alcoholic beverages will be served must be clearly delineated and segregated by use of a temporary fence or other temporary barrier that is no less than three feet (3') in height so that there is only one entryway into the enclosed area and that entryway must be from within the licensed premise; provided that a licensee may petition for approval of an outdoor area without a single entry from within the licensed premises if such an arrangement is not practicable and other means of securing adequate control of the area are provided and approved as a condition of the license.
3. If the outdoor area is on property not exclusively owned or under the exclusive control of the licensee, such as by lease, the applicant must obtain and submit written approval from the owner of the property.
4. Public sidewalks or ways may be used as long as an unobstructed area of adequate width, but no less than four feet (4), as measured from the adjacent curb, is available for pedestrians using the sidewalk or way.
5. Alcoholic liquor may only be served and consumed in the enclosed area, and signs shall be prominently posted in the outdoor area that no alcoholic liquor is allowed outside the enclosed area.
6. Alcoholic liquor may only be served and consumed during the regular food service hours.
7. The license shall be issued on a month to month basis only, and may be revoked by the City, without cause, upon thirty (30) days' written notice to the holder of the license, upon which termination the license holder shall be refunded a prorated share of the adjunct license fee.

CHAPTER 3

LIQUOR CONTROL

8. The license may be revoked without refund upon three (3) days' written notice by the City after a conviction for any local ordinance or state criminal code violations arising from use of said outdoor premises, providing that the licensee may appeal the revocation by written notice within five (5) business days from the notice of revocation. The Liquor Commissioner may reinstate the license, after a hearing to consider the evidence, if the following criteria are met:
 - a. The violation was not committed by the licensee or the licensee's employees or agents;
 - b. The violation occurred in spite of compliance of the licensee and the outdoor area with all of the requirements for the license; and
 - c. The arrangement or operation of the outside area was not a factor in the commission of the violation.
 9. No portion of any enclosed area may be within fifteen feet (15') of any street or alleyway intersection that is currently used by vehicular traffic or otherwise interfere with the view of vehicular traffic or with safe passage of vehicular and pedestrian traffic.
 10. The application for an adjunct outside license filed with the City shall include:
 - a. A drawing and description of the outside area;
 - b. A description of the materials to be used for the barrier to separate the outside area and any entrance to or exit from the outside area;
 - c. Written consent of the owner of the property if not owned or exclusively controlled by the applicant;
 - d. If proposed on City property, an agreement holding the City harmless and indemnifying it from any liabilities relating to the serving of food or alcoholic beverages or the use of the public area by the license holder, in a form acceptable to the City, and proof of insurance naming the City as an additional insured in the amount of one million dollars (\$1,000,000.00) for premises and dramshop liability, including a term requiring written notice to the City prior to termination or cancellation of the policy;
 - e. A description of the additional measures the applicant shall use to secure the area and to prevent violations of the City Liquor Code and any other local and State laws and regulations related to the use of the outside area; and
 - f. Any other information required by the City Police Department or Community Development Department to ensure compliance with local and State laws and regulations.
 11. The outdoor premises shall be maintained at all times in a clean condition and free from litter.
 12. A licensee desiring to use City property shall obtain and comply with the requirements of an Outdoor Café License.
 13. Outdoor Adjunct Licensees shall comply with all local and State ordinances, regulations and laws.
- B. Live Entertainment License.** The holder of a Class A, D or E license issued under this title may apply to the City Council for a live entertainment license. An application for an overlay Live Entertainment license may be submitted with the application for the underlying license or at a later time, but the overlay license shall be issued only for the time remaining on the underlying license. Live Entertainment Overlay Licenses are subject to the following conditions:
1. Amplified entertainment shall not be permitted outside except as specifically permitted by the City Council in keeping with the City Noise Ordinance;
 2. Outside live entertainment shall cease at ten o'clock (10:00) P.M. Sunday through Thursday and at eleven thirty o'clock (11:30) P.M. Friday and Saturday regardless of the regular hours of the business;
 3. Any licensed premises on providing inside live entertainment shall close the doors and windows to the establishment after ten o'clock (10:00) P.M. Sunday through Thursday and at eleven thirty o'clock (11:30) P.M. Friday and Saturday;
 4. The display, modeling and sale of sexually explicit clothing are expressly prohibited.
 5. The applicant shall comply with such other conditions are imposed by the City Council and the Chief of Police to protect the health, safety and welfare of the public.
 6. An applicant shall submit with the application:
 - a. A drawing of the area in which live entertainment will be provided or will occur;
 - b. A description of the type or types of live entertainment to be provided; and
 - c. The days and times of the week live entertainment will be provided.

CHAPTER 3 LIQUOR CONTROL

- C. Overlay Package License. The holder of a Class A or D license may obtain an Overlay Package License to be able to sell at retail in packaged beer or wine on premises with an existing license to sell alcoholic liquor at retail for consumption on the premises.

