

Fairview Heights City Code**CHAPTER 21****LIQUOR****ARTICLE I - GENERALLY**

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

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

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

"ALCOHOLIC LIQUOR" includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and capable of being consumed as a beverage by human beings. The provisions of this Chapter shall not apply to alcohol used in the manufacture of denatured alcohol produced in accordance with Acts of Congress and regulations promulgated thereunder, nor to any liquid or solid containing **one-half (1/2)** of **one (1) percent**, or less of alcohol by volume.

"BANQUET CENTER" for purposes of this Chapter, means an establishment opened only periodically for the express purpose of providing accommodations for weddings, parties, bingo and other such special events.

"BEER" means a beverage obtained by the alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water, and includes, among other things, beer, ale, stout, lager beer, porter and the like.

"CITY" means the City of Fairview Heights, Illinois.

"CLUB" means any corporation, organized under the laws of this State, not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquors, kept, used and maintained by its members through the payment of annual dues, and owning, hiring or leasing a building or space in a building, of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and provided with suitable and adequate kitchen and dining room space and equipment; provided, that its affairs and management are conducted by a board of directors, executive committee or similar body chosen by the members in the annual meeting and that no member or any officer, agent, or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from distribution or sale of alcoholic liquor to the club or to the members of the club or its guests introduced by members beyond the amount of such salary as may be fixed and voted at any annual meeting by the members or by its board of directors or other governing body out of the general revenue of the club.

"GASOLINE STATION" for purposes of this Chapter, means an establishment where motor fuel is sold or offered for sale from approved pumps, whether through an attendant or by self-service. Motor fuel, as used herein, shall include all volatile and inflammable liquids which are produced, blended or compounded, or which are suitable or practicable for operating motor vehicles.

"GOLF COURSE" means a terrain in general consisting of at least **nine (9) holes**, which is devoted exclusively to the game of golf and no other recreation or entertainment. The term "golf course" shall not include miniature or obstacle golf establishments.

"GROSS REVENUES" means the amount of money earned by a licensee through the sale of goods or services, rents, video gaming, and any other sources, and prior to reduction for taxes, expenses, or any other means.

"HOTEL/MOTEL" means every building or other structure kept, used, maintained, advertised and held out to the public where food is actually served and consumed and sleeping accommodations offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which **fifteen (15)** or more rooms are used for sleeping accommodations of such guests, and having **one (1)** or more public dining rooms where meals are served to such guests, such sleeping accommodations and dining rooms being contained in the same building, or buildings in connection therewith, and such building or structure being provided with adequate and sanitary kitchen and dining room equipment and capacity.

"KITCHEN" means a commercial kitchen meeting the standards and definition of the International Building Code (IBC), or the current building code of the City, and because of the nature of the cooking or food preparation activities, to have commercial food heat-processing equipment, such as compensating hoods, grease filters, kitchen hoods, sinks, refrigeration, stoves, and similar types of equipment.

"LICENSE YEAR" means that period from **January 1** through **December 31** of the same calendar year or **July 1** of a given year until **June 30** of the following year, depending on the license cycle chosen by the applicant.

"LOCAL LICENSE" means a license issued by the Local Liquor Commissioner of the City pursuant to the provisions of this Chapter.

"LOCAL LIQUOR COMMISSIONER" means the Mayor of the City, or his designee as permitted by law.

"MANAGER" means an individual who is regularly present upon the licensed premises whose authority includes the oversight of the daily operations of the business, and who has authority including, but not limited to: the ability to hire, terminate, or discipline employees; the authority to establish policies or to enforce policies; and the ability to speak with authority on behalf of the local licensed business.

"MEALS" means food offered and prepared in the kitchen on the Premises sufficient to constitute a full breakfast, lunch or dinner and shall not include snacks such as pretzels, popcorn, potato chips, nuts, or similar food as the "meal".

"PREMISES" means the area within a building for which a license to sell alcoholic liquor is issued and which is actually used in connection with the storage, preparation and sale of alcoholic liquor, but specifically excluding any outside areas such as patios, open porches, roof tops, balconies, stoops, sidewalks, yards, driveways, parking lots and similar outside areas.

"PROPERTY" means any parcel, lot, or tract of land, inclusive of the Premises improvements thereon, in the possession of or owned by, or recorded as the real property of, the same person or persons.

"RESIDENT OF THE CITY" means any person living in the City for a period not less than **one (1)** calendar year.

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

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"RETAILER" means a person who sells or offers for sale, alcoholic liquor for use or consumption and not for resale in any form.

"SALE" means any transfer, exchange or barter in any manner, or by any means whatsoever for a consideration, and includes and means all sales made by any person, whether principal, proprietor, agent, servant or employee.

"SELL AT RETAIL" AND "SALE OF RETAIL" refers to any mean sales for use or consumption and not for resale in any form.

"SPECIAL EVENT" means an event conducted by an educational, fraternal, political, civic, religious, or non-profit organization.

"SPECIAL EVENT RETAILER" means an educational, fraternal, political, civic, religious, or non-profit organization which sells or offers for sale alcoholic liquors, only for consumption at the location and on the dates designated by a special event retail license.

"SPIRITS" means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with alcohol or other substances.

"STATE" means the State of Illinois or its agencies, commissions and departments.

"TAVERN" means any public place kept, used, maintained, advertised and held out to the public primarily for the sale and consumption of alcoholic liquors on premises and where the monthly gross revenue from the sale of food or meals is less than **twenty-five percent (25%)** of the gross revenues of the business. For purposes of this Code, the terms saloon, bar or any titles referring to drinking establishment shall be the same as a tavern.

"TO SELL" includes to keep or expose for sale and to keep with intent to sell.

"TO SERVE" means to physically provide alcoholic liquor to a retail customer or customers.

"VIDEO GAMING ESTABLISHMENT". An establishment whose primary purpose is to operate video gaming terminals as defined under this Illinois Video Gaming Act (**230 ILCS 40/5**) and in which alcoholic liquor is drawn, poured, mixed, or otherwise served for consumption on the premises which is subsidiary to the operation of the video gaming terminals. In determining whether an establishment's primary purpose is video gaming, the considerations include but are not limited to:

(A) A seating area for video gaming terminals being greater than the seating area for food and beverage service or merchandise sales.

(B) The absence of a full-service kitchen.

(C) An estimated net revenue of at least **forty percent (40%)** or more derived from video gaming terminals, and

(D) An overall size of **one thousand five hundred (1,500) square feet** or less.

"WINE" means any alcoholic beverage obtained by the fermentation of the natural contents of fruits, or vegetables, containing sugar, including such beverages when fortified by the addition of alcohol or spirits, as above defined.

(Ord. No. 1906-21; 11-02-21)

Fairview Heights City Code**ARTICLE II - LICENSING****21-2-1 LIQUOR COMMISSIONER DESIGNATED.**

(A) The Mayor of the City shall serve as Local Liquor Commissioner and shall be charged with the administration of this Chapter and of such other ordinances relating to alcoholic beverages as may be, from time to time, enacted by the City Council.

(B) The Local Liquor Commissioner shall have the following powers and duties with respect to local liquor licenses:

- (1) All powers and duties granted, or which may hereafter be granted, to the Local Liquor Commissioner by the State.
- (2) To grant or to suspend for not more than **thirty (30) days** or to revoke for cause any local license issued to persons or entities for premises within the City, or to punish by a fine for any violation of this Chapter in accordance with Section 7-5 of the Liquor Control Act (**235 ILCS 5/7-5**).
- (3) To enter or to authorize any law enforcement officer, appointed City officer, or other City employee designated by the City Manager, to enter at any time, upon the premises licensed hereunder to determine whether any of the provisions of the State law or City ordinance or any rules or regulations adopted by the City or by the State Liquor Control Commission have been or are being violated; and at such time to examine the premises of the licensee in connection therewith.
- (4) 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 a hearing of a violation of law has been served, or any licensee against whom a citation proceeding has been instituted by the State 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 use in the performance of the Commissioner's duties.
- (5) To compel the attendance of a witness by subpoena and the production for examination of any books, payrolls, records, correspondence, documents, papers or other evidence by *subpoena duces tecum* in any investigation or hearing before the Commissioner. Further, in case of failure or refusal to obey a subpoena or *subpoena duces tecum* issued to any person, the Commissioner may instruct the Corporation Counsel or his designee to seek compliance to the subpoena or subpoena duces tecum by petitioning the circuit court to enforce the subpoena or subpoena duces tecum. Failure to obey any order issued by the circuit court may be punished by the court as contempt thereof.
- (6) To designate other persons to take the actions set out in the subsections of this section for the purpose of obtaining any of the information desired by the Commissioner.
- (7) To appoint any other member of the City Council to serve as deputy Local Liquor Commissioner, which person shall have full authority to exercise any of the powers and duties enumerated

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herein, except as the Commissioner may specifically exclude by such appointment. Such deputy Local Liquor Commissioner may be appointed to serve at the pleasure of the Local Liquor Commissioner but not beyond the term of officer of the appointing commissioner; and may be appointed either:

- (a) To act in the absence of the Local Liquor Commissioner; or
- (b) To act in lieu of the Local Liquor Commissioner.

