

ORDINANCE NO. 13-2012
AN ORDINANCE AMENDING CHAPTER 4
OF THE MUNICIPAL CODE OF THE
CITY OF EFFINGHAM, ILLINOIS
(LIQUOR CONTROL)
AS
ADOPTED BY THE CITY COUNCIL
OF THE CITY OF EFFINGHAM
MARCH 20, 2012

TABLE OF CONTENTS

ARTICLE I - GENERAL	1
Section I. Repeal.....	1
Section II. Short Title	1
Section III. Purpose	2
Section IV. Definitions	2-7
Section V. Adoption of State Law.....	8
ARTICLE II – LOCAL LIQUOR CONTROL COMMISSIONER.....	8
Section I. Mayor to be local liquor control commissioner	8
Section II. Duties of deputy to local liquor control commissioner.....	8
Section III. Appointment of assistants.....	8
Section IV. Compensation.....	8
Section V. Powers and Duties	8-12
Section VI. Records.....	12-13
ARTICLE III – RETAIL LICENSES AND PERMITS	13
Section I. License or permit required	13-14
Section II. License and permit classifications	14
Subsection A. License Classifications	14-20
Subsection B. Permit Classifications	20-25
Subsection C. Number of Licenses for Issuance.....	25
Section III. Application for license or permit.....	26
Subsection A. Application Requirements; Information to be Shown.....	26-30
Subsection B. Fingerprinting	30
Subsection C. Application Fee – Application for License; Application for Permit.....	30-31
Subsection D. Procedure for Issuance of New License or Permit	31
Subsection E. Annual Fees for License.....	31-32
Subsection F. Term of License; Prorating Annual Fees.....	32
Subsection G. Disposition of Fees	32
Subsection H. Separate License or Permit Required for Each Location.....	33
Subsection I. Continuing Obligation to Supply Information	33
Section IV. Restrictions on issuance of licenses and permits.....	34-38
Section V. Renewal	38
Section VI. Privilege Granted by License	39
Section VII. Transfer	39
Section VIII. Change of location	39
Section IX. Annexation of licensed premises	39-40
Section X. License or permit to be posted	40
Section XI. Hours of operation	40
Section XII. Revocation or suspension of license; imposition of fines on licenses or permits; notice; hearing; appeal	41-42

ARTICLE III – MISCELLANEOUS VIOLATIONS AND REQUIREMENTS.....	42
Section I. No sale, gift, or delivery to or by minors or incompetents.....	42-44
Section II. Employment of minors	44
Section III. Approval of sales	44
Section IV. Offensive persons	44
Section V. No gambling on premises	44
Section VI. Employees	45
Section VII. Transportation of alcoholic liquor.....	45
Section VIII. Serving to persons in motor vehicles.....	45
Section IX. Drinking on public way.....	45
Section X. Carrying and/or possession on a public way	45
Section XI. Private parking areas may be considered public for enforcement purposes; records	46
Section XII. Open containers.....	46
Section XIII. Consumption on premises.....	46
Section XIV. Sanitary facilities	46
Section XV. Sanitary conditions	46
Section XVI. Nude entertainment on licensed premises prohibited.....	47
Subsection A. Prohibited Conduct by Licensee or Permittee	47
Subsection B. Prohibited Conduct by Patrons	47-48
ARTICLE IV – PENALTY	48
ARTICLE V – MISCELLANEOUS PROVISIONS.....	48
Section I. Invalidity	48
Section II. Effective date	49
Section III. Repeal	49
EXHIBIT A – LIQUOR LICENSE CLASSIFICATIONS – NUMBER OF LICENSES	50

ORDINANCE NO. 13-2012

**AN ORDINANCE AMENDING CHAPTER 4
OF THE MUNICIPAL CODE OF THE CITY OF EFFINGHAM
(Liquor Control)**

WHEREAS, the City of Effingham, Illinois, is authorized, pursuant to 235 ILCS 5/4-1, to regulate the sale of alcoholic liquors within the corporate boundaries of the City of Effingham, Illinois; and,

WHEREAS, the City of Effingham, Illinois, is further authorized, pursuant to 235 ILCS 5/4-1, to issue licenses for the sale of alcoholic beverages; and,

WHEREAS, the City of Effingham, Illinois, is further authorized to revoke or suspend any license issued by the City pursuant to 235 ILCS 5/7-5; and,

WHEREAS, on the 19th day of April, 2011, the City of Effingham adopted Ordinance No. 23-2011, An Ordinance Amending Chapter 4 of the Municipal Code of the City of Effingham (Liquor Control); and,

WHEREAS, the City of Effingham currently exercises its authority to issue liquor licenses for the sale of alcoholic beverages within the City limits of the City of Effingham pursuant to the provisions of Ordinance No. 23-2011, as the same is codified at Chapter 4 of the Municipal Code of Effingham; and,

WHEREAS, after careful consideration, the City Council of the City of Effingham deems it to be in the best interest of the citizens of the City of Effingham to amend said Chapter 4 of the City of Effingham Municipal Code as provided for herein.

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF EFFINGHAM, ILLINOIS THAT:

ARTICLE I: GENERAL

SECTION I: REPEAL. The provisions of Chapter 4 of the Municipal Code of the City of Effingham, Illinois are hereby repealed and replaced by the following provisions.

SECTION II: SHORT TITLE. This Ordinance shall be known, may be cited, and is hereafter designated as "The City of Effingham Alcoholic Liquor Dealers Ordinance."

SECTION III: PURPOSE. This Ordinance shall be construed to the end that the health, safety, and welfare of the people of the City of Effingham shall be protected and temperance in the consumption of Alcoholic Liquors shall be fostered and promoted.

SECTION IV: DEFINITIONS. The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

A. “Alcohol” shall mean the product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, and includes synthetic ethyl alcohol. Alcohol shall not include denatured alcohol or wood alcohol.

B. “Alcoholic Liquor” shall mean to include Alcohol, Spirits, Wine, Beer, and other liquid or solid, patented or not, containing Alcohol, Spirits, Wine or Beer, and which is capable of being consumed as a beverage by a human being. The provisions of this Ordinance 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 of one percent, or less of alcohol by volume.

C. “Applicant” shall mean any person seeking to obtain a License or Permit, as the case may be, pursuant to this Ordinance.

D. “Beer” shall mean a beverage obtained by the alcoholic fermentation of an infusion or concoction of barley, or other grain, malt, and hops in water, and shall include, but is not limited to beer, ale, stout, lager beer, porter and the like.

E. “Brewer” shall mean a Person who is engaged in the Manufacture of Beer.

F. “Caterer” shall mean a Person who serves Alcoholic Liquors for consumption, either on-site or off-site, whether the location is licensed or unlicensed, as an incidental part of food service.