3-3-17 SMOKING; TRASH & DEBRIS

All liquor licensees shall comply with local and State laws on smoking, to police the area in and around the licensed premises and keep the area free from trash and debris and to furnish receptacles for disposal of smoking materials outside the licensed premises. It shall be a condition of all liquor license holders that:

- A. A receptacle for disposal of smoking materials shall be provided approximately twenty (20) feet from any entrance used by the public or employees. Such receptacles shall be kept clean, and if open, cleaned every day that the premises is open for business so as not to allow a visible accumulation of materials.
- B. It shall be the duty of each license holder to maintain in good, clean condition the outdoor area of City or other public property within thirty (30) feet of the premises, including planters, stairs and streets free of discarded trash and garbage, including but not limited to discarded smoking materials. Said area shall be cleaned each day that the premises are open for business.

3-3-18 LICENSE FEES

- A. Fees established. The fees for the various classes of liquor licenses authorized in this Chapter are as follows:

Fees to be reviewed at March 25, 2013 Government Services meeting
Fees shown here are current

Class License		Initial Fee	Annual Fee
A			\$1,500.00
B-1 Primary	up to 9999 sf.		\$ 750.00
B-1 Primary	10,000-19,999		
B-1 Primary	20,000+		
B-2 Ancillary			\$ 750.00
C			\$ 150.00
D	up to _____		\$1,800.00
D	_____ to _____		
D	_____ +		
E			\$ 150.00
F*			\$ 50.00
F* Outdoors			
G*			
G* Outdoors			
Outdoor Adjunct			\$ 300.00
Live Entertainment			
Overlay Package			

- B. Proration: There shall be no proration of local liquor license fees except as specifically designated. Notwithstanding the foregoing, if an initial license is issued after November 1, the initial license fee shall be one-half (1/2) of the "Initial License Fee" set forth above.
- C. The fee for a Live Entertainment only for a portion of the year shall be prorated according to the number of months, and the months during which live entertainment is allowed shall be specified in the license that is issued.
- D. Forfeiture of License Fee: Whenever any local liquor license hereunder has been revoked as provided for in this chapter, the licensee shall incur a forfeiture of all monies that have been paid for said local liquor license.

CHAPTER 3 LIQUOR CONTROL

3-3-18 NUMBER OF LICENSES

The number of local liquor licenses shall not exceed the following:

Class	Maximum Authorized
A	
B-1	
B-2	
C	
D	
E	
C	
F	To be determined
G	To be determined
Adjunct	To be determined
Entertainment	To be determined
Package	

3-3-19 HOURS OF SALE

Unless otherwise provided in this Chapter, it shall be unlawful for any person holding license issued pursuant to this Chapter to sell, offer for sale deliver or to give away, in or upon any licensed premises any alcoholic liquor between the hours of two o'clock (2:00) A.M. and nine o'clock (9:00) A.M..

3-3-20 LICENSE RENEWAL – DEADLINE

A licensee may renew a local liquor license at the expiration thereof; provided, that the licensee is then qualified to receive a local liquor license and the premises for which such renewal local liquor license is sought are suitable for such purpose; provided further, that the renewal privilege provided for in this section shall not be construed as a vested right which shall in any case prevent the City Council from decreasing the number of local liquor licenses to be issued within the City. A liquor licensee shall file an application for renewal of a local liquor license, accompanied by the applicable local liquor license fee and all required documentation, including dram shop insurance coverage, on or before April 1, in any given year. There shall be a late payment fee of fifty dollars (\$50) for failure to comply with the foregoing.

3-3-21 CESSATION OF BUSINESS

In the event the licensee ceases to do business at the licensed premises, whether voluntarily or involuntarily (including revocation of licensee's local liquor license), other than temporarily for a period of not to exceed six (6) continuous months, for purposes of remodeling, or for purposes other than remodeling but with the prior written approval of the Local Liquor Control Commissioner, the local liquor license shall be deemed forfeited, and the number of authorized local liquor licenses in the particular class shall automatically be reduced by one as of the date the licensee ceases to do business. If any licensee desires to close the business or place of business for more than six (6) continuous months, said licensee shall so notify the Local Liquor Control Commissioner in writing, including the reasons therefore, and may request an extension, and the Local Liquor Control Commissioner may grant such an extension for good cause. The Local Liquor Control Commissioner shall notify in writing the City Clerk and City Council of any cessation of business by a licensee in excess of six (6) months.

3-3-22 LICENSED PREMISE

A local liquor license issued under this Chapter shall permit the sale of alcoholic liquor only in the premises described in the application for the license.

- A. The licensed premises shall include only the interior of a building, and shall not apply to the outside of a building unless expressly provided in the license, as authorized in this Chapter.

CHAPTER 3

LIQUOR CONTROL

- B. A licensee planning to move or having moved to a location other than the location for which the license was issued may apply for new license for the new premises:
 - 1. Upon the same terms and conditions as the terminated license, provided that the new premise qualifies for the same license and the only change is a new location. The fee for application of a new license in such circumstance shall be \$50 and may be granted by the Liquor Commissioner upon satisfaction of proof that the only change is the location.
 - 2. Upon the terms and conditions of the license for which the new location qualifies, if the change of location results in the need for a different license than the one that terminated. The fee for application of a new license in such circumstance shall be prorated for the remainder of the license year and may be granted by the Liquor Commissioner upon satisfaction of proof that license is appropriate in the new location.
- C. A patron may not leave a licensed premises with partially consumed or open containers of alcoholic liquor with the following exceptions:
 - 1. A patron may leave the premises with a partially consumed container of wine if it is securely sealed by the licensee prior to removal and placed in a transparent, one-time used, tamper proof bag, as required by State law; and
 - 2. A patron may leave the licensed premises with a non-glass container of beer or wine when the area immediately area to the licensed premises is included in the designated area for consumption of alcoholic liquor pursuant to an adjunct outdoor license, special use license, special event license or City property on which consumption is allowed in conjunction with a City sponsored special event.