(8) To appoint **one (1)** or more persons over the age of **twenty-one (21) years**, a resident of the City and who does not hold or have any interest in a liquor license or licensed establishment to conduct liquor license disciplinary hearings and investigations and hearings concerning the appeal of bartender permit denials and revocations and applications for approval of managers in licensed liquor establishments at the request of the Local Liquor Commissioner. Any such person so appointed shall submit findings and recommendations to the Commissioner setting forth his conclusions respecting the existence and nature of any violation of law and the appropriate disciplinary action to be taken, if any, which may be accepted, modified or rejected by the Local Liquor Commissioner.

(9) To receive complaints from any citizen within his jurisdiction that any of the provisions of this Chapter or the Liquor Control Act or any rules or regulations adopted pursuant to either of them, have been or are being violated and to act upon such complaints in the manner provided for in this Chapter.

(10) To adopt rules and regulations regarding liquor licenses pursuant to Section 4-1 of the Liquor Control Act (**235 ILCS 5/4-1**).

(C) An official record of proceedings of all public hearings before the Local Liquor Commissioner or any person appointed to conduct liquor investigations and disciplinary hearings shall be made. Any appeal of any order or action taken by the Commissioner shall be limited to a review of such official record.

(D) In instances where the Mayor has any business interest in the sale of liquor or in the liquor industry, the Mayor shall be prohibited from serving as Liquor Commissioner.

21-2-2 LICENSE REQUIRED. It shall be unlawful for any person, either by himself or his agent, or any person acting as an agent, barkeeper, clerk or servant of another, to serve, sell or offer for sale at retail in the City any alcoholic liquor without first having obtained a license to do so as provided in this Chapter. It shall likewise be unlawful for any such person to sell or offer for sale any alcoholic liquor in violation of the terms and conditions of such license. A premises that proposes to serve, sell, or offer for sale at retail alcoholic liquor that would require the issuance of **two (2)** or more local licenses for different classes shall apply for and pay the applicable fees for each class of license to be issued. A prospective licensee that proposes to serve, sell or offer to sale at retail alcoholic liquors at **two (2)** or more premises in the City shall be required to apply, pay for, and obtain a separate license for each location.

21-2-3 APPLICATIONS FOR LICENSE. The Local Liquor Control Commissioner is authorized to grant and issue licenses to individuals, firms, and corporations to sell at retail and to keep and offer for sale at retail, alcoholic liquors within the limits and territory of the City, upon the conditions and in the manner provided by this Chapter and by the Act, and not otherwise. Such license shall be in writing, signed by the Local Liquor Control Commissioner and attested by the City Clerk, with the seal of his office affixed thereto.

Prior to issuance of a license, the applicant must submit to the Local Liquor Control Commissioner an application in writing and under oath, stating:

(A) The name, age, and address of the applicant in the case of an individual; in the case of a co-partnership, the persons entitled to share in the profits thereof, and in the case of a corporation for profit or a club, the date of incorporation, the object for which it was organized, the names and addresses of the officers, directors and the name of the person who will be managing the establishment for which the license is sought, and if a majority in interest of the stock of such corporation is owned by **one (1) person** or his nominee, the address and name of such person.

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

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

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

(E) The location and description of the premises or place of business which is to be operated under such license, including a scale drawing of such premises clearly indicating all areas within or adjoining the building or structure which are to be used in connection with the retail sale of alcoholic liquor or are accessible from it.

(F) A statement whether applicant has made application for a license to sell at retail alcoholic liquor on premises other than described in this application to this or any other state or political subdivision thereof, including the date, location and disposition of such application.

(G) A statement whether applicant has ever been charged with or convicted of a felony or of being a keeper of a house of ill fame, prostitution, pandering, or other crime opposed to decency and morality or of a gambling offense, or is otherwise disqualified to receive a license by reason of any matter or thing contained in this Chapter, detailing the dates and locations and results of any such charges or convictions.

(H) Whether a previous liquor license by any state or subdivision thereof or by the Federal government has been revoked or suspended, and the reasons therefore, and in the case of a suspension, the length thereof.

(I) A statement whether applicant is an alcoholic or has received treatment for alcoholism or any drinking problem, or has been involved in any incident involving the police, including traffic, in which he was intoxicated, detailing the dates, locations and results of any such treatment or incident.

(J) A statement whether applicant has been involved in any battery, assault, fight or public disorder detailing dates, locations and disposition of any such incidents.

(K) The length of time the applicant has resided in the City prior to the submission of the application, and all addresses at which the applicant has resided in the past **ten (10) years**.

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

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(M) In addition to the foregoing information, such application shall contain such other and further information as the Local Liquor Commissioner may prescribe by rule or regulation not inconsistent with the law.

(N) If such application is made in behalf of a partnership, firm, association, club or corporation, then the same shall be signed and sworn to by at least **two (2) members** of such partnership or the president and secretary of such corporation or club. The applicant shall submit with the application documentary proof of his interest in the premises, whether by lease, deed, or otherwise; and in case the applicant is the owner of the premises, all outstanding mortgages against the premises.

(O) That applicant has proof of dram shop insurance coverage for (1) injury to the person or property; and (2) loss of means of support resulting from death or injury of any person in an amount not less than the maximum recovery allowed under the Illinois Liquor Control Act of 1934, **235 ILCS 5/6-21**.

Every applicant for a license or renewal under this Article shall submit with the application therefor, and prior to the issuance thereof, a Certificate of Insurance listing the city of Fairview Heights, Illinois, as certificate holder; said certificate shall show coverage for liquor liability in accordance with **235 ILCS 5/6-21**. Every licensee shall maintain such a policy in existence, and failure to maintain such a policy of insurance may be the basis for immediate revocation of a license under this Chapter.

(P) In case of a partnership or corporation, the information and statements required by this Section shall be furnished as to each partner, and with respect to a corporation, the information and statements required by this Section shall be furnished as to the President of the corporation, the Secretary of the corporation, the Directors of the Corporation, and with respect to the person who is to manage the establishment for which a license is sought.

The original copy of the application shall be retained by the Local Liquor Control Commissioner; **one (1) copy** given to the Chief of Police; the Chief of Police shall endorse on the copies his approval or disapproval of the application and may make further comments regarding that application. The copies shall be returned to the Local Liquor Control Commissioner and the endorsement and comment of the Chief of Police shall be considered by him as an aid in deciding whether the license should be issued or refused.

21-2-4 PROHIBITED LICENSEES. No retail license shall be issued by the Local Liquor Control Commissioner to:

(A) A person who is not of good character and reputation in the community in which he resides.

(B) A person who is not a citizen of the United States.

(C) A person who has been convicted of a felony under any Federal or State law.

(D) A person who has been convicted of being the keeper or is keeping a house of ill fame.

(E) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality.

(F) A person whose license issued under this Chapter or whose license issued by the State Liquor Control Commission has been revoked for cause.

(G) A person who, at the time of application for renewal of any license issued hereunder would not be eligible for such license upon the first application.

(H) A co-partnership, if any general partner thereof or any limited partner thereof, owning more than **five percent (5%)** of the aggregate limited partnership interest in such co-partnership, would not be eligible to receive a license hereunder.

(I) A corporation, if any officer, manager or director thereof, or any stockholders owning in the aggregate more than **five percent (5%)** of the stock of such corporation, would not be eligible to receive a license hereunder for any reason other than citizenship and residence with the City.

(J) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses the same qualifications required of the licensee.