G. “Club” shall mean a corporation organized under the laws of this State, not for pecuniary profit, solely for the promotion of some common object other than the Sale or consumption of Alcoholic Liquors, kept, used and maintained by its members through the payment of annual dues, and owning, hiring, or leasing a building or space in a building, of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and provided with suitable and adequate kitchen and dining room space and equipment and maintaining a sufficient number of servants and employees

for cooking, preparing, and serving food and meals for its members and their guests; provided that such club files with the Local Liquor Control Commissioner at the time of its application for a license under this Ordinance two copies of a list of names and residences of its members, and similarly files within 10 days of the election of any additional member his or her name and address; and, provided further, that its affairs and management are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting and that no member or any officer, agent, or employee of the Club is paid, or directly or indirectly receives, in the form of salary or other compensation any profits from the distribution or sale of Alcoholic Liquor to the Club or the members of the Club or its guests introduced by members beyond the amount of such salary as may be fixed and voted at any annual meeting by the members or by its board of directors or other governing body out of the general revenue of the Club.

H. “Consumption Sales” shall mean the Sale or offering for Sale at Retail of any Alcoholic Liquor for consumption on the Licensed Premises where sold.

I. “Continuous Operation” shall mean the operation of a licensed business for at least five hours a day for a period of at least five days a week.

J. “Convicted” shall mean and include a plea of guilty, a plea of no contest, or probation or any plea admitting guilt or admitting the facts of an offense; and it means and includes any finding of guilty by a court, a jury, an administrative agency or any other trier of fact.

K. “Delivery” shall mean the act of transferring or giving in any manner or by any means Alcoholic Liquor to another by any Person, whether as principal, proprietor, agent, servant or employee.

L. “Distiller” shall mean a Person who distills, ferments, brews, makes, mixes, concocts, processes, blends, bottles, or fills an original package with any Alcoholic Liquor. This definition includes a Manufacturer of Wine but not a Manufacturer of Beer or bottler of Wine.

M. “Distributor” shall mean any Person, other than a manufacturer or non-resident dealer licensed under the Illinois Liquor Control Act of 1934, 235 ILCS 5/1-1 et seq., who is engaged in the City of Effingham in purchasing, storing, possession or warehousing any Alcoholic liquors for resale or reselling at wholesale, whether within or without the City of Effingham.

N. “Golf Course/Club House” shall mean a public or private golf course with a club house having facilities used, kept and maintained as a place where food is served, such space being provided with adequate and sanitary kitchen and dining equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food items, or to allow for the catering of prepared food items.

O. “Hotel and/or Motel” shall mean every building or other structure, kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which twenty-five (25) or more rooms are used for the sleeping accommodations of such guests and having one or more public dining rooms where meals are served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or buildings in connection therewith and such building or buildings, structure or structures being provided with adequate and sanitary kitchen and dining room equipment and capacity.

P. “Illinois Liquor Control Act” shall mean an act passed by the Illinois General Assembly entitled “Illinois Liquor Control Act of 1934”, as amended (235 ILCS 5/1-1 *et. seq.*).

Q. “Illinois Liquor Control Commission or State Commission” shall mean the commission created by Article III of the Illinois Liquor Control Act, (235 ICLS 5/3-1 *et. seq.*).

R. “Importing Distributor” shall mean any Person other than a non-resident dealer under the Illinois Liquor Control Act who imports into the State of Illinois, from any point in the United States outside the State of Illinois, whether for himself or for another, any Alcoholic Liquors for Sale or resale, or for use in the manufacture, preparation or compounding of products other than Alcoholic Liquors, or who imports into the State of Illinois, from any point in the United States outside the State of Illinois, for consumption in any one (1) calendar year, more than one (1) gallon of such liquors.

S. “Keg” shall mean any metal, wood, plastic, paper, or other container designed to hold four or more gallons of liquid and which actually contains any amount of Alcoholic Liquor.

T. “Licensed Premises” shall mean the area described in the application for the license or permit or the place where the business to be covered or covered by the license or permit is to be, or is carried on. Except for the issuance of a Permit, a Class B/E License, a Class C/E

License, a Class G License, a Class R/E License or a Class W/E License, this term shall include only the permanent structure housing the licensed business and shall not include a parking lot, sidewalk, covered walkway, any unenclosed area or property outside such permanent structure unless otherwise licensed or permitted in accordance with the provisions of this Ordinance.

U. “Licensee” shall mean any person, corporation, limited liability company, or partnership holding a license under the terms of this Ordinance.

V. “Manufacture” shall mean to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle or fill an Original Package with an Alcoholic liquor, whether for oneself or another, and includes blending but does not include the mixing or other preparation of drinks for serving by those persons authorized and permitted under this Ordinance to serve drinks for consumption on the Premises where sold. All containers or packaged of blended Alcoholic Liquors shall have affixed thereto a label setting forth and stating clearly the names of all ingredients which the blended Alcoholic Liquors offered for sale shall contain.

W. “Manufacturer” shall mean every Brewer, fermenter, Distiller, Rectifier, Wine Maker, blender, processor, bottler or Person who fills or refills an Original Package, whether for himself or for another, and others engaged in brewing, fermenting, distilling, rectifying, or bottling Alcoholic Liquors.

X. “Original Package” shall mean any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container, whatsoever, used, corked, or capped, sealed and labeled by the manufacturer of Alcoholic Liquor, to contain and to convey any Alcoholic Liquor.

Y. “Owner” shall mean the proprietor if a sole proprietorship, all partners (general and limited) if a partnership, all officers, directors and persons holding five (5) percent or more of the outstanding shares if a corporation, or all members holding five (5) percent or more of the outstanding membership interest if a limited liability company.

Z. “Package Sales” shall mean the Sale or Offering for Sale at retail of Alcoholic Liquor, in the Original Package, and not to be consumed or in fact consumed in whole or in part on the Licensed Premises where sold.

AA. “Permittee” shall mean any person, corporation, limited liability company, or partnership holding a Permit under the terms of this Ordinance.

BB. “Person” shall mean any individual, firm, partnership, organization, corporation, limited liability company, association, proprietorship or other legal entity. It shall also include an executor, administrator, trustee, receiver or other representative appointed according to law. Whenever the word "Person" appears in any section of this title prescribing a penalty or fine, as to partnerships or associations, the word shall include the partners or members thereof, and as to corporations or limited liability company, shall include the officers, agents or members thereof who are responsible for any violation of this title.

CC. “Public Property” shall mean (1) any public street, alley, sidewalk or public way, (2) all property owned by the United States, the State of Illinois or other State or any municipality or other political subdivision or agency thereof and (3) any property, including privately owned property, which is open to or held out for use by the public, except a “Licensed Premises” as defined above.

DD. “Public Selling Space” shall include all of the area between the floor and ceiling of the Premises which is open, accessible, and/or visible to the members of the general public, including the interior of any cooler or other refrigeration units or storage cases accessible and/or visible to the general public and any area with restricted public access, such as the areas behind sales counters, from which sales are made to members of the general public.