3-3-23 CHANGE OF NAME

A liquor licensee that changes the name of the business for which the license was issued, but does not change the location or ownership, may apply for the issuance of a replacement license in the new name of the business within thirty (30) days of the change by written notification to the Local Liquor Control Commissioner and payment of a fee of \$50. Upon payment of the fee and surrender of the old license, the Local Liquor Control Commissioner shall issue the same type liquor license in the new name. Failure to apply for a replacement license as required shall subject the licensee to a fine of not less than \$50 and not more than \$200 to be determined by the Liquor Commissioner.

3-3-24 CHANGE IN OWNERSHIP OR PERSONNEL

- A. A licensee shall maintain with the Liquor Commissioner at all times an accurate record of all of the partners, shareholders, members or other persons holding directly or indirectly, as beneficiaries or otherwise, five percent (5%) or more ownership interest in the licensed entity, along with all officers, directors and general managers of the licensed entity.
- B. Any changes in ownership, including partnerships, shareholders, members or persons holding directly or indirectly, as beneficiaries or otherwise, of more than five (5) percent of the stock or ownership interest, or change in general managers of establishments licensed under this Chapter, shall be reported in writing to the Local Liquor Control Commissioner and Chief of Police within ten (10) days of the change. All new personnel shall meet all the standards of this Chapter, be subject to fingerprinting and a criminal background check and must be qualified to hold a local liquor license. All such changes in personnel shall be subject to review by the Local Liquor Control Commissioner within thirty (30) days of the change, including fingerprinting and payment of the associated fee(s).
- C. An issued license shall automatically terminate:
 - 1. When a license has been issued to a partnership and a change of ownership occurs resulting in a partnership interest by one who is not eligible to hold a liquor license;
 - 2. When a license has been issued to a corporation and a change takes place in ownership of more than five (5) percent of the stock, resulting in the holding of shares of stock by one who is not eligible for a license; or
 - 3. When a license has been issued to a limited liability company and change of ownership of more than five percent (5%) of the membership interest, resulting in the holding of membership interests by one who is not eligible for a license.
 - 4. When a license has been issued to an individual who is no longer eligible for a license.

CHAPTER 3

LIQUOR CONTROL

- D. An issued license shall become automatically suspended if there is any change in the directors, officers, or general managers of the licensed entity such that the new personnel would be ineligible to obtain a liquor license, and all of the rights and privileges of the license shall be suspended as long as an ineligible person is in a position of director, officer or general manager of the licensed entity.

3-3-25 USE OF LICENSED PREMISES AFTER SUSPENSION, REVOCATION OR TERMINATION

- A. When any license has have been suspended, revoked or terminated for any reason, no alcoholic liquor shall be sold, served or consumed on the premises for which the suspended, revoked or terminated license was issued unless or until the suspension has ended or a new liquor license has been issued for the premises.
- B. When any license has have been revoked for cause, no local liquor license shall be granted to such licensee and such licensed premises for the remainder of the license year and for a period of one (1) year thereafter unless the revocation order has been vacated or unless the revocation order was entered as to the licensee only and the new licensee is not related to the revoked licensee.

3-3-26 BUILDINGS AND PREMISES

- A. **Location Restrictions:** Except for Class D and E Licenses, no license shall be issued for the sale at retail of any alcoholic liquor within one hundred (100) 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 or any military or naval station; provided, that Class D or E licensees within such proximity shall serve alcoholic liquor only from a service bar and shall not display any signage visible from the public street describing or advertising alcoholic liquor; nor shall a renewal license be issued for the sale at retail of alcoholic liquor on premises within one hundred (100) feet of any church or school where such church or school has been established within such one hundred (100) feet since the issuance of the original license, except as provided herein. In the case of a church, the distance of one hundred (100) feet shall be measured to the nearest part of any building used for worship services or education programs and not to property boundaries. Nothing in this section shall prohibit the issuance of a license to a church or private school to sell at retail alcoholic liquor if any such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors pursuant to a valid Class F Special Event (Not-For-Profit) License.
- B. **View From Street:**
 - 1. In a licensed premises (other than a restaurant, club or bowling alley, except where the restaurant, club or bowling alley has windows through which the part of the premises maintained for the sale of alcoholic liquors can be viewed from the street), no screen, blind, curtain, partition, article or thing shall be permitted in the windows or upon the doors of such licensed premises or inside such premises that prevents a clear view into the interior of the licensed premises from the street, road or sidewalk at all times; no booth, screen, partition or other obstruction nor any arrangement of lights or lighting shall be permitted in or about the interior of the premises that prevents a full view of the entire interior of the premises from the street, road, or sidewalk, and the premises must be so located that there is a full view of the entire interior of the premises from the street, road or sidewalk.
 - 2. All rooms where liquor is sold for consumption upon the premises shall be continuously lighted during business hours by natural light or artificial white light so that all parts of the interior of the premises are clearly visible.
 - 3. If the view into any licensed premises required by the foregoing provisions is intentionally and knowingly obscured by the licensee or intentionally or knowingly allowed or suffered to be obscured, then licensee shall be subject to fine, suspension and/or revocation in the manner herein provided. In order to enforce the provisions of this subsection, the Local Liquor Control Commissioner shall have the right to require the filing with him of plans, drawings and photographs showing the clearance of the view as above required.
- C. **Requirement for Closed, Solid Doors and Windows:** All doorways to premises that are licensed under this Chapter shall contain at least one door that is solid and contain no openings, louvers, screened portions, or other openings that may allow noise to pass through, and such door shall remain closed during all hours of business except as necessary for ingress and egress into said premises. Any windows of licensed premises that open into a room in which alcoholic liquor is sold or consumed shall remain closed at all