(K) 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 shall have forfeited his bond to appear in court to answer charges for any such violation.

(L) A person who does not own any 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.

(M) Any law enforcing public official, the Local Liquor Commissioner or member of the City Council; and no such official shall be financially interested in any way, either directly or indirectly, in the manufacture, sale or distribution of alcoholic liquors, except as permitted by state statute **(235 ILCS 5/6-2(a)(14))**.

(N) A person who is not a resident of this City in which the premises covered by the license are located; except in the case of railroad or boat license. A corporation is excluded from the citizenship and residence requirements, so long as it is either incorporated in the State of Illinois, or is a foreign corporation which is qualified under the "Business Corporation Act of 1983" to transact business in Illinois.

(O) A person under the age of **twenty-one (21) years**.

(P) A person who has not submitted to photographing and fingerprinting by the Police Department, or by another law enforcing agency with the approval of the Chief of Police.

(Q) Any person not eligible for a state retail liquor dealer's license.

(R) Any person who either individually, as a member of a co-partnership, or as an officer, manager, director, or stockholder owning in the aggregate more than **five percent (5%)** of the stock of a corporation, has knowingly within the past **three (3) years** furnished false or misleading information or withheld any relevant information on any application for any license or permit required by this Chapter; or knowingly caused or suffered another to furnish or withhold such information on his behalf.

(S) Any establishment which has been declared a nuisance under the provisions of this Code or the statutes of the State unless more than **twelve (12) months** has passed since the declaration of the nuisance and the applicant demonstrates that the condition which created the nuisance has been abated.

(T) A person who is an alcoholic or who has a history of drinking problems or incidents in which he was intoxicated, unless the Local Liquor Commissioner finds that the person has successfully undergone treatment for such condition.

(U) A person who within the past year has been involved in any battery, assault or fight in which he was the aggressor, and which either resulted in great bodily harm to any person or involved his use of a dangerous weapon; or who has been involved in more than **two (2)** batteries, assaults and/or fights in which he was the aggressor within the past **five (5) years**.

21-2-5 **TERM - FEES.** Retailer Liquor Licenses issued under this Chapter shall be valid for either **six (6)** or **twelve (12) month periods** which elections shall be made by the applicant at the time of his application, upon the payment of the license fee as hereinafter set forth, unless sooner revoked or suspended. The **six (6) month periods** shall be from January 1 of each year to June 30 of that year and from July 1 of each year to December 31 of that year. The **twelve (12) month periods** shall be from either January 1 to December 31 of each year, or from July 1 to June 30 of each year. Except as otherwise provided in this Section, the semi-annual license fee for each **six (6) month period** shall be **Five Hundred Dollars (\$500.00)**, the annual license fee for each **twelve (12) month period** shall be **Eight Hundred Fifty Dollars (\$850.00)**. The license fee shall be payable in advance by the applicant for a license at the time the application for a license is submitted to the Local Liquor Commissioner as herein before provided. Cashiers or Certified checks for the license fee may be tendered, but are not required; whenever the personal check of the applicant is returned by his bank because of insufficient funds in his account the license granted him shall be revoked. In the event the license is denied, the license fee shall not be returned to the applicant. The fees shall be deposited with the City Treasurer who shall deposit the fees in the City General Fund.

Licenses shall state thereon the names of the licensees and the address and description of the premises for which they are granted and the dates of their issuance and expiration.

In addition to the semi-annual fee, each applicant for a **six (6) month** license shall pay to the City Clerk a fee of **Four Dollars (\$4.00)** to cover the Liquor Commissioner's issuance of such license. In addition to the annual license fee, each applicant for a **twelve (12) month** license shall pay to the City Clerk a fee of **Eight Dollars (\$8.00)** to cover the Liquor Commissioner's issuance of such license.

With respect to a corporation operating an establishment for which a liquor license has been issued, should the manager of said establishment change after the issuance of said liquor license, the corporation must submit the new manager's name and shall be submitted within **thirty (30) days**. Continuation of the license will be contingent upon a background check of the new manager, as set out in **Section 21-2-3** of this Chapter, and all fees shall be waived should the license be changed only as a result of a change of managers. If, for some reason the manager is not acceptable, the licensee shall have **thirty (30) days** to submit a new name before revocation.

Failure to provide new information shall be grounds for suspension or revocation of said license. **(235 ILCS 5/4-1)**

(A) **Licenses for Legacy Liquor Establishments.**

- (1) A legacy liquor establishment is defined as any liquor establishment that has been in continuous operation at the same location in Fairview Heights under its current name for at least **thirty (30) years** from the date of Liquor License renewal.
- (2) A legacy liquor establishment may apply for any appropriate class of license. A legacy liquor license fee shall be **Four Hundred Twenty-Five Dollars (\$425.00)** annually, instead of the amount listed in **Section 21-2-5**, above.

(B) **Licenses for Fraternal, Charitable, Veteran Organization Establishments.** A liquor establishment for an organization that exists as a State registered fraternal, charitable, or veteran organization shall pay an annual liquor license fee of **Four Hundred Twenty-Five Dollars (\$425.00)** annually, instead of the amount listed in **Section 21-2-5**, above.

(C) **Licenses for Class G Establishments.** A liquor establishment with a Class "G" license shall pay an annual liquor license fee of **One Thousand Dollars (\$1,000.00)**.

(D) **Licenses for Class H Establishments.** A liquor establishment with a Class "H" license shall pay an annual liquor license fee of **Four Hundred Twenty-Five Dollars (\$425.00)** annually, instead of the amount listed in **Section 21-2-5**, above.

(Ord. No. 1906-21; 11-02-21)

Fairview Heights City Code**21-2-6 FURNISHING FALSE OR MISLEADING INFORMATION OR WITHHOLDING INFORMATION ON APPLICATION; FAILURE TO COOPERATE IN INVESTIGATION.**

No person shall knowingly furnish false or misleading information or withhold any relevant information on any application for any license required by this Chapter nor knowingly cause or suffer another to furnish or withhold such information on his behalf. No person shall knowingly furnish any false or misleading information to the Local Liquor Commissioner, the Chief of Police or any person authorized to act in their behalf in the investigation of any application for a license required by this Chapter; nor shall any person willfully withhold any information that is relevant to any such investigation when called upon by the Local Liquor Commissioner, Chief of Police or a person acting in their behalf to furnish such information.

21-2-7 REQUISITES FOR MANAGER.

(A) No licensee shall employ any person to manage his licensed liquor establishment, unless such person possesses the same qualifications required of a licensee, except for residency and citizenship. No licensee shall permit any person to act as a manager of his liquor establishment, unless such manager has been approved by the Local Liquor Commissioner.

(B) No person shall manage or act as manager of a licensed liquor establishment, unless such person possesses the same qualifications required of a licensee, except for residency and citizenship, and such person has been approved by the Local Liquor Commissioner to be a manager of that licensed liquor establishment.

(C) All applications for approval as manager of a licensed liquor establishment shall be submitted to the Local Liquor Commissioner by filing in the office of the City Clerk upon forms made available by the City. A copy of such application shall be promptly forwarded to the Police Department, which shall conduct a thorough investigation of the fitness and eligibility of the applicant.

(D) A manager shall be required to keep a place of residence within the St. Louis Metropolitan Statistical Area, as defined by the U.S. Census Bureau.

21-2-8 CHANGE IN STOCKHOLDERS AND OF PARTNERS, OFFICERS OR DIRECTORS.

No corporate licensee shall add any officer or director nor permit any transfer of its stock which would vest in aggregate more than **five percent (5%)** of the stock outstanding in such corporation in any stockholder; nor shall any partnership add a partner, unless such officer, director, stockholder or partner has been previously approved by the Local Liquor Commissioner. All requests for approval of officers, directors, stockholders or partners shall be in writing and under oath, stating substantially the same requisites as set forth in this ordinance. The Local Liquor Commissioner shall not approve such addition of officers or directors or transfer of stock or addition of a partner, unless the proposed officer, director, stockholder or partner would be eligible to receive a license for the retail sale of alcoholic liquor under this Chapter for any reason, except that citizenship and residence within the City shall not be required of an officer, director or stockholder.

21-2-9 RENEWAL.