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

FF. “Resident Manager” or “Managing Agent” shall mean the person designated as manager within the application for license. The Resident Manager or Managing Agent must be a bona fide resident of the County of Effingham and must be a full-time employee of the Licensee who is physically present on a daily basis at the Licensed Premises not less than twenty-five hours per week; the Resident Manager or Managing Agent must have management authority including control of the premises, all books and records and must have authority to make decisions and give consent regarding any matter concerning the control of the premises. A general partnership, corporation, limited liability company, and similar business entities must conduct business by a Resident Manager or Managing Agent.

GG. “Retail Merchandise and Grocery Store” shall be defined as any place kept, used, maintained, advertised, and held out to the public as a place where at least five (5) of the following seven (7) categories of products can be purchased at retail: dairy products, baked goods, frozen foods, groceries, snack foods, health and beauty aids, and where a maximum fifteen percent (15%) of the total public selling space is devoted to the display of Alcoholic Beverages offered for sale.

HH. “Retailer” shall mean a Person who Sells, or offers To Sell, Alcoholic Liquor for use or consumption and not for resale in any form.

II. “Retail Establishment Where the Sale of Alcoholic Liquor is not the Principal Business” shall mean any establishment holding a license for the sale of Alcoholic Liquor wherein more than 50% of its gross sales or revenues in the preceding 12 months are for items or services other than Alcoholic Liquor.

JJ. “Sale” shall mean any transfer, exchange or barter in any manner, or by any means whatsoever, for a consideration, including the transfer of Alcoholic Liquors by and through the transfer or negotiation of warehouse receipts or certificates, and includes and means all Sales made by any Person, whether as principal, proprietor, agent, servant, or employee.

KK. “Sell at Retail or Sale at Retail” shall refer to and mean Sales for use or consumption and not for resale in any form.

LL. “Spirits” shall mean 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.

MM. “Theatre” shall mean a building or structure designed for and whose principal use is the presentation of musical, comedic, and theatrical performances.

NN. “To Sell” shall mean to receive an order for, to keep or expose for Sale, or to keep with intent to Sell.

OO. “Wine” shall mean 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.

PP. “Wine Tasting” shall mean an event in which Wine, Beer or other Alcoholic Liquor is served in small quantities for consumption as a sample

of product being sold by a License holder. Wine Tastings may be for free, for a fixed price for any quantity consumed, or sold by the drink.

SECTION V: ADOPTION OF STATE LAW. All of the provisions of the Illinois Liquor Control Act and of the rules and regulations issued by the Illinois Liquor Control Commission, which are or may hereafter be in force, which are applicable to the City of Effingham, are hereby incorporated into and declared to be a part of this Ordinance the same as if they were expressly set forth herein.

ARTICLE II: LOCAL LIQUOR CONTROL COMMISSIONER

SECTION I: MAYOR TO BE LOCAL LIQUOR CONTROL COMMISSIONER.

The Mayor shall be the local liquor control commissioner (hereinafter referred to as the "Local Liquor Control Commissioner") for the City and shall be charged with the administration of the provisions of the applicable provisions of the Illinois Liquor Control Act, this Ordinance, and of such ordinances, resolutions, rules and regulations relating to Alcoholic Liquor as may be enacted. The Mayor shall serve in such position ex officio and without any additional compensation.

SECTION II: DUTIES OF DEPUTY TO LOCAL LIQUOR CONTROL COMMISSIONER. The administrative assistant to the Mayor shall serve as the Deputy to the Local Liquor Control Commissioner. The Deputy shall receive all License and/or Permit applications, and issue all Licenses and Permits when directed to do so by the Local Liquor Control Commissioner. The Deputy shall also keep for the Local Liquor Control Commissioner a complete record of all licenses issued by the Local Liquor Control Commissioner under this Ordinance, minutes of meetings and hearings held by or under the direction of the Local Liquor Control Commissioner, and shall cause to be deposited all receipts and shall perform such other duties and functions as assigned by the Local Liquor Control Commissioner.

SECTION III: APPOINTMENT OF ASSISTANTS. The Local Liquor Control Commissioner may appoint any other qualified person or persons to assist in the exercise of the powers and performance of the duties imposed on the Local Liquor Control Commissioner by law and the provisions of this Ordinance, and of such ordinances and resolutions relating to Alcoholic Liquor as may be enacted.

SECTION IV: COMPENSATION. The City Council may, upon the recommendation of the Mayor, fix the compensation of the assistants and deputies of the Local Liquor Control Commissioner as may be deemed necessary for the proper performance of the duties vested in them by law.

SECTION V: POWERS AND DUTIES. The Local Liquor Control Commissioner shall have the following powers, functions, and duties:

A. Act on Applications. To receive applications and to investigate applicants.

B. Examination of Applicant. To examine, or cause to be examined, under oath, any applicant for a local license or permit or for a renewal thereof, and to examine or cause to be examined, the books and records of any such applicant; 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/she may authorize an agent to act on his/her behalf.

C. Grant or Denial of Original Licenses. To recommend to the City Council the granting or denial of all original licenses applied for or issued under this Ordinance.

D. Grant or Denial Renewal of Licenses. To grant or deny all applications for renewal of all licenses applied for under this Ordinance.

E. Grant or Denial of Permits. To grant or deny all applications for permits applied for under this Ordinance.

F. Receipt of Fees. To receive local license fees and forward the same to the City Clerk.

G. Right of Entry. To enter or to authorize any law enforcement officer to enter at any time upon any premises licensed hereunder to determine whether any provisions of the Illinois Liquor Control Act, this Ordinance, or any ordinances and resolutions relating to Alcoholic Liquor have been violated and at such time to examine such premises of said licensee, including books and records in connection therewith.

H. Receipt of Complaints. To receive the complaint of any citizen within its jurisdiction, and to investigate upon such complaint, or to investigate on his/her own initiative, any alleged violation of any of the provisions of the Illinois Liquor Control Act, of this Ordinance, any ordinance enacted by the City, including this Ordinance, or any applicable rules and regulations adopted by the Local Liquor Control Commissioner or by the state commission, and to act upon such complaints in a manner provided herein.

I. Investigation of Complaints, etc. In response to complaints or upon reports from an investigating agent of the Local Liquor Control Commissioner to conduct hearings on alleged violations of any of the provisions of the Illinois Liquor Control Act, of this Ordinance, any ordinance enacted by the City, including this Ordinance, or any applicable rules and regulations adopted by the Local Liquor Control Commissioner

or by the state commission, and upon written notice, to examine or cause to be examined under oath complaints, license holders, and other interested parties. Furthermore, the Commissioner may examine or cause to be examined the books and records of any licensee under this Ordinance and may hear testimony and take proof as to the performance of the licensee's duties and for such purposes may issue subpoenas. For the purpose of obtaining any of the information desired by the Commissioner under this Ordinance or for administering or enforcing the provisions of this Ordinance, the Commissioner may, at his/her discretion, authorize an agent to act on his/her behalf.