CHAPTER 3 LIQUOR CONTROL

times, except as specifically allowed in this Chapter. For purposes of this provision, all screened in porches shall require an Outdoor Adjunct license in compliance with conditions imposed thereon pursuant to Section 3-3-16 above.

E. Retail Stores Selling Packaged Alcoholic Liquor and other Goods:

1. Except as allowed below, in retail stores in which alcoholic liquor is sold in packages, and not for consumption on the premises, with other goods, the display of alcoholic liquor shall be completely separated and segregated from the sale of other goods, if practicable, either by a partition or other means that must be approved by the Local Liquor Commissioner; the checkout counter(s) and cash register(s) for alcoholic liquor shall be separated and segregated from the checkout counter(s) and cash register(s) for other goods; and a sign shall be prominently displayed in the display area for alcoholic liquor stating,

MINOR CHILDREN ARE NOT ALLOWED
UNLESS ACCOMPANIED BY A PARENT OR GUARDIAN

2. Exceptions to the separation requirement provided in Subsection 1 above may be approved on a case by case basis by the Local Liquor Commissioner, with or without conditions, when strict compliance is not practicable.

F. Retail Stores Selling to/for Minors – License Prohibited. No license for the sale of alcoholic liquor shall be issued to a retail store or other place of business in which the majority of the customers are minors or in which the predominant or a significant portion of the goods offered for sale are products for minors, including but not limited to school books, school supplies, food or drinks for minors and other goods sold to minors.

3-3-27 BASSET TRAINING REQUIRED [Eff. Date]

- A. Every agent and employee of a licensee and/or a business for which a license is issued under this Chapter who sells, serves or delivers alcoholic liquor, or who supervises persons who sell, serve or deliver alcoholic liquor, shall be trained and certified by the Beverage Alcohol Sellers and Servers Education and Training Program (BASSET) licensed and administered by the State of Illinois Liquor Control Commission (ILCC) or similar program approved by the Chief of Police, except as specifically provided for Class C, F and G licenses in Subsections 3-3-15.C and 3-3-15.1B above, or as otherwise provided herein. A not-for-profit corporation that applies for a Class F Special Event License shall not be required to have every employee or agent be BASSET trained and certified only under the following conditions:
 1. There have been no ordinance violations in connection with the issuance of a Special Event Liquor License, or any other liquor license, in the prior five (5) years;
 2. Uniformed Batavia police officers and/or other security approved by the City Police Department, are present at all times that alcohol liquor is being served. The number of police officers and/or security personnel shall be determined by the City Police Department;
 3. At least one representative of the applicant organization who is BASSET trained and certified shall be present at all times where alcohol liquor is being served;
 4. The BASSET trained and certified representative of the applicant shall provide instruction to all persons who will be serving at the special event.
- B. A “State certified BASSET training program” means defined a BASSET program licensed by the State of Illinois Liquor Control Commission (ILCC) as required by 235 ILCS 5/3-12 (11.1) and 6-27 and Title 77 of Illinois Administrative Code, Chapter XVI, Section 3500, with instruction given by licensed BASSET providers having records on file proving current qualifications and certification of course completion.
- C. Any new manager and any employee or agent who will serve alcoholic liquor for a licensee shall, within ninety (90) days from the beginning of their employment with that licensee, complete an ILCC BASSET approved seller/server training program and shall, until completion of the BASSET program, work under the direct supervision of a person who has completed BASSET training.
- D. A photocopy of all certificates of completion of BASSET training for all owners, managers, employees, or agents required by this Ordinance to have BASSET training shall be maintained, by the licensee in a manner that will allow inspection upon demand by City Police Department.