(A) All applications for the renewal of a license shall be filed with the Liquor Commissioner at least **thirty (30) days** prior to the date of expiration of the license on forms

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provided by the City. No renewal application shall be accepted by the City Clerk unless it is completed, signed and notarized and accompanied by payment in full of all license fees, including late filing fees. A late filing fee of **One Hundred Dollars (\$100.00)** shall be assessed on a renewal application which is not filed at least **thirty (30) days** before expiration.

(B) No license shall be renewed unless all taxes, fees, costs, bills, assessments and penalties legally due the City, in connection with the operation of the licensed premises, have been paid in full; or arrangements satisfactory to the Local Liquor Commissioner have been made for their payment in writing and sworn to by the licensee. This shall not apply to taxes or fees which are subject of a bona fide dispute and are being contested in the appropriate administrative or judicial forum.

(C) No licensee shall willfully fail or refuse to pay when due any taxes, fees, assessments or penalties owed to the City or to the State in connection with the operation of any business conducted on the licensed premises; nor shall the licensee fail or refuse to timely file any tax return report or other document required in connection with such taxes, fees, assessments or penalties.

21-2-10 SPECIAL EVENT RETAIL LICENSE.

(A) Upon application, the Local Liquor Control Commissioner is authorized to issue a License for a Special Event to a Special Event Retailer or to the holder of a current local license for a Special Event upon the licensee's property. **(235 ILCS 5/1-3.17 and 5/1-3.30)**

(B) In addition to any other requirement of this Chapter, an applicant for a Special Event Retailer's License shall also submit proof of adequate Dram Shop Insurance for the Special Event prior to being issued a License. **(235 ILCS 5/7-1)**

(C) The fee for such license shall be **Twenty-Five Dollars (\$25.00)** per day, subject to the provisions of this Chapter.

(D) No such license shall be transferable.
(Ord. No. 1857-19; 12-17-19)

21-2-11 LICENSE A PERSONAL PRIVILEGE. Licenses shall be a personal privilege for a period not to exceed **twelve (12) months** after issuance unless sooner revoked or expired and shall not be alienable or transferable. The licensee shall renew his license at the expiration thereof, provided he is then qualified to then receive a license and the premises for which such renewal license is sought or suitable for such purposes; provided that the renewal privilege herein provided shall not be construed as a vested right, and may be denied by the Local Liquor Control Commissioner. **(235 ILCS 5/6-1)**

21-2-12 LIMITATION OF LICENSES.

(A) **Population Basis.** The total number of licenses to be issued under this Chapter for Class "A" and Class "C" licenses shall be determined upon the basis of population. The total number of licenses shall not, at any time, exceed **one (1)** for each **twelve hundred fifty (1,250) persons** in the City. **(Ord. No. 1811-18; 02-20-18)**

(B) **Not to Affect Renewals.** This restriction upon the number of licenses shall not limit the right to the renewal of any existing licenses, nor to the issuance of a license to an operator of an established liquor business at a different location; provided such licenses do not increase the number of licenses in existence.

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

(D) **Closed, Destroyed or Damaged Business.** No license shall be held in existence by the mere payment of fees by any person, firm or corporation, for a longer period than **ninety (90) days**, without a tavern or liquor business for same, being in complete and full operation and open for business. However, if a tavern or liquor business has been destroyed or damaged by fire or act of God and cannot be rebuilt or repaired within the **ninety (90) day period**, then in that event, the Liquor Control Commissioner shall extend the period of time for which a license may be held by the payment of fees without the tavern or liquor business being in full and complete operation for an additional **ninety (90) days**. If either of the above stated periods of time passes without the particular tavern or liquor business returning to complete and full operation, the license for that particular business shall expire and not be subject to renewal, unless all other requirements of this Chapter shall have been met.

21-2-13 HEARINGS ON VIOLATIONS; COMPLAINT BY CITIZENS. Any resident of the City shall have the right to file a complaint with Local Liquor Commissioner stating that any licensee subject to this Chapter has been or is violating the provisions of this Chapter or the Illinois Liquor Control Act or the rules or regulations issued pursuant to either. Such complaint shall be in writing and shall be signed and sworn to by the parties complaining. The complaint shall state the particular provision, rule or regulation believed to have been violated and the facts in detail upon which such belief is based. If after investigating the Local Liquor Commissioner is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for such belief, he shall set the matter for hearing and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint.

ARTICLE III - REGULATIONS**21-3-1 HOURS.**

(A) A Class "A", Class "E" or Class "F" liquor license shall entitle the licensee to sell at retail, alcoholic liquor and beverages and to operate and keep open between the hours of **six o'clock (6:00) A.M.** and **one o'clock (1:00) A.M.** on the succeeding day, on any day of the week, except that on Friday and Saturday of each week, the licensee may sell at retail alcoholic liquor and beverages between the hours of **six o'clock (6:00) A.M.** and **two o'clock (2:00) A.M.** on the succeeding day and with the further exception that no Class "A" licensee shall sell any alcoholic liquor or beverages before the hour of **ten o'clock (10:00) A.M.** on Sundays after the close of business from the preceding day.

(B) A Class "B", same as "A", except and with the further exception that no Class "B" licensee shall sell any alcoholic liquor or beverages before the hour of **eight o'clock (8:00) A.M.** on Sundays after the close of business from the preceding day.

(C) A Class "C", same as "A".

(D) A Class "D" license shall entitle the licensee to sell at retail alcoholic liquor and beverages between the hours of **six o'clock (6:00) A.M.** and **one o'clock (1:00) A.M.** on the succeeding day, on any day of the week, except that on Friday and Saturday of each week the licensee may sell at retail alcoholic liquor and beverages between the hours of **six o'clock (6:00) A.M.** and **two o'clock (2:00) A.M.** on the succeeding day.

(E) A Class "G" liquor license shall entitle the licensee to sell at retail, alcoholic liquor and beverages and to operate and keep open between the hours of **eight o'clock (8:00) A.M.** and **eleven o'clock (11:00) P.M.**

(F) A Class "H" liquor license shall entitle the licensee to sell at retail, alcoholic liquor and beverages and to operate and keep open between the hours of **eight o'clock (8:00) A.M.** and **one o'clock (1:00) A.M.** on the succeeding day.

No alcoholic liquor shall be sold, possessed or consumed within a licensed premises, or upon the property containing a licensed premises, outside the hours of permitted sales. No customers shall remain within the premises of a Class "A" licensed establishment.

The times referred to above shall mean Daylight Savings Time when the same is in effect in the City, and upon cessation of Daylight Savings Time, shall mean Central Standard Time. **(235 ILCS 5/4-1)**
(Ord. No. 1906-21; 11-02-21)

21-3-2 CLASSIFICATION OF LICENSES. There shall be **six (6) classes** of licenses that shall be referred to as:

(A) Class "A" licenses which shall authorize the retail sale on the premises of any premises, except a club, hotel, or golf course, of alcoholic liquor for consumption on the premises; provided, however, that a Class "A" licensed establishment that is a Video Gaming Establishment as defined in **Section 21-1-1** of this Code shall be limited to retail sale of beer and wine only. A Class "A" licensed establishment may conduct video gaming in accordance with the Illinois Video Gaming Act **(230 ILCS 40/1 et seq.)**

(B) Class "B" licenses shall authorize the retail sale of alcoholic liquor in packages and not for consumption on the premises where sold. Establishments whose premises include gasoline stations, which meets that definition as provided in **Section 21-1-1** of this Code, with convenience stores attached as a secondary business operation shall only be qualified to apply for a Class "B" license, except as provided in subsection (G) of this Section. A Class "B" licensed establishment shall only sell alcoholic liquor in the original, unaltered form packaged for consumption off the premises where sold; provided, that a Class "B" licensed establishment shall not sell individual containers of beer in volume of **sixteen (16) ounces** or less. A Class "B" licensed establishment shall not conduct video gaming under the Illinois Video Gaming Act **(230 ILCS 40/1 et seq.)**.

(C) Class "C" licenses may be issued to a club, which meets the definition as provided in **Section 21-1-1** of this Code, which shall authorize the retail sale on the premises specified of alcoholic liquor for consumption on the premises. Said liquor sales to be made to club members and invited guests only. A Class "C" licensed establishment may conduct video gaming in accordance with the Illinois Video Gaming Act **(230 ILCS 40/1 et seq.)**.