J. Investigation of Violations. To investigate by all means, in accordance with law, violations of any of the provisions of the Illinois Liquor Control Act, of this Ordinance, any ordinance enacted by the City, including this Ordinance, or any applicable rules and regulations adopted by the Local Liquor Control Commissioner or by the State Commission.

K. Suspension or Revocation of License. To suspend or revoke any license, permit or certificate issued under this Ordinance or assess a fine, for each violation of law or ordinance, including, but not limited to, the following reasons:

(1.) The licensee has violated any of the laws of the United States relating to the sale of Alcoholic Liquor, or any of the provisions of the Illinois Liquor Control Act, of this Ordinance, any ordinance enacted by the City, including this Ordinance, or any applicable rules and regulations adopted by the Local Liquor Control Commissioner or by the state commission.

(2.) The willful making of any false statement as to a material fact in the application for a license, permit, or certificate or renewal thereof. Making a false statement shall include not making a complete statement of all relevant facts which relate to the situation.

(3.) Failure to use and maintain the Licensed Premises in compliance with all codes and regulations pertaining to health and safety applicable within the City of Effingham, including but not limited to Building, Plumbing, Electrical, Fire Codes and zoning regulations.

(4.) The refusal of any licensee to testify under oath to all relevant and material questions propounded to him at any hearing conducted by the Local Liquor Control Commissioner.

(5.) Refusal of any licensee or his/her employee or agent to produce for inspection by the Local Liquor Control Commissioner any document requested which may be relevant to any hearing or investigation of alleged violation(s) of the Illinois Liquor Control Act, this Ordinance, or any rule or regulation of the Local Liquor Control Commissioner.

(6.) The Illinois State Liquor Commission has suspended or revoked the license of the licensee.

(7.) That within sixty (60) days of the granting of a license, i.e. the approval of transfer or the passage of an ordinance, the Licensee has failed to operate the business at the location in the license except upon petition to and an order issued by the Local Liquor Control Commissioner granting an extension period.

(8.) The Licensee has failed to keep the business referred to in the license in Continuous Operation after the business has been opened.

(9.) Failure to adhere to any changes or requirements imposed as a condition of being issued a license by the Local Liquor Control Commissioner.

(10.) Failure to make formal application to have a background investigation completed on any new Manager within seven business days after any such Manager begins working.

(11.) Allow a coin-operated amusement device on the Licensed Premises, which has no valid license issued by the State of Illinois.

(12.) The failure to obey any lawful order of the Local Liquor Control Commissioner.

(13.) Employment of any Resident Manager or Managing Agent who would not be eligible to receive a license except for the reason of citizenship.

L. Initiate Legal Proceedings. To cause the initiation of legal proceedings under the penalty provisions hereof.

M. Other Necessary Actions. To take any and all action necessary and incidental to the furtherance of his/her duties and functions as set forth in this Ordinance.

N. To notify the Illinois Secretary of State where a Club incorporated under the General Not For Profit Corporation Act (805 ILCS 105/101.01 et

seq.) or a foreign corporation functioning under a certificate of authority issued under that Act has violated the Illinois Liquor Control Act or the provisions of this Ordinance by selling or offering for sale at retail Alcoholic Liquor without a retailer's license.

O. Rules and Regulations. To make, promulgate, alter, amend, repeal and enforce such reasonable rules and regulations relating to the administration and enforcement of the provisions of this Ordinance as may be deemed by him to be desirable.

P. Temporary Emergency Suspension. At any time, for the purposes of preserving the peace; protecting the safety of the public; or abating any imminent, continuing public nuisance or ongoing criminal or riotous behavior, the Chief of Police, or his/her designee, the Chief of the Fire Department, or his/her designee, or the Local Liquor Control Commissioner, or his/her designee, believe that the sale and/or consumption of Alcoholic Liquor at a particular establishment or event, licensed or permitted by the City to sell and/or serve Alcoholic Liquor, should cease for a fixed period of time, he/she may then issue a temporary emergency suspension of that establishment's or event's License or Permit to sell or serve Alcoholic Liquor, but in no case shall such temporary emergency suspension exceed twenty-four (24) hours from the time of its issuance, except as allowed by law or local ordinance.

Q. Exercise powers, etc. granted under Illinois Liquor Control Act and this Ordinance. To exercise all the powers, functions, and duties which now or hereafter may be granted to him by the Illinois Liquor Control Act, State Commission or by this Ordinance.

SECTION VI: RECORDS.

A. The Local Liquor Control Commissioner shall keep a separate file for each license issued pursuant to this Ordinance, which file shall contain the following material:

- (1.) A duplicate original of the license certificate;
- (2.) Certificate of dram shop insurance or other proof of financial responsibility;
- (3.) The application and other documentation as required to be attached to the application;
- (4.) The receipt showing payment of License or Permit fees;
- (5.) Property consents, if required;

(6.) A duplicate certificate of occupancy showing occupancy load and compliance with building and related Codes;

(7.) A copy of any charges, transcripts of administrative hearings, and disposition of charges, if any, against the Licensee or Applicant.

B. The records of the Local Liquor Control Commissioner shall be public and all proceedings of the Local Liquor Control Commissioner shall be open to the public.

ARTICLE III. RETAIL LICENSES AND PERMITS

SECTION I: LICENSE OR PERMIT REQUIRED.

A. Requirement: No Person shall, either by himself or through an agent, or any Person acting as an agent, barkeeper, clerk, servant or employee of another, Sell, or Offer for Sale, Possess or Display for Sale within the corporate limits of the City, any Alcoholic Liquor without first obtaining a License or Permit, as the case may be, from the Local Liquor Control Commissioner.

B. Exceptions: This Ordinance shall not prohibit nor prevent the possession and transportation of Alcoholic Liquor for the personal use of the possessor, his or her 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 or her family and guests; and provided further that nothing herein contained shall prevent any duly licensed practicing physician or dentist from possessing or using Alcoholic Liquor in the strict practice of his or her profession, or any hospital or other institution caring for sick and diseased persons, from possessing and using Alcoholic Liquor for the treatment of bona fide patients of such hospital or other institution; and provided further that any drugstore employing a licensed pharmacist may possess and use Alcoholic Liquors in the concoction of prescriptions of duly licensed physicians; and provided further, that the possession and dispensation 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 Ordinance provided that such wine shall be purchased from a licensed Manufacturer or Importing Distributor under the Illinois Liquor Control Act.