CHAPTER 3

LIQUOR CONTROL

3-3-28 OFFENSES AND RESTRICTIONS INVOLVING MINORS

- A. The following shall be considered a violation of this Chapter:
1. For any person to sell, serve or deliver alcoholic liquor to another person under the age of twenty-one (21) years, except as provided in Subsection B below;
 2. For any person to sell, offer for sale or to give to any person under the age of twenty-one (21) years a false or fraudulent written, printed, or photographic evidence of the age and identity of such person or to sell, sell, offer for sale or to give to any person under the age of twenty one (21) years identification materials of one person with the intent of passing it off as the identification of another person.
 3. For any person under the age of twenty-one (21) years to possess any false or fraudulent written, printed, or photographic evidence of age and identity or to present or deliver to any other person written, printed, or photographic evidence of age and identity that is false or fraudulent or that identifies a person other than the presenter for any purpose, including the purpose of obtaining or attempting to obtain any alcoholic liquor.
 4. For any person under the age of twenty-one (21) years to purchase, possess or consume alcoholic liquor, except as allowed in Subsection B below.
 5. For any person under twenty one (21) to enter a tavern or liquor store or sit or stand in a holding bar or other bar area that is separated from a dining room, or to be or remain in any room or any compartment adjoining or adjacent to or situated in any room or place where alcoholic liquor is being sold and/or served, except in the course of employment, unless accompanied by a parent or legal guardian;
 6. For any person under the age of twenty-one (21) years to sit or stand and remain at a Serving Bar or bar counter;
 7. For any retail liquor licensee, or employee or agent thereof, to allow a person under the age of twenty-one (21) years to sit or stand and remain at a Serving Bar or bar counter;
 8. For any retail liquor licensee, or employee or agent thereof, to allow a person under the age of twenty-one (21) years to enter a tavern or liquor store or sit or stand in a holding bar or other bar area that is separated from a dining room, or to be or remain in any room or any compartment adjoining or adjacent to or situated in the room or place where alcoholic liquor is being sold and/or served except in the course of employment, unless accompanied by a parent or legal guardian;
 9. For any person under the age of twenty-one (21) years to sell or offer for sale any alcoholic liquor in any licensed premises;
 10. For any retail liquor licensee, or employee or agent thereof, to allow a person under the age of twenty-one (21) years to employ or permit any person under the age of twenty-one (21) years to sell or offer for sale any alcoholic liquor in any licensed premises;
 11. For any person under the age of twenty-one (21) years to act as a bartender or draw, mix or pour any alcoholic liquor (including pouring wine at tables) within any premises for which a retail liquor license has been issued;
 12. For any retail liquor licensee, or employee or agent thereof, to allow any person under the age of twenty-one (21) years to act as a bartender or draw, mix or pour any alcoholic liquor (including pouring wine at tables) within any premises for which a retail liquor license has been issued;
 13. For any person to serve a person under the age of twenty one (21) alcoholic liquor or to aid, permit or allow any minor to possess or consume alcoholic liquor in one's home or any other place under his or her custody, supervision or control in violation of any provisions of this Section, except as allowed by State law;
 14. For any person who is under the age of twenty-one (21) years to sell packaged liquor at a retail establishment for which a packaged liquor license has been issued;
 15. For any retail liquor licensee, or employee or agent thereof, to allow any person who is under the age of twenty-one (21) years to sell packaged liquor at a retail establishment for which a packaged liquor license has been issued;
 16. For any person under the age of twenty one (21) to card or check the identification of persons being served or seeking to be served alcoholic liquor;
 17. For any retail liquor licensee, or employee or agent thereof, to allow to card or check the identification of persons being served or seeking to be served alcoholic liquor.

CHAPTER 3 LIQUOR CONTROL

18. For any person over the age of twenty-one (21) to solicit or offer to buy or deliver alcoholic liquor to or for persons under the age of twenty-one (21).
- C. It shall be unlawful for anyone to sell, give or deliver alcoholic liquor to any person under the age of twenty-one (21) years in violation of Section 3-3-24 or to any person known by him or her to be under legal disability or in need treatment for mental or social disorder or disability.
1. For the purpose of preventing the violation of this Section, a licensee, or his agent or employee, shall refuse to sell, give, deliver or serve alcoholic liquor to any person who is unable to produce adequate, written, photographic evidence of identity and age.
 2. Adequate, written, photographic evidence of identity and age shall be satisfied by a document issued by a federal, state, county, or municipal government, or a subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act, or an identification card issued to a member of the Armed Forces.
 3. Proof that the licensee, or his employee or agent, demanded, was shown and reasonably relied upon such written evidence in any transaction, forbidden by this section is an affirmative defense in any proceeding to enforce this section or to any proceedings for the suspension or revocation of any local liquor license based thereon.
- D. The provisions in this Section 3-3-28 do not apply to a person under the age of twenty-one (21) years who:
1. possess or consume alcoholic liquor in the performance of a religious ceremony or service;
 2. deliver alcoholic liquor in pursuance of the order of his or her parent or legal guardian; or
 3. deliver alcoholic liquor in the course of employment to a patron at a table in conjunction with meal service, provided that the person is not under the age of eighteen (18) and does not open or pour the alcoholic liquor.
- E. Warning to Underage Persons.
Every licensee shall display at all times a printed sign, which shall read substantially as follows:

WARNING TO UNDERAGE PERSONS –

You are subject to a fine of up to seven hundred fifty (\$750) dollars under the Ordinances of the City of Batavia if you purchase alcoholic liquor or misrepresent your age for the purposes of purchasing or obtaining alcoholic liquor.