(D) Class "D" licenses may be issued to a restaurant, which meets the definition as provided in **Section 21-1-1** of this Code, which shall authorize the retail sale on the premises specified of

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alcoholic liquor for consumption on the premises. **(235 ILCS 5/4-1)** A Class "D" licensed establishment must derived at least **twenty-five percent (25%)** of its monthly revenue from the sale of food consumed on premises. A Class "D" licensed establishment may conduct video gaming in accordance with the Illinois Video Gaming Act **(230 ILCS 40/1 et seq.)**

(E) Class "E" licenses may be issued for the retail sale of alcoholic liquors on the premises in any hotel for consumption on the premises, when such retail sale is made by the same entity which operates the hotel. Nothing contained in this Section shall be so construed as to prevent any hotel operator, licensed under the provisions of this Chapter, from serving alcoholic liquors to registered guests in any room, designed for temporary and permanent habitation with sleeping accommodation and bathing amenities, if such liquor so served shall be kept in and served from a licensed location, place or premises in the hotel.

(F) Class "F" licenses may be issued for the retail sale of alcoholic liquors on the property of any golf course for consumption on the property only.

(G) Class "G" licenses may be issued for the retail sale of alcoholic liquors at establishments whose premises include gasoline stations with a convenience store attached as a secondary business operation, subject to the following restrictions:

- (1) the convenience store building must have in excess of **three thousand (3,000) square feet** of retail space;
- (2) the gasoline station must contain at least **fourteen (14)** retail fuel pumps;
- (3) only beer and wine may be sold by authorized staff of the establishment, with a **two (2) drink** maximum per customer, and consumed in a separate, secure room that customers may only access upon verification of legal age.

A Class "G" licensed establishment may conduct video gaming in accordance with the Illinois Video Gaming Act **(230 ILCS 40/1 et seq.)** within that separate, secure room in the convenience store.

(H) Class "H" licenses may be issued to a banquet center, which meets the definition as provided in **Section 21-1-1** of this Code, which shall authorize the retail sale on the premises specified of alcoholic liquor for consumption on the premises.

(I) **Subclass "1" Licenses:** A holder of Class A, C, D, or E license may make application to the Liquor Commissioner for a Subclass "1" license. This subclass license may be obtained for the retail sale of alcoholic beverages in an outdoor beer garden or sidewalk café adjacent to and part of the licensed premises.

- (1) The request shall include a scale drawing of the proposed outdoor facility which shall, at a minimum, include the following:
 - (a) A method by which the area shall be confined to prohibit the removal of alcoholic liquor and constrict noise to the approved area.
 - (b) A reasonably substantial structure across which alcoholic liquor shall be served which shall afford bartenders reasonable protection from patrons, unless the outdoor facility is serviced directly by the indoor licensed premises.
 - (c) The locations of at least **two (2) exits** from the area, only one of which shall be through a building or, in the case of a patio, deck, open porch, balcony or rooftop facility, such exits as are required by the City building and fire codes.
 - (d) Approval of a site plan as provided for in the City's zoning code.
- (2) The licensee shall be responsible to see that no customer, employee or other person removes alcoholic liquor from the area designated as the outdoor area, except for an employee carrying alcoholic liquor directly between the establishment and the outdoor area.
- (3) Supplemental licenses shall not be issued for any location in a residential district of the City, as defined by the City's zoning code. If granted to any premises within **five hundred (500) feet** of residentially zoned property, no live entertainment shall be permitted outside except live music performed without electronic amplification.
- (4) It shall be unlawful for any licensee to operate as provided in any subclass of licenses without holding a current valid Subclass license for such operation.
- (5) The term of supplemental licenses shall be for the term of the license held, but such licenses shall be reviewable and subject to termination at any time on the basis of changed conditions pursuant to the restrictions and hearing requirements as set forth below.

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- (6) Before the issuance, denial, renewal, continuation or termination of any supplemental license, the Local Liquor Control Commissioner shall consider the following issues:
 - (a) The zoning classification of the licensed premises.
 - (b) The character of the surrounding area.
 - (c) The traffic and parking situation, including any off-street parking requirements of the licensed business, within a **five hundred (500) foot** radius.
 - (d) Any statements of interested persons, either oral or written.
 - (e) The impact of such proposed or existing Subclass license on the character of and the traffic and parking situation in the immediate neighborhood.
 - (f) Any past operating history of the licensee and the proposed site.
 - (g) Whether the operation of the licensee conforms to all requirements of this Chapter for the supplemental license requested.
 - (h) In the case of the question of renewal or revocation of a Subclass license, whether the music or other live entertainment is audible in the nearest home of a residential zoning district when the windows are closed.
- (7) Each applicant for a supplemental license shall submit with the initial application a complete list of the names and addresses of the last person to whom taxes were assessed for any property within **five hundred (500) feet** of the proposed site, together with a sworn statement that the applicant has caused notices to be sent to all such property owners, advising them of pendency of the request and that they have an opportunity pursuant to this Section to request that a hearing may be held before the Local Liquor Commissioner prior to the issuance of the supplemental license.
- (8) No supplemental license shall be issued or continued if there is a finding that it would alter or has altered the essential character of the neighborhood, would cause or has caused undue traffic or parking problems in the neighborhood, or that the operation under the supplemental license does not conform to all requirements of this Chapter.
- (9) License holders with an outside area in place prior to the passage of this ordinance shall not be subject to parts 1, 3, 6, 7, and 8. However, the license holder shall still apply for the subclass license. Should any substantial change occur to the outside area applicable under this subclass, then all part of this Section shall then apply.

(J) **Subclass "2" Licenses:** A holder of Class D license may make application to the Liquor Commissioner for a Subclass "2" license. In addition to the retail sale on the premises specified of alcoholic liquor for consumption on the premises authorized by a Class D license, this subclass license may be obtained for the retail sale of alcoholic liquor in the original, unaltered form packaged for consumption off the premises where sold; provided, that a Subclass "2" licensed establishment shall not sell individual containers of beer in volume of **sixteen (16) ounces** or less. The term of supplemental licenses shall be for the term of the license held. It shall be unlawful for any licensee to operate as provided in any subclass of licenses without holding a current valid Subclass license for such operation. Before the issuance, denial, renewal, continuation or termination of any supplemental license, the Local Liquor Control Commissioner shall consider the following issues:

- (1) The zoning classification of the licensed premises.
- (2) The character of the surrounding area.
- (3) Any statements of interested persons, either oral or written.
- (4) The impact of such proposed or existing Subclass license on the character of and the traffic and parking situation in the immediate neighborhood.
- (5) Any past operating history of the licensee and the proposed site.
- (6) Whether the operation of the licensee conforms to all requirements of this Chapter for the supplemental license requested.

(K) **Certain Licenses Issued Prior to Adoption of Ordinance.** The holder of a license issued prior to the adoption of this Ordinance shall be allowed to retain the same license classification existing on the effective date of this Ordinance for any renewal license, including subsequent renewals, subject to all other requirements and restrictions included herein.

(Ord. No. 1906-21; 11-02-21)

Fairview Heights City Code**21-3-3 EMPLOYMENT OF PERSONS UNDER THE AGE OF TWENTY-ONE (21).**

(A) No licensee under this Chapter shall employ or permit any person under the age of **twenty-one (21) years** to handle, sell or serve alcoholic liquors for sale; provided, however, that any establishment holding a license may employ persons **eighteen (18) years** of age or older to serve alcoholic liquors to patrons in any fixed location used for service of food where such person is under the direct and immediate supervision of an employee **twenty-one (21) years** of age or older who has supervisory authority over the underage employee and who is actually present on the premises at all times the underage employee is serving alcohol, but under no circumstances shall such person be employed or act exclusively as a bartender or cocktail server.

(B) No licensee under this Chapter shall utilize, permit or allow any volunteers under the age of **twenty-one (21) years** to handle, sell, or serve alcoholic liquors for sale regardless of whether the sale or service of alcohol is in conjunction with the sale or service of food.

(C) No licensee under this Chapter shall employ or permit any person under the age of **eighteen (18) years** to act as a compensated entertainer.