C. Conditions and Restrictions of Operation: Every License issued pursuant to this Ordinance shall be subject to such conditions and

restrictions of operation as the Local Liquor Control Commissioner, with approval of a majority of the City Council, may deem necessary and appropriate in connection with the public health, safety, and welfare. Any such conditions and restrictions shall be approved by a resolution duly adopted by the City Council, which resolution shall be incorporated by reference into the License issued by the Local Liquor Control Commissioner. Every Permit issued pursuant to this Ordinance shall be subject to such conditions and restrictions of operation as the Local Liquor Control Commissioner may reasonably deem necessary and appropriate in connection with the public health, safety, and welfare. Any such conditions and restrictions placed on a Permit shall be incorporated by reference into the Permit issued by the Local Liquor Control Commissioner.

SECTION II: LICENSE AND PERMIT CLASSIFICATIONS.

A. License Classifications: Licenses issued pursuant to this Ordinance shall be classified as follows and shall be subject to the limitations set forth:

(1.) Class B. (Bar/Tavern License - Consumption Sales Only). A Class B License shall entitle the Licensee to make Consumption Sales of any Alcoholic Liquor for consumption on the Licensed Premises, provided that this Class B License shall not authorize Package Sales.

(2.) Class B-1. (Bar/Tavern License - Consumption Sales and Package Sales). A Class B-1 License shall entitle the Licensee to make Consumption Sales and Package Sales of Alcoholic Liquor, except that this classification shall not be construed so as to permit Package Sales without also making Consumption Sales. Furthermore, for purposes of this Class B-1 License, Package Sales shall be secondary to Consumption Sales and shall not exceed fifteen percent (15%) of the Licensee's total gross sales or revenues of Alcoholic Liquor for any quarter of any year.

(3.) Class B/E. (Bar/Tavern - Extended Premises License - Consumption Sales and Package Sales). A Class B/E License shall entitle the Licensee to make Consumption Sales and Package Sales of Alcoholic Liquor, except that this classification shall not be construed so as to permit Package Sales without also making Consumption Sales. Furthermore, for purposes of this class B/E License, Package Sales shall be secondary to Consumption Sales and shall not exceed fifteen percent (15%) of the Licensee's total gross sales or revenues of Alcoholic Liquor for

any quarter of any year. For purposes of the regulations of a Class B/E License, the Licensed Premises may include the unenclosed area or property lying outside of, adjacent and contiguous to the permanent structure housing the licensed business, provided, that said unenclosed area or property outside such permanent structure is specifically designated in said Class B/E License. A Class B/E License shall not be issued for any premises which are less than one (1) acre in size. The Sale and consumption of Alcoholic Liquor outside of the building which houses the Licensed Premises shall be subject to any further conditions and regulations required by the Local Liquor Control Commissioner to promote and protect public safety and welfare.

(4.) Class C. (Club License). A Class C License shall entitle the Licensee to make Consumption Sales of Alcoholic Liquor on the Licensed Premises only, provided that this classification of license may only be issued to a Licensee defined as a Club. Such Sales shall be made only to members of such Club and member's invited guests.

(5.) Class C-1. (Club License - Consumption Sales and Package Sales). A Class C-1 License shall entitle the Licensee to make Consumption Sales and Package Sales of Alcoholic Liquor, provided that this classification shall not be construed so as to permit Package Sales without also making Consumption Sales, provided further that this classification of License may only be issued to a Licensee defined as a Club. Such Sales shall be made only to members of such Club and member's invited guests. Furthermore, for purposes of this class C-1 License, Package Sales shall be secondary to Consumption Sales and shall not exceed fifteen percent (15%) of the Licensee's total gross sales or revenues of Alcoholic Liquor for any quarter of any year.

(6.) Class C/E. (Club/Extended Premises License - Consumption Sales and Package Sales). A Class C/E License shall entitle the Licensee to make Consumption Sales and Package Sales of Alcoholic Liquor, provided that this classification shall not be construed so as to permit Package Sales without also making Consumption Sales, provided further that this classification of License may only be issued to a Licensee defined as a Club. Such Sales shall be made only to members of such Club and member's invited guests. Furthermore, for purposes of this Class C/E License, Package Sales shall be secondary to Consumption Sales and shall not exceed fifteen percent (15%) of the Licensee's total gross sales or revenues of Alcoholic Liquor for any quarter of any year. For purposes of the regulations of a Class C/E License, the

Licensed Premises may include the unenclosed area or property lying outside of, adjacent and contiguous to the permanent structure housing the licensed business, provided, that said unenclosed area or property outside such permanent structure is specifically designated in said Class C/E License. A Class C/E License shall not be issued for any premises which are less than one (1) acre in size. The Sale and consumption of Alcoholic Liquor outside of the building which houses the Licensed Premises shall be subject to any further conditions and regulations required by the Local Liquor Control Commissioner to promote and protect public safety and welfare.

(7.) Class G. (Golf Course License - Consumption Sales). A Class G License shall entitle the Licensee To Sell Alcoholic Liquor at retail, by the drink or pitcher or in the original package, by a Golf Course/Club House, for consumption in the club house and on the Golf Course only. The Class G License shall only be available for premises defined as a Golf Course/Club House within this Ordinance which has a minimum of 20 total acres. A Class G License shall permit the Licensee to sell Alcoholic Liquor for consumption within the club house and any defined area adjacent thereto (as described in the application) and to sell Alcoholic Liquor for consumption from mobile carts with the number of such mobile carts to be operated on the Golf Course to be limited to not more than four (4). In addition to such mobile carts, the Licensee may sell Alcoholic Liquor at fixed refreshment stands at locations approved by the Local Liquor Control Commissioner. The Sale of Alcoholic Liquor on the Golf Course outside of the club house shall be subject to any further conditions and regulations required by the Local Liquor Control Commissioner to promote public safety and welfare.

(8.) Class M. (Retail Merchandise and Grocery Store License - Package Sales Only). A Class M License shall authorize the Licensee to sell Alcoholic Liquor, in the Original Package only, for consumption off the Licensed Premises, but shall not authorize Consumption Sales on the Licensed Premises, provided that this classification of license may only be issued to a Licensee whose principal business is a Retail Merchandise and Grocery Store where a maximum fifteen percent (15%) of the total Public Selling Space is devoted to the display of Alcoholic Liquor offered for Sale. This License may not be issued to an establishment which sells fuel. No Class M License shall be issued unless a permanent, opaque wall separates the area of sale of the groceries and the area of Sales of packaged Alcoholic Liquor which can be closed off and padlocked during closing hours. All Alcoholic

Liquor purchased on the Premises must be checked at a separate checkout facility designated solely for the Sale of Alcoholic Liquor. Notwithstanding any other provision of this Ordinance, no person who has not attained the age of twenty-one (21) may be employed for the purpose of making sales of Alcoholic Liquor at an establishment holding a Class M License.

(9.) Class P. (Package Store License - Package Sales Only). A Class P License shall entitle the Licensee to sell Alcoholic Liquor in the Original Package only, for consumption off the Licensed Premises, but shall not authorize consumption on the Licensed Premises. This classification of license shall only be issued for a location used for the business of Package Sales of Alcoholic Liquor and shall not be issued to a retail establishment where the Package Sale of Alcoholic Liquor is not the principal business. Notwithstanding any other provision of this Ordinance, no person who has not attained the age of twenty-one (21) may be employed for the purpose of making sales of Alcoholic Liquor at an establishment holding a Class P License.