3-3-29 REPORTING CRIME AND COOPERATION WITH POLICE OFFICERS

- A. **Reporting of Disorderly Conduct and Violations of Law:** All licensees hereunder shall have the affirmative duty of reporting to the Batavia Police Department by 911 any and all incidents of disorderly conduct and other criminal violations or violations of this Ordinance that take place in, on, around or adjacent to the premises for which a liquor license has been issued pursuant to this Ordinance immediately upon observance, notification or other knowledge or reason to know that a violation or crime has been committed. The licensee, employee or agent making a report of an incident shall identify himself or herself to the police dispatcher and state the nature of the incident. Failure to report to the police as herein provided shall be deemed sufficient cause to suspend or revoke the license issued hereunder.
- B. **Assistance and Cooperation.** It shall be unlawful for any licensee or employee or agent thereof, to refuse, or fail to assist or cooperate with any law enforcement official in the discharge of his duties upon the licensee's premises or the licensee's parking area when such law enforcement officer requests assistance or cooperation.

3-3-30 PROHIBITED CONDUCT

Nude Dancing and Sexually Provocative Conduct: Nude dancing, lingerie shows, sexually provocative behavior and other similar conduct on premises that are licensed to sell alcoholic liquor is prohibited, including, but not limited to, the following:

- A. The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts that are prohibited by law.
- B. The actual or simulated touching, caressing or fondling of the breasts, buttocks, anus or genitals.
- C. The actual or simulated displaying of the pubic hair, anus, vulva, genitals, or female breasts below the top of the areola.

CHAPTER 3

LIQUOR CONTROL

- D. The permitting by a licensee of any person to remain in or upon the licensed premises who exposes to public view any portion of his or her genitals, anus, pubic hair or female breasts below the top of areola.
- E. The performance of topless and/or bottomless dancing, go-go dancing, stripping, lingerie or bathing suit fashion shows, or similar entertainment where such performances are distinguished or characterized by an emphasis on activities or anatomical areas described in subsections A, B, and C above.
- F. The displaying of films or pictures depicting acts, a live performance of which is prohibited by the regulations stated above.

3-3-31: TELEPHONE SALES AND DELIVERIES PROHIBITED

The retail sale of alcoholic liquor ordered by telephone, facsimile or other similar method to be delivered, mailed or shipped to the purchaser or any other party is prohibited. This provision is not intended to prohibitive the lawful holder of a Class G Special Use License from transporting to and selling alcoholic liquor at the location of a special event for which such license is approved; and this provision is not intended to prohibit any lawful activity that is undertaken by virtue of a state alcohol distributor's or other license.

3-3-32: SALE TO INTOXICATED PERSONS PROHIBITED

It shall be unlawful for any person, with or without a license, to sell, deliver, give away or otherwise serve any alcoholic liquor to an intoxicated person.

3-3-33: PEDDLING ALCOHOLIC LIQUOR IN CITY PROHIBITED

It shall be unlawful for any person to peddle alcoholic liquor in the City.

3-3-34: POSSESSION OF ALCOHOLIC LIQUOR IN MOTOR VEHICLE

It shall be unlawful for any person to transport, carry, possess or have any alcoholic liquor within the passenger area of any motor vehicle, except in the original package and with the seal unbroken.

3-3-35: HAPPY HOURS PROHIBITED

- A. All retail licensees shall maintain a schedule of the prices charged for all drinks of alcoholic liquor to be served or consumed on the licensed premises.
- B. No retail licensee or employee or agent of such licensee shall:
 - 1. Sell, offer to sell, or serve any drink of alcoholic liquor to any person on any one date at a reduced price other than that charged other purchasers of drinks on that day where such reduced price is a promotion to encourage consumption of alcoholic liquor, or where pricing is such that it encourages excessive consumption of alcoholic liquor as determined by the Liquor Commissioner, except as authorized in 13-1-29.C.7.;
 - 2. Serve two (2) or more drinks at any one time to one person for consumption by that one person, except conducting product sampling or selling or delivering wine by the bottle or carafe.
 - 3. Sell, offer to sell or serve to any person an unlimited number of drinks of alcoholic liquor during any set period of time for a fixed price, except at private functions not open to the public;
 - 4. Deliver alcoholic beverages to patrons free of charge, except at private functions not open to the public;
 - 5. Increase the volume of alcoholic liquor contained in a drink or the size of a drink of alcoholic liquor without increasing proportionately the price regularly charged for such drink on that day;
 - 6. Encourage or permit on the licensed premises any game or contest which involves drinking alcoholic liquor or the awarding of drinks of alcoholic liquor as prizes for such game or contest on the licensed premises;
 - 7. Advertise or promote in any way whether on or off the licensed premises any of the above prohibited practices.
- C. The prohibited practices above in this Section shall not prohibit licensees from:
 - 1. Offering free food or entertainment (with proper permit and zoning);
 - 2. Including a drink as part of a meal or hotel/motel services package;
 - 3. Offering free wine or beer tasting (with the proper license);
 - 4. Offering room services to registered guests in hotels/motels licensed for such service;

CHAPTER 3

LIQUOR CONTROL

5. Negotiating drinks of alcoholic liquor as part of a contract between a hotel, motel or multi-use establishment and another group for the holding of any function, meeting, convention or trade show;
6. Selling pitchers (or the equivalent, including but not limited to buckets), carafes, or bottles of alcoholic liquor that are customarily sold in such manner and delivered to two (2) or more persons at one time; or
7. Increasing prices of drinks of alcoholic liquor in lieu of, in whole or in part, a cover charge to offset the cost of special entertainment not regularly scheduled.