21-3-4 PROHIBITED LOCATIONS. No licenses shall be issued for the sale at retail of any alcoholic liquor within **one hundred (100) feet** of any church, school, hospital, home for the aged or indigent persons or for veterans, their wives or children, or any military or naval station; provided that this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs, or to restaurants, food shops, as defined in the aforesaid Act of the General Assembly, or other places where the sale of alcoholic liquors is not the principal business carried on. No person shall hereafter engage in business as a retailer of any undertaking establishment or mortuary. **(235 ILCS 5/6-11)**

21-3-5 ELECTIONS. A person may sell at retail any alcoholic liquor on the day of any national, state, county or city election, including primary elections, during the hours the polls are open.

21-3-6 DISPLAY OF LICENSE. Every licensee shall cause his license to be framed and hung in plain view in a conspicuous place on the licensed premises. **(235 ILCS 5/6-24)**

21-3-7 RETAIL SALES IN BUILDINGS CONTAINING ADULT USES.
(A) No license shall be issued for the sale at retail of any alcoholic liquor for a premises in which there is an adult use as defined in this Code.

(B) It is the purpose of this Chapter to regulate nude conduct in liquor establishments that are unlicensed, or licensed as an adult business in accordance with this Code, in order to promote the health, safety, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of nude conduct in liquor establishments not licensed, or licensed as an adult business. The provisions of this Chapter have neither the intent nor the effect of imposing a limitation or restriction on content or reasonable access to the message intended to be conveyed by erotic

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dancers or performers. Similarly, it is neither the intent nor effect of this Chapter to restrict or deny access by adults to semi-nude conduct protected by the First Amendment. This Chapter does not apply to theaters, performing art centers, civic centers and dinner theaters and other similar businesses that have a liquor license where live dance, ballet, music, and dramatic performances of serious artistic, literary, scientific or political merit are offered on a regular basis and in which the predominant business or attraction is not the offering of entertainment which is intended for the sexual interests or titillation of customers.

(C) Based on the evidence of the adverse secondary effects of nude conduct, along with the consumption of alcohol in liquor establishments, presented in hearings and reports made available to the City, and on findings incorporated in the cases of *Barnes v. Glen Theater, Inc.*, 501 U.S. 560 (1991); *California v. La Rue*, 409 U.S. 109 (1972); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003) (and cases cited therein); *Wise Enterprises, Inc. v. Unified Gov't of Athens-Clarke County, Georgia*, 217F.3d 1360 (11th Cir. 2000); *Bzaps, Inc. v. City of Mankato*, 268 F.3d 603 (8th Cir. 2001); *Sammy's of Mobile, Ltd. v. City of Mobile*, 140 F.3d 993 (11th Cir. 1998); *Artistic Entm't, Inc. v. City of Warner Robins*, 223 F.3d 1306 (11th Cir. 2000); *Gary v. City of Warner Robins, Georgia*, 311 F.3d 1334 (11th Cir. 2002); Department of *Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Bd. Of California*, 99 Cal. App.4th 880 (Cal. Ct. App. 2002); *New York State Liquor Auth. v. Ballanca*, 452 U.S. 714 (1981); *Giovanni v. Bason*, 303 F.3d 507 (4th Cir. 2002); *City of Chicago v. Pooh Bah Enterprises, Inc.*, et al., Nos. 1-01-0592, 1-01-1392 (2nd Dist. Sept. 28, 2004) (Rule 23 opinion) and other cases; and on reports of secondary effects occurring in and around, inter alia, bars that feature topless, bottomless or nude conduct, including, but not limited to, Minneapolis, Minnesota – 1980; Town and Village of Ellicottville, New York – 1998; City of New York – 1994, City of Garden Grove – 1991; and Beaumont, Texas – 1982; Report to: The American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses – 1996, the City finds:

- (1) Semi-nude conduct, coupled with the consumption of alcohol, is associated with a variety of adverse secondary effects including, but not limited to, lewdness, public indecency, sexual harassment, violence, public intoxication, disorderly conduct, and the sexual exploitation of nude conduct.
- (2) The location of liquor establishments in residential and commercial areas has a negative impact on surrounding properties and liquor establishments that provide bottomless, topless, or otherwise semi-nude conduct decreases further the value of surrounding properties, both residential and commercial alike.
- (3) Each of the foregoing negative secondary effects constitutes a harm which the City has a substantial government interest in preventing and/or abating.
- (4) It is consistent with the health, safety, and general welfare of the City to restrict the nude conduct that occurs in liquor establishments that do not have an adult use license.

21-3-8

OPEN VIEW INTO INTERIOR.

(A) In premises upon which the sale of alcoholic liquor for consumption upon the premises is licensed (other than as a restaurant, hotel or club, as defined in the aforesaid Act of the General Assembly, other than one situated on the first, or ground floor), no screen,

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blind, curtain, partition, article or thing shall be permitted in the windows or upon the doors of such licensed premises nor inside such premises, which shall prevent a clear view into the interior of such licensed premises from the street, road or sidewalk at all times, and no booth, screen, partition, or other obstruction, nor any arrangements of lights or lighting shall be permitted in or about the interior of such licensed premises which shall prevent a full view of the entire interior of the premises from the street, road or sidewalk, and said premises must be so located that there shall be a full view of the entire interior of such premises from the street, road or sidewalk.

(B) All rooms where liquor is sold for consumption upon the premises shall be continuously lighted during business hours by natural light or artificial white lights so that all parts of the interior of the premises shall be clearly visible.

(C) In case the view into any such licensed premises required by the foregoing provision shall be willfully obscured by the licensee, or by him willfully suffered to be obscured or in any manner obstructed, then such license shall be subject to revocation in the manner herein provided.

(D) In order to enforce the provisions of this section, the Local Liquor Control Commissioner shall have the right to require the filing with it of plans, drawings, and photographs showing the clearance of the view, as above required.

21-3-9 SUSPENSION, REVOCATION AND FINES.

(A) The violation of any provision of this Chapter or the Act by the holder of a Local License holder, or their agents or employees, may result in the suspension, revocation, or fines, or any combination thereof, as prescribed in this Section. The suspension, revocation, or fines for the violation of this Chapter shall not be exclusive remedies available to the City or the Local Liquor Commissioner, including injunctive relief, nor shall such remedies be preempted by any other criminal or civil penalties imposed by the State or court of jurisdiction pursuant to Section 5.08.530 or State law.

(B) The following shall serve as a guideline for the suspension, revocation, and penalties for violations of this Chapter by Local License holders, or their agents or employees:

- (1) For the first offense in any **twelve (12) month** period, the license may be suspended for **twenty-four (24) hours** at a time and date determined by the Local Liquor Commissioner, and fine of up to **One Thousand Dollars (\$1,000.00)**.
- (2) For the second offense in any **twelve (12) month** period, the license may be suspended for no less than **seventy-two (72) hours** over the course of a calendar weekend at a time and date determined by the Local Liquor Commissioner, and a fine of up to **One Thousand Five Hundred Dollars (\$1,500.00)**.
- (3) For the third offense in any **twelve (12) month** period, the license may be suspended for a period of **thirty (30) days** at a time and date determined by the Local Liquor Commissioner, and a fine of up to **Two Thousand Five Hundred Dollars (\$2,500.00)**.
- (4) For the fourth offense in any **twelve (12) month** period, the license may be revoked effective upon written notice from the Local Liquor Commissioner, and a fine of up to **Two Thousand Five Hundred Dollars (\$2,500.00)**.

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- (C) Each day a violation occurs shall be considered a separate offense.
- (D) Nothing in this Chapter shall preclude the Local Liquor Commissioner from deviating from the guidelines provided for in this Section with regard to the amount of time of suspension or monetary fines.
- (E) The guidelines provided for in this Chapter shall not be considered mandated graduated penalties and the Local Liquor Commissioner may proceed directly to a more severe license suspension or fines, and even revocation, for any violation of this Chapter.
- (F) No license suspended or revoked under this Chapter shall be reinstated until all times, or a bond for the same, have been paid in full to the City and compliance has been met with the violated provisions of this Chapter, if applicable.
- (G) Hearings for the suspension, revocation, and fine pursuant to this Section shall be in accordance with the Act and the applicable provisions of this Chapter.