(10.) Class P-1. (Package Store/Wine Tasting License - Package Sales and Limited Consumption Sales). A Class P-1 License shall entitle the Licensee to sell Alcoholic Liquor in the Original Package only, for consumption off the Licensed Premises, provided, however, that the Class P-1 License shall also authorize the Licensee to conduct Wine Tastings. This classification of license shall only be issued for a location used for the business of Package Sales of Alcoholic Liquor and shall not be issued to a retail establishment where the Package Sale of Alcoholic Liquor is not the principal business. For purposes of regulation of a Class P-1 License, all Wine Tastings and any consumption of Alcoholic Liquor shall be conducted in and restricted to a specific room or area within the Licensed Premises that is sufficiently separated from the remainder of the Licensed Premises by walls or other physical barriers such that the admission by individuals under the age of twenty-one (21) may be effectively restricted. Notwithstanding any other provision of this Ordinance, no person who has not attained the age of twenty-one (21) may be employed for the purpose of making sales of Alcoholic Liquor at an establishment holding a Class P-1 License.

(11.) Class R. (Restaurant License - Consumption Only) A Class R License shall entitle the Licensee to make Consumption Sales of any Alcoholic Liquor for consumption on the Licensed Premises, provided that this Class R License shall not authorize Package Sales, provided further that this classification of License

may only be issued to a Licensee defined as a Restaurant. For purposes of regulation of a Class R License, all sales of Alcoholic Liquor shall only be permitted as follows:

(a). In a Restaurant dining area provided that the sale is incidental and complementary to the sale and service of a complete meal served and eaten at a table within the Restaurant; or,

(b) In a bar service area adjacent to the dining area located within a Restaurant, with or without the sale of a meal, provided that the square footage of the bar service area shall not exceed twenty-five percent (25%) of the total square footage of the Restaurant to which it is an accessory.

(12.) Class R-1. (Restaurant License - Consumption Sales and Package Sales). A Class R-1 License shall entitle the Licensee to make Consumption Sales of any Alcoholic Liquor for consumption on the Licensed Premises and Package Sales of Alcoholic Liquor, provided that this classification shall not be construed so as to permit Package Sales without also making Consumption Sales, provided further that this classification of License may only be issued to a Licensee defined as a Restaurant. For purposes of regulation of a Class R-1 License, all sales of Alcoholic Liquor shall only be permitted as follows:

(a). In a Restaurant dining area provided that the sale is incidental and complementary to the sale and service of a complete meal served and eaten at a table within the Restaurant; or,

(b) In a bar service area adjacent to the dining area located within a Restaurant, with or without the sale of a meal, provided that the square footage of the bar service area shall not exceed twenty-five percent (25%) of the total square footage of the Restaurant to which it is an accessory.

(13.) Class R/E. (Restaurant/Extended Premises License - Consumption Sales and Package Sales). A Class R/E License shall entitle the Licensee to make Consumption Sales of any Alcoholic Liquor for consumption on the Licensed Premises and Package Sales of Alcoholic Liquor, provided that this classification shall not be construed so as to permit Package Sales without also making Consumption Sales, provided further that this classification of License may only be issued to a Licensee defined as a Restaurant. For purposes of regulation of a Class R/E

License, all sales of Alcoholic Liquor shall only be permitted as follows:

- (a). In a Restaurant dining area provided that the sale is incidental and complementary to the sale and service of a complete meal served and eaten at a table within the Restaurant; or,
- (b) In a bar service area adjacent to the dining area located within a Restaurant, with or without the sale of a meal, provided that the square footage of the bar service area shall not exceed twenty-five percent (25%) of the total square footage of the Restaurant to which it is an accessory.

For purposes of the regulations of a Class R/E License, the Licensed Premises may include the unenclosed area or property lying outside of, adjacent and contiguous to the permanent structure housing the licensed business, provided, that said unenclosed area or property outside such permanent structure is specifically designated in said Class R/E License. A Class R/E License shall not be issued for any premises which are less than one (1) acre in size. The Sale and consumption of Alcoholic Liquor outside of the building which houses the Licensed Premises shall be subject to any further conditions and regulations required by the Local Liquor Control Commissioner to promote and protect public safety and welfare.

(14.) Class T. (Theatre License - Consumption Sales Only). A Class T License shall entitle the Licensee to make Consumption Sales of any Alcoholic Liquor for consumption on the Licensed Premises, provided that this Class T License shall not authorize Package Sales, provided further that this classification of License may only be issued to a Licensee defined as a Theatre. Notwithstanding any other provision of this Ordinance, a Class T License shall not be required to comply with the Continuous Operation provisions as contained within this Ordinance. Furthermore, a Class T License shall only authorize the sale of Alcoholic Liquor during periods of time when individuals and/or groups are assembled on the Licensed Premises solely for the promotion of those purposes included in the definition of a Theatre contained in Paragraph MM of Section VI of Article I.

(15.) Class W-1. (Winery/Wine Shop License - Consumption Sales and Package Sales). A Class W-1 License shall entitle the Licensee to make Consumption Sales and Package Sales of Alcoholic Liquor, provided that this classification shall not

be construed so as to permit Package Sales without also making Consumption Sales. This classification of license shall only be issued for a location for which the primary business is the sale of Wine and shall not be issued to a retail establishment where the sale of Wine is not the principal business.

(16.) Class W/E. (Winery/ Wine Shop/Extended Premises License - Consumption Sales and Package Sales). A Class W/E License shall entitle the Licensee to make Consumption Sales and Package Sales of Alcoholic Liquor, provided that this classification shall not be construed so as to permit Package Sales without also making Consumption Sales. This classification of license shall only be issued for a location for which the primary business is the sale of Wine and shall not be issued to a retail establishment where the sale of Wine is not the principal business. For purposes of the regulations of a Class W/E License, the Licensed Premises may include the unenclosed area or property lying outside of, adjacent and contiguous to the permanent structure housing the licensed business, provided, that said unenclosed area or property outside such permanent structure is specifically designated in said Class W/E License. A Class W/E License shall not be issued for any premises which are less than one (1) acre in size. The Sale and consumption of Alcoholic Liquor outside of the building which houses the Licensed Premises shall be subject to any further conditions and regulations required by the Local Liquor Control Commissioner to promote and protect public safety and welfare.