3-3-36: GAMBLING AND OTHER VIOLATIONS ON THE PREMISES

It shall be unlawful for a licensee to permit, or to fail to prevent when the licensee has reason to know, any gambling as defined in State law, or any other violations of state law or ordinances of the City of Batavia occurring in or upon the licensed premises, except as specifically allowed by State law.

3-3-37: CONSENT TO ENTRY; INSPECTIONS; VIOLATIONS

It shall be unlawful for any person to refuse to grant entry to the premises for which any license has been issued, at any time, upon verbal request of the Liquor Control Commissioner or any police officer, authorized health officer or designee from the Administrative office or Finance Department for the purpose of reviewing or auditing the licensee's financial and other records and of determining whether or not the Illinois Liquor Control Act or the provisions of this Ordinance are being violated.

3-3-38: RESPONSIBILITY OF OWNER AND LICENSEE FOR EMPLOYEE ACTIONS

- A. For the purposes of this Ordinance, the actions or inactions of any employee, agent or representative of a licensee shall be directly imputed to the licensee, who shall be directly responsible for such actions or inactions; and the licensee and its employees, agents and representatives shall be jointly and severally responsible for compliance with the provisions of this Ordinance.
- B. If the owner of the licensed premises or a person from whom the license derives the right to possession of such premises, or the agent of such owner or person, shall knowingly permit the licensee to use said licensed premises in violation of the terms of this Chapter, said owner, agent or other person shall be deemed guilty of a violation of this Chapter to the same extent as said licensee and be subject to the same punishment.

3-3-39: SANITARY CONDITIONS.

All premises used for the retail sale of alcoholic liquor, or for the storage of such liquor for sale, shall be kept in a clean and sanitary condition, and shall be kept in full compliance with all applicable laws and ordinances regulating the condition of premises used for the storage or sale of food for human consumption.

3-3-40: REFILLING ORIGINAL PACKAGES.

No person licensed under this Chapter shall fill or refill, in whole or in part, any original package of alcoholic liquor with the same or any other kind or quality of alcoholic liquor; and it is unlawful for any person to have in his possession for sale at retail any bottles, casks, or other containers containing alcoholic liquor, except in original packages.

3-3-41: AFTER HOUR REGULATIONS.

- A. It shall be unlawful for any person to sell or offer for sale, at retail, or to give away, in or upon any licensed premises, any alcoholic liquor during the hours in which sale of such alcoholic liquors is prohibited.
- B. It shall be unlawful to keep open for business or to admit the public or to allow the public to remain within or upon the licensed premises after the hours for selling alcoholic liquor have ended.
- C. Establishments at which the primary purpose of the business is for retail sales other than the sale of alcoholic liquors, such as a food store, drug store mass merchandiser, club, hotel or motel, may remain open for business during such hours, but no alcoholic liquor may be sold or consumed during such hours.

CHAPTER 3

LIQUOR CONTROL

- D. It shall be unlawful for open containers of alcoholic liquor to remain or allow alcoholic liquor to remain on the tables, Serving Bar, bar counter or other areas of the premises during the hours in which alcoholic liquor may not be sold.
- E. It shall be unlawful for persons to remain or be allowed to remain in, on or about the licensed premises after the hours of selling alcoholic liquor have ended, except that the licensee and the licensee's employees may remain up to one (1) hour after the hours allowed for the sale of alcoholic liquor for the purpose of clean up and preparation for the next business day.
- F. No alcoholic liquor shall be possessed or consumed on the licensed premises by any person, including the licensee and the licensee's employees and agents, after the hours for selling alcoholic liquor have ended.
- G. All areas of the licensed premises in which alcoholic liquors are sold at retail for consumption on the premises, including areas that are located below ground level, shall have visible access to the interior for purposes of police inspection and the after-hours safety of the occupants. Such visible access may be through an exterior door with a window measuring not less than eight inches by eight inches.

3-3-42: LICENSES – CURB/DRIVE-THROUGH SERVICE.

No license issued under this Chapter authorizes the sale, gift or delivery of alcoholic liquor utilizing curb service, drive-through window service or any other similar methodology. All such sales, gifts or deliveries are prohibited.

3-3-43: HARBORING INTOXICATED PERSONS.

No licensee under the provisions of this Chapter, either individually or through agents or employees, shall harbor or permit any intoxicated person or persons to loiter on the premises, or to permit any conduct, which shall tend to disturb the peace and quiet of persons on the premises or neighboring properties.

3-3-44: PUBLIC PROPERTY.

It shall be unlawful for any person to sell, consume or have in his or her possession other than in the original package, with the seal unbroken, any alcoholic liquor

- A. on any public right-of-way, street, or sidewalk unless an adjunct or other license has been issued for the particular portion of the right-of-way, street, or sidewalk;
- B. in any building belonging to or under the control any local governmental entity unless the local governmental entity has authorized such activity and a liquor license has been issued for the specific premises and only during the hours during in which the sale of alcoholic liquor is permitted.
- C. in or upon any publically owned park unless the specific park premises is licensed, and then only in conformance with the applicable restrictions.

3-3-45: AUTHORITY TO SUSPEND, REVOKE AND FINE.