21-3-10 CHANGE OF LOCATION. A retail liquor dealer's license shall permit the sale of alcoholic liquor only on the premises described in the application and license. Such location may be changed only upon the written permit to make such change issued by the Liquor Commissioner. No change of location shall be permitted unless the proposed new location is a proper one for the retail sale of alcoholic liquor under the law of this State and the Code of the City. **(235 ILCS 4/7-14)**

21-3-11 PEDDLING. It shall be unlawful to peddle alcoholic liquor in the City. **(235 ILCS 5/4-1)**

21-3-12 SANITARY CONDITIONS. All premises used for the retail sale of alcoholic liquor, or for the storage of such liquor for such sale, shall be kept in a clean and sanitary condition, and shall be kept in full compliance with the codes regulating the condition of premises used for the storage or sale of food for human consumption. **(410 ILCS 650/1 et seq.)**

(A) No license shall be issued or renewed without the license holder providing proof of a valid and current food sanitation permit from St. Clair County, if the licensed establishment is required to have such a permit as part of the normal business operation.

(B) The failure to obtain a food sanitation permit, or loss of such permit during a licensed year through suspension, revocation or otherwise, shall require the Local Liquor Commissioner to revoke or suspend the licenses granted under this Chapter to the license holder.

21-3-13 EMPLOYEES. It shall be unlawful to employ in any premises used for the retail sale of alcoholic liquor, any person who is afflicted with or who is a carrier of any contagious, infectious or venereal disease; and it shall be unlawful for any person who is afflicted with or a carrier of any such disease to work in or about any premises or to engage in any way in the handling, preparation, or distribution of such liquor. **(410 ILCS 650/10)**

21-3-14 CLUB LICENSES. Any organization in the City which is a "club" as defined in **Sec. 5/1-3.24, Chapter 235, Illinois Compiled Statutes**, may, without charge

by the City of any license fee, obtain a license to sell alcoholic liquors to its own members at the building or premises actually used as the club's quarters, upon filing with the Liquor Commissioner or Clerk of this City of its written application therefor signed by its president or corresponding officer and its secretary or similar officer, together with **two (2) copies** of a list of names and residences of all its members. (The license to be issued upon compliance herewith shall state upon its face that sales thereunder of alcoholic liquors are to be made only to members of the licensed club and that a violation thereof will result in the imposition of a penalty or in the revocation or suspension of the license, or both). The license shall be in the form approved by the Liquor Commissioner, and shall be signed by the Liquor Commissioner and attested to by the Clerk. The license shall, at all times, be displayed by the licensee in a conspicuous place in the room where liquors are to be sold.

The Liquor Commissioner shall have and is hereby given the same right of revocation and/or suspension of any license issued hereunder as he now or hereafter may have in the matter of other licenses or the sale of alcoholic liquors.

21-3-15 PROHIBITED SALES - GENERALLY. No licensee, nor any officer, associate, member, representative, agent or employee of such licensee shall sell, give or deliver alcoholic liquor to any person under the age of **twenty-one (21) years**, or to any intoxicated person or to any person known by him to be a habitual drunkard, spendthrift, insane, mentally ill, mentally deficient, or in need of mental treatment. No person, after purchasing or otherwise obtaining alcoholic liquor shall sell, give or deliver such alcoholic liquor to another person under the age of **twenty-one (21) years**, except in the performance of a religious ceremony or service. **(235 ILCS 5/6-16)**

For the purpose of this Section, the term "intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol.

Should the Local Liquor Commissioner find, following a hearing held pursuant to the provisions of this Chapter, that any licensee or his officer, associate, member, representative, agent or employee has knowingly sold, given or delivered any alcoholic liquor to an intoxicated person, and the person while so intoxicated has caused death or great bodily harm to himself or any other person, the Local Liquor Commissioner may revoke or suspend the license for the establishment.

21-3-16 UNLAWFUL PURCHASE OF LIQUOR. Any person to whom the sale, gift or delivery of any alcoholic liquor is prohibited because of age shall not purchase, or accept a gift of such alcoholic liquor, or have such alcoholic liquor in his possession. **(235 ILCS 5/4-1)**

21-3-17 POSTING WARNING. In every licensed business where alcoholic liquor is sold, there shall be displayed at all times in a prominent place, a printed card which shall be supplied by the City Clerk and which shall read as follows:

UNDERAGE WARNING

YOU ARE SUBJECT TO A FINE UP TO SEVEN HUNDRED FIFTY DOLLARS (\$750.00) UNDER THE ORDINANCE OF THE CITY OF FAIRVIEW HEIGHTS IF YOU PURCHASE ALCOHOLIC LIQUOR, OR MISREPRESENT YOUR AGE FOR THE PURPOSE OF PURCHASING OR OBTAINING ALCOHOLIC LIQUOR.

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It shall be unlawful for any holder of a retail liquor dealer's license, or his agent, or employee to suffer or permit any minor to be or remain in any room or compartment adjoining or adjacent to or situated in the room or place where such licensed premises is located; provided that this paragraph shall not apply to any minor who is accompanied by his parent or guardian, or any licensed premises which derives its principal business from the sale of services or other commodities other than alcoholic liquor. **(235 ILCS 5/4-1)**

21-3-18 IDENTIFICATION REQUIRED. If a licensee or his agents or employees believe or have reason to believe that a sale or delivery of any alcoholic liquor is prohibited because of the non-age of the prospective recipient, he shall, before making such sale or delivery, demand presentation of some form of positive identification, containing proof of age and a photograph of the prospective recipient, issued by a public officer in the performance of his official duties. **(235 ILCS 5/6-20)**

21-3-19 EXCLUSIONARY PROVISION. The possession and dispensing, or consumption by a minor of alcoholic liquor in the performance of a religious service or ceremony, or the consumption by a minor under the direct supervision and approval of the parents or parent of such minor in the privacy of a home, is not prohibited by this Chapter. **(235 ILCS 5/6-20)**

21-3-20 SALE AND DELIVERY OF LIQUOR IN MUNICIPAL BUILDINGS. Liquor may be sold or delivered in any building belonging to or under control of the City of Fairview Heights. Prior approval of such sale or delivery of liquor must be obtained from Liquor Commissioner. Only City staff or employees so designated are authorized to conduct the sale and delivery of liquor in municipal buildings. No liquor may be served or delivered to any prisoner confined in jail except upon a physician's prescription. This provision does not preclude the sale or delivery of beer or wine at a City Fair in any otherwise lawful manner.

21-3-21 PROOF OF MINIMUM DRAM SHOP INSURANCE COVERAGE. No person shall sell, keep or offer for sale at retail, or conduct any place for the sale and retail of alcoholic liquor within the limits and territory of this City without having proof of dram shop insurance coverage for (1) injury to the person or property; and (2) loss of means of support resulting from death or injury of any person in an amount not less than the maximum recovery allowed under the Illinois Liquor Control Act of 1934, **235 ILCS 5/6-21.**

No license shall be issued to: A person who intends to sell alcoholic liquors for use or consumption on his or her licensed retail premises who does not have liquor liability insurance coverage for that premises in an amount that is at least equal to the maximum liability amounts set out in subsection (a) of Section 6-21 of the Act **(235 ILCS 5/6-2(18)).**

21-3-22 REPORTING OF INCIDENTS TO POLICE; TELEPHONE REQUIRED ON PREMISES.

(A) Each licensee and each of his agents and employees shall promptly report to the City police any incident occurring on or about the licensed premises and in his knowledge or view relating to the commission of any crime, including any violation of this

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Chapter, and shall truthfully and fully answer all questions and investigations of any identified police officer who makes inquiry concerning any persons in or about the licensed premises and any events taking place in and about the licensed premises, and cooperate fully in any such investigation, including the giving of any oral or written statements at such reasonable times and in such reasonable locations to any police officer engaged in such investigation.

(B) Each licensee shall maintain on each licensed premises not less than **one (1)** land-based telephone in operating order which phone must be within the easy access of the bartender or other responsible person in charge of the premises at all times for the purpose of reporting to the City police incidents occurring on or about the licensed premises.

21-3-23 ILLEGAL ACTIVITIES ON PREMISES. No licensee or any officer, associate, member, representative, agent or employee of such licensee shall engage in any activity or conduct or suffer or permit any other person to engage in any activity or conduct in or about the licensed premises which is prohibited by any ordinance of the City or law of the State or the United States.

21-3-24 SOLICITATION OF PATRONS BY EMPLOYEES. No licensee under this Chapter shall permit any employee or entertainer in the premises to solicit any patron thereof to purchase alcoholic or non-alcoholic beverages for such employee or entertainer or any other person on or in such licensed premises, or to solicit any patron to give or donate money or any other thing of value for any purpose; provided, however, that nothing herein contained shall prohibit any bartender or waiter who shall be regularly employed therein from accepting and serving an order of a patron in the regular course of his employment.