B. Permit Classifications: Liquor Permits issued pursuant to this Ordinance shall be classified as follows and shall be subject to the limitations set forth:

(1.) Temporary-1 Permit. (Special Use Permit - Consumption Sales Only, for up to Three (3) Consecutive Days). A Temporary-1 Permit shall authorize a current holder of a License issued by the City of Effingham, a current holder of a comparable license issued by any town, city or village within Effingham County, Illinois, or a current holder of a comparable license issued by the County of Effingham, Illinois, to obtain a special permit for up to three (3) consecutive days which shall allow such Permittee to Sell At Retail Alcoholic Liquor for Consumption Sales only within an area specifically designated in the Permit, provided the Permittee submits an application therefore in the manner provided by Section III of this Article at least fourteen (14) days prior to the date for which the Temporary-1 Permit shall

be used. In addition to compliance with other requirements for licensed premises in this Ordinance, the Temporary-1 Permittee shall meet and operate in compliance with the following requirements:

- (a.)** All application procedures contained in Section III of this Article shall apply for an Applicant for a Temporary-1 Permit. The application shall also include the following:
 - (i.)** A statement of the days and hours during which Alcoholic Liquor is to be sold, provided that the hours of each day of said Temporary-1 Permit shall begin no earlier than 6:00a.m. CST and end no later than 12:00 midnight CST of the same calendar date.
 - (ii.)** If the Applicant is not the owner of record for the property designated for the site of the event, the Applicant must submit the written consent of the owner of such premises which shall be attached to the application. The written consent shall be dated not more than thirty (30) days prior to the application.
 - (iii.)** Provide proof of dram shop insurance, as required by Subparagraph 19, Paragraph A of Section III of this Article, covering the Premises to be utilized with the Temporary-1 Permit for the period of the Temporary-1 Permit.
 - (iv.)** Provide a written description and diagram of the proposed area to be permitted, including fencing if required, describe if the event is located outside, and security measures to be implemented at the proposed location of the event, all of which shall be subject to the review and approval of the Local Liquor Control Commissioner.

- (b.) A copy of the Temporary-1 Permit shall be displayed in accordance with Section X of this Article.
- (c.) No more than eight (8) such Temporary-1 Permits shall be issued to any Person in any calendar year.
- (d.) For purposes of a Temporary-1 Permit, the Permittee need not be a resident of the City of Effingham but shall be a resident of the County of Effingham, Illinois.
- (e.) The Temporary-1 Permit, if issued, shall not in any manner be regarded to relieve the Permit holder of complying with any other requirement of law.

(2.) **Temporary-2 Permit. (Special Non-Profit Event - Consumption Sales and Limited Package Sales.)** A Temporary-2 Permit shall allow any bona fide educational, fraternal, political, civic, religious or other non-profit organization to Sell at Retail Alcoholic Liquor for Consumption on the Premises or within any area specifically designated in the Permit. In addition, if the event for which the Temporary-2 Permit is granted is sponsored in whole or in part by the City, the Temporary-2 Permit may allow such organization to make Package Sales of Wine and Beer only for off-premises consumption upon such conditions and restrictions as are established for that event by the Local Liquor Control Commissioner. An applicant for a Temporary-2 Permit shall submit an application at least fourteen (14) days prior to the date for which the Temporary-2 permit shall be used. For purposes of the regulations of this section, the location of the event shall be deemed the licensed premises. In addition to compliance with other requirements for licensed premises in this Ordinance, the Temporary-2 Permittee shall meet and operate in compliance with the following requirements:

- (a.) All application procedures contained in Section III of this Article shall apply for an Applicant for a Temporary-2 Permit. The application shall also include the following:

- (i.) A statement of the days and hours during which Alcoholic Liquor is to be sold, provided that the duration of a Temporary-2 Permit shall be for a period of no longer than three (3) consecutive days. Furthermore, the hours of each day of said Temporary-2 permit term shall begin no earlier than 6:00 a.m. and end no later than 12:00 midnight of the same calendar date.
- (ii.) Describe with reasonable certainty the boundary of the area in which Alcoholic Liquor is to be sold.
- (iii.) If the Applicant is not the owner of record for the property designated for the site of the event, the Applicant must submit the written consent of the owner of such premises which shall be attached to the application. The written consent shall be dated not more than thirty (30) days prior to the application. This requirement shall not be applicable to an application for a Temporary-2 Permit involving public right-of-way.
- (iv.) Provide proof of dram shop insurance, as required by Subparagraph 19, Paragraph A of Section III of this Article, covering the Premises to be utilized with the Temporary-2 Permit for the period of the Temporary-2 Permit.
- (v.) Provide a written description and diagram of the proposed area to be permitted, including fencing if required, describe if the event is located outside, and security measures to be implemented at the proposed location of the event, all of which shall be subject to the review and approval of the Local Liquor Control Commissioner.

- (b.) A copy of the Temporary-2 Permit shall be displayed in accordance with Section X of this Article.
- (c.) No more than five (5) Temporary-2 Permits shall be issued to any bona fide educational, fraternal, political, civic, religious or other non-profit organization in any one (1) calendar year. Temporary-2 Permits issued for events that are sponsored in whole or in part by the City shall not count towards this limit.
- (d.) The Temporary-2 Permit, if issued, shall not in any manner be regarded to relieve the Permittee of complying with any other requirement of law.

(3.) **Wine Tasting Permit. (Consumption Sales and Limited Package Sales).** A Wine Tasting Permit shall authorize a current holder of a License issued by the City of Effingham, a current holder of a comparable license issued by any town, city or village within Effingham County, Illinois, or a current holder of a comparable license issued by the County of Effingham, Illinois, to hold Wine Tastings and make Package Sales of Wine and Beer only, within an area specifically designated in the Permit, provided the Licensee submits an application therefore in the manner provided by Section III of this Article at least fourteen (14) days prior to the date for which the Wine Tasting Permit shall be used. In addition to compliance with other requirements for Licensed Premises in this Ordinance, the Wine Tasting Permittee shall meet and operate in compliance with the following requirements:

- (a.) All application procedures contained in Section III of this Article shall apply for an Applicant for a Wine Tasting Permit. The application shall also include the following:
 - (i.) A statement of the hours during which Alcoholic Liquor is to be sold, provided the hours shall not exceed eight (8) full hours; and provided further that the hours shall not begin earlier than 6:00a.m. and end no later than 12:00 midnight of the same calendar date.

- (ii.) Provide a written description and diagram of the proposed area, including fencing if required, describe if the event is located outside, and security measures to be implemented at the proposed location of the event, all of which shall be subject to the review and approval of the Local Liquor Control Commissioner.
 - (iii.) If the Applicant is not the owner of record for the property designated for the site of the event, the Applicant must submit the written consent of the owner of such premises which shall be attached to the application. The written consent shall be dated not more than thirty (30) days prior to the application.
 - (iv.) Provide proof of dram shop insurance, as required by Subparagraph 19, Paragraph A of Section III of this Article, covering the Premises to be utilized with the Wine Tasting Permit for the time period of the Wine Tasting Permit.
- (b.) A copy of the Wine Tasting Permit shall be displayed in accordance with Section X of this Article.
 - (c.) No more than eight (8) such Wine Tasting Permits shall be issued to any Person in any calendar year.
 - (d.) The Wine Tasting Permit, if issued, shall not in any manner be regarded to relieve the Permit holder of complying with any other requirement of law.