The Local Liquor Commissioner has the following authority to suspend, revoke and/or fine a licensee who has violated the provisions of this Chapter:

A. Suspension without Prior Hearing.

If the Local Liquor Commissioner has reason to believe that the continued operation of the licensed premises will immediately threaten the welfare of community, the license may be suspended upon the issuance of a written order stating the reason for such conclusions without prior notice or hearing for not more than seven (7) days, giving the licensee an opportunity to be heard during that period; provided that, if the licensee is also engaged in another business on the licensed premises, such order shall not be applicable to the other business.

B. Suspension, Revocation and/or Fine after Hearing.

If the Local Liquor Commissioner determines that a licensee has violated any provision of this Chapter after notice and a hearing as provided in Section 3-3-46 below, the Local Liquor Commissioner may impose any combination of the following penalties: conditions on the license and any immediate subsequent license, suspension for up to thirty (30) days, fines or revocation.

C. Fines.

CHAPTER 3

LIQUOR CONTROL

In addition or in lieu of a suspension, the Local Liquor Commissioner may levy a fine on the licensee. The fine imposed shall not exceed one thousand dollars (\$1,000.00) for each violation during the period of the license; and all fines in the aggregate shall not exceed fifteen thousand dollars (\$15,000) during any license period. Each day on which a violation continues shall constitute a separate violation. Proceeds from such fines shall be paid into the general corporate fund of the City.

3-3-46: LICENSE—REVOCATION OR SUSPENSION—HEARING PROCEDURE.

- A. The Local Liquor Commissioner may, in accordance with law and the provisions of the Act as amended, revoke or suspend any license issued under his or her authority if it is determined that the licensee has violated any of the provisions of the Act or of any ordinance or resolution enacted by the corporate authorities of the City or any applicable rule or regulation established under the authority of this Chapter.
- B. No license shall be suspended prior to a hearing unless the Local Liquor Commissioner has reason to believe that the continued operation of the licensed premises will immediately threaten the welfare of community; in such case, the Local Liquor Commissioner may suspend the license up to seven (7) days without prior hearing, giving the licensee opportunity to be heard in that time.
- C. Written notice of a hearing shall be given to the licensee and/or the Local Registered Agent no less than three (3) days prior to the hearing.
- D. The notice shall:
 - 1. State the particular provisions of the law alleged to be violated, the date of the hearing, a warning that the license may be suspended or revoked and/or fines may be ordered if a violation is found to have occurred, the licensee's right to be represented by legal counsel and a statement that an order may be entered by default if the licensee does not appear at the hearing.
 - 2. By hand delivered to the licensee or any agent or employee of the licensee at the licensed premises, posted on the door of the licenses premises if the premises are not open for business when delivered or delivered by certified mail.
 - 3. If delivered by certified mail, be mailed to the licensee, or to any partner, or to any shareholder or member owning 5% or more of the licensed business, or to the general manager or to the Local Registered Agent at the address reflected in the application on file with the City for such person, and any notice delivered by certified mail in accordance herewith shall be deemed delivered on the second day after the day on which it is placed in the US Mail and postmarked.
- E. At the hearing, the licensee shall be given the opportunity to hear the charge and the testimony and evidence in support of the charge, cross examine any witnesses called in support of the charge, and present evidence, testify and call in defense to the charge.
- F. Liquor license hearings shall be open to the public.
- G. The Local Liquor Commissioner shall preside at the hearing and make a determination as to whether a violation occurred after hearing and considering all of the evidence.
- H. A record of the proceedings shall be taken and preserved by a certified court reporter or certified shorthand reporter.
- I. Within five (5) days after a hearing, the Local Liquor Commissioner shall issue the determination in writing and serve it on the appellant, indicating whether a violation is found to have occurred and the details of any order of suspension, revocation or fines imposed;
- J. The determination shall be served on the licensee by certified mail to the licensee's address on file with the City or to such other address as the licensee requests in writing.
- K. The written determination of the Local Liquor Commissioner shall be final and subject to appeal.
- L. A licensee may appeal the written determination of the Local Liquor Commissioner to the State Liquor Commission by giving notice in writing of the intent to appeal, delivered to the State Liquor Commission within twenty (20) days after the notice of the written determination.
- M. Upon receipt of written notice of appeal, the Local Liquor Commissioner shall have the certified court reporter or certified shorthand reporter prepare the record of the proceeding, notify the appellant when the record of proceeding is completed and the cost of the record and deliver a copy of the record to the appellant and the State Liquor Commission upon receipt payment of the cost to prepare the record.
- N. The appeal shall be limited to a review of the official record of the proceedings.

CHAPTER 3

LIQUOR CONTROL

- O. The appellant shall be responsible to pay for the record of proceedings and file it with the State Liquor Commission.
- P. An appeal of a single Local Liquor determination to the State Liquor Commission during a license period shall act as a stay on the enforcement of any suspension, revocation and/or fine, but any subsequent order of suspension or revocation for an additional offense within the preceding twelve (12) month period shall be enforced in spite of the filing of an appeal.

3-3-47: PENALTIES.

Any person found guilty of a violation of this Chapter may be fined as follows:

- A. For violations of Section 3-3-28, no less than \$100 and no more than \$750 per incident;
- B. For all other violations, no less than \$50 and no more than \$750 per incident.

Each day that a violation continues shall be considered a separate incident.

DRAFT