21-3-25 PERSONS LOITERING IN LICENSED PREMISES.
(A) No person shall frequent or loiter in any premises licensed under this Chapter for the purpose of soliciting another person to purchase alcoholic or non-alcoholic beverages, or to solicit any other person to give or donate any money or other thing of value for any purpose including prostitution.

(B) No licensee or any person as proprietor, agent, servant, or employee of such licensee shall knowingly permit any person who is in violation of this Section to enter or remain upon the licensed premises. The fact that a licensee has been notified by the City police that a person has been convicted within the past year, or has multiple convictions within the past **three (3) years**, for an offense of prostitution, soliciting for a prostitute, pandering, keeping a place of prostitution, or pimping, and the licensee allows such person to remain on or frequent the premises, may be considered prima facie evidence in a hearing before the Local Liquor Commissioner concerning the revocation or suspension of the license granted to the licensee, that a person's presence upon the licensed premises is for the purpose of soliciting in violation of this Section.

21-3-26 PROHIBITED CONDUCT. It shall be unlawful for any licensee or a person as proprietor, agent, servant or employee of such licensee on the premises to knowingly offer or allow any person to engage in any of the following conduct:

(A) Acts of intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sex act prohibited by law.

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(B) Actual display of pubic hair, anus, vulva, genitals, buttocks or the female breast below a horizontal line across the top of the areola. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

21-3-27 SERVING OF ALCOHOL ON SUSPENDED OR REVOKED LICENSE.

For any business that does not have a liquor license, or has had its liquor licenses suspended or revoked, it shall be unlawful to serve or give away alcohol, or provide the Property for the serving or giving away of alcohol, for consumption on the Property.

21-3-28 CONSUMPTION OF ALCOHOL ON PROPERTY OF SUSPENDED OR REVOKED LICENSE. For any business that has had its liquor licenses suspended or revoked, it shall be unlawful to make a Property or premises available to any persons that allows persons to bring alcohol to the Property for consumption on the Property.

21-3-29 CONSUMPTION AT CERTAIN LOCATIONS PERMITTED. Consumption of alcoholic liquor shall be permitted within the rules and restrictions of this Code in the public parks within the City, as part of any neighborhood or block party as authorized by the City of Fairview Heights, or as part of any scheduled function within the Fairview Heights Recreation Room. (Ord. No. 1643-14; 06-03-14)

21-3-30 CONSUMPTION OF ALCOHOLIC LIQUOR ON PARKING AREAS PROHIBITED. No person shall consume alcoholic liquor upon any private premises commonly used for public parking or driveway purposes within the City limits without first having obtained permission to do so from the owners thereof, except when a special event license or special use permit has been issued by the City.

21-3-31 TRANSPORTING UNSEALED ALCOHOLIC LIQUOR PROHIBITED. No person shall transport on his person or in a vehicle alcoholic liquor in unsealed containers on the streets, public walkways, highways, alleys, or thoroughfares or upon or across any private premises commonly used for public parking and driveway purposes within the City limits without first having obtained permission to do so from the owners thereof.

21-3-32 PATRONS PROHIBITED FROM LEAVING PREMISES WITH OPEN CONTAINER OF ALCOHOLIC LIQUOR. No person shall leave a licensed premises with an open container of any alcoholic liquor. This Section shall not apply to persons leaving the licensed premises with open non-breakable containers containing alcoholic liquor during special events for which a license has been issued, provided the licensed premises are located within the confines of the geographical area of the public event. In the case of a licensed special event, open containers of any alcoholic liquor shall not be removed from the site on which the licensed special event is occurring.

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Sealing and removal of open wine bottles from a restaurant or winery. Notwithstanding any other provision of this Act, a restaurant licensed to sell alcoholic liquor in this State may permit a patron to remove one unsealed and partially consumed bottle of wine for off-premise consumption provided that the patron has purchased a meal and consumed a portion of the bottle of wine with the meal on the restaurant premises. Notwithstanding any other provision of this Act, a winery licensed to sell alcoholic liquor in this State may permit a patron to remove one unsealed and partially consumed bottle of wine for off-premise consumption. A partially consumed bottle of wine that is to be removed from the premises pursuant to this Section shall be securely sealed by the licensee or an agent of the licensee prior to removal from the premises and placed in a transparent one-time use tamper-proof bag. The licensee or agent of the licensee shall provide a dated receipt for the bottle of wine to the patron. Wine that is resealed in accordance with the provisions of this Section and not tampered with and transported in accordance with the restrictions of subsections (a) and (b) of Section 11-502 of the Illinois Vehicle Code shall not be deemed to violate Section 11-502 of the Illinois Vehicle Code. **(235 ILCS 5/6-33)**

21-3-33 PARENT'S ALLOWANCE OF RESIDENCE FOR INVITEES UNDER TWENTY-ONE (21) TO POSSESS OR CONSUME ALCOHOLIC LIQUOR PROHIBITED.

No parent or guardian shall permit his or her residence to be used by an invitee of the parent's child or the guardian's ward, if the invitee is under the age of **twenty-one (21)** and is in possession of alcoholic liquor or is consuming alcoholic liquor. A parent or guardian is deemed to have permitted his or her residence to be used in violation of this Section if he or she knowingly authorizes, enables, or permits such use to occur by (1) failing to control access to either the residence or the alcoholic liquor maintained in the residence; or (2) failing to control access to the residence by allowing alcoholic liquor to be brought to the residence by an invitee.

21-3-34 PERSON PERMITTING RESIDENCE TO BE USED TO HOST GATHERING WITH A PERSON UNDER TWENTY-ONE (21) YEARS TO POSSESS OR CONSUME ALCOHOLIC LIQUOR PROHIBITED.

No person shall knowingly permit at a residence, which he or she occupies, a gathering of **two (2)** or more persons where any **one (1)** or more of the persons is under **twenty-one (21) years** of age and the following factors also apply: (1) the person occupying the residence knows that any such person under the age of **twenty-one (21)** is in possession of or is consuming any alcoholic liquor; and (2) the possession or consumption of the alcoholic liquor by the person under **twenty-one (21)** is not otherwise permitted by this Act; and (3) the person occupying the residence knows that the person under the age of **twenty-one (21)** leaves the residence in an intoxicated condition.

For the purposes of this Section where the residence has an owner and a tenant or lessee, there is a rebuttable presumption that the residence is occupied only by the tenant or lessee.

21-3-35 RENTAL OF A HOTEL ROOM USED BY PERSONS UNDER TWENTY-ONE (21) – CONSUMING ALCOHOLIC LIQUOR BY PERSONS UNDER TWENTY-ONE (21) PROHIBITED.

No person shall rent a hotel or motel room from the proprietor or agent thereof for the purpose of or with the knowledge that such room shall be used for the consumption of alcoholic liquor by persons under the age of **twenty-one (21) years**.

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21-3-36 OCCUPANCY OF PREMISES WHERE ALCOHOL IS POSSESSED OR CONSUMED BY PERSONS UNDER TWENTY-ONE (21). No person under the age of **twenty-one (21) years** shall enter or remain in any house, building or premises under circumstances where the person knows or reasonably should know that alcoholic liquor is being illegally possessed or consumed by persons under the age of **twenty-one (21) years**. Any person under the age of **twenty-one (21)** who violates this Section shall be considered guilty of illegal possession of alcoholic liquor. Any person under the age of **twenty-one (21)** who violates this Section shall be charged with illegal possession of alcoholic liquor, and a violation of this Section shall constitute prima facie evidence of said charge.

21-3-37 PENALTIES FOR VIOLATIONS IN THE CIRCUIT COURT.

(A) Any person, firm or corporation who shall be found guilty of violating any provision of this Chapter shall, for each offense, be fined a sum of not more than **Seven Hundred Fifty Dollars (\$750.00)**.

(B) Any person, firm or corporation who shall be found guilty of violating any provision of this Chapter for a second time within a **twelve (12) month** period, shall, for each offense, be fined a sum of not less than **Seven Hundred Fifty Dollars (\$750.00)**.

(Ord. No. 1641-14; 05-06-14)

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