C. Number of Licenses for Issuance: The number of Licenses to be issued per each respective license classification listed in Paragraph A of this Section II, shall be established by the City Council. This restriction on the number of licenses shall not limit the right to the renewal of any existing license, but as licenses are revoked, expire without renewal or for any other reason cease to exist, then the total number of licenses for each classification shall automatically

be reduced until the total of each such classification shall not exceed the number of licenses listed in Exhibit A, which is attached hereto and hereby incorporated by reference as though fully stated herein.

SECTION III: APPLICATION FOR LICENSE OR PERMIT

A. Application Requirements; Information To Be Shown: Any Person desiring a License or Permit authorized by this Article shall make application therefore to the Local Liquor Control Commissioner. A separate application shall be made for each license or Permit desired by the applicant. Such application shall be in writing upon forms prepared and furnished by the City. Each application for a License or Permit shall be signed by the applicant and verified by him by oath or affidavit, and shall be filed with the Deputy Local Liquor Control Commissioner. In case the Applicant is a partnership, all partners must sign and verify the application. In case the Applicant is a limited partnership, all general partners and any limited partner owning more than a five (5) percent interest in such limited partnership must sign and verify the application. In case the Applicant is a corporation or club, all officers, directors and any stockholders owning more than five (5) percent of the stock of such corporation must sign and verify the application and indicate their official position. In case the Applicant is a limited liability company, all members owning more than five (5) percent of the interest of such company must sign and verify the application and indicate their official position. In case any other person is to conduct the place of business as Resident Manager or Managing Agent of the Licensee he must also sign and verify the Application. The information requested in the application form must be furnished as to each person signing the application. Each application shall contain the following information and statements:

(1.) Name, age and address. The name, age and address of the Applicant in the case of an individual; in the case of a partnership, the names and addresses of the persons entitled to share in the profits thereof; in the case of a limited partnership, the names, ages, and addresses of all general partners, and of all limited partners owning more than a five (5) percent interest in such limited partnership; in the case of a corporation or Club, the objects for which organized, and the names, ages, and addresses of the officers, directors, and any stockholders owning more than five (5) percent of the stock of such corporation; in the case of a limited liability company, the objects for which organized, and the names, ages, and addresses of the members owning more than five (5) percent of the interest of such company; and in any case, the name and address of the Resident Manager or Managing Agent who is to conduct the place of business for which the License or Permit is sought. A Club shall attach to its application two (2) copies of a list of names and residences of its members.

(2.) *Residence in City.* Whether or not the Applicant, if an individual, is a bona fide resident of the City.

(3.) *Citizenship.* The citizenship of the Applicant, and if a naturalized citizen, the time and place of his naturalization.

(4.) *Location.* The location where he proposes to engage in the business for which the Application was submitted, and whether or not the proposed location is within one hundred (100) feet of any church, school, hospital, home for aged or indigent persons or for war veterans, their wives or children, or of any military or naval station.

(5.) *Sale of food.* Whether food for human consumption is to be sold in such place of business if the Application is allowed. Whether the business will be in combination with a Restaurant, and whether 50% of the gross receipts of the Licensed business will be or has been from the sale of such food with documentation as available and required by the Local Liquor Control Commissioner.

(6.) *Ownership of premises, name of landlord.* Whether the Applicant owns the premises for which a License or Permit is sought. Proof of ownership must be submitted in the form of a deed, tax bill or other qualifying document(s). If an Applicant for a License does not own the premises where the License is sought, he must submit the name of the landlord and the terms of the lease including the expiration of the lease or contract for deed. In the event the premises is contracted for deed or leased, a copy of the lease or contract for deed shall be attached to the Application. If an Applicant for a Permit does not own the premises where the Permit is sought, he must submit the written consent of the owner of such premises.

(7.) *Disposition of other applications.* Whether the Applicant has made application for a similar or other License or Permit on premises other than those described in this Application and the disposition of such other application.

(8.) *Suspension or revocation of previous licenses or permits.* Whether or not any License or Permit issued to him under this or previous ordinances relating to Alcoholic Liquor has ever been suspended or revoked.

(9.) *Former convictions relative to decency or morality.* Whether or not the Applicant has ever been convicted of being the keeper or an inmate of a house of ill fame, of pandering or of any other crime or misdemeanor opposed to decency or morality.

(10.) Connection with houses of ill fame. A statement that the Applicant is not, at the time of making the application, connected with a house of ill fame and that no such connection will occur during the existence of the License or Permit.

(11.) Former conviction of felony, etc. Whether or not the Applicant has ever been convicted of a felony, and whether or not he is disqualified to receive the License or Permit sought by reason of any manner or thing contained in the laws of the state or this Ordinance.

(12.) Agreement not to violate ordinances, etc. A statement that the Applicant agrees not to violate any provision of this Ordinance or other ordinances of this City or any law of the United States or of the state in the conduct of his business, and that in the event such promise is broken or if any statement contained in the Application is not true, that the license applied for may be immediately suspended or revoked.

(13.) Agreement to testify under oath and provide records, as required. A statement that the Applicant will testify under oath and subscribe to the truth in response to all relevant and material questions propounded to him, in any hearing conducted by the Local Liquor Control Commissioner, either before or after the issuance of a License or Permit to him, and that his failure to so testify shall be sufficient reason for the refusal to issue any such License or Permit to him, or the renewal thereof, or for the suspension or revocation of any License or Permit which has been issued to him. A statement that he will provide, on receipt of a lawfully authorized subpoena by the Local Liquor Control Commissioner, any book or record of his licensed business in connection with any investigation conducted by the Local Liquor Control Commissioner, and that his failure to provide such books or records shall be sufficient reason for the refusal to issue any such License or Permit to him, or the renewal thereof, or for the suspension or revocation of any License or Permit which has been issued to him.

(14.) Statement as to receipt of money or credit from manufacturers or distributors. A statement that the Applicant has not accepted, received or borrowed money, or anything else of value, or accepted or received credit (other than merchandise credit in the ordinary course of business for a period not to exceed thirty (30) days directly or indirectly from any manufacturer, importing distributor or wholesaler of alcoholic liquor, or from any stockholder or officer of any corporation engaged in, or any other person connected with any such business.

(15.) Documentation of Limited Partnership. If Applicant is an Illinois limited partnership, a copy of the filed certificate of limited partnership and a certificate of good standing from the Illinois Secretary of State must be

attached. If Applicant is a foreign limited partnership, a copy of the filed certificate of limited partnership from the Illinois Secretary of State for admission to transact business as a foreign limited partnership in Illinois must be attached.

(16.) *Documentation of Corporation.* If Applicant is an Illinois corporation, a copy of the articles of incorporation and a certificate of good standing from the Illinois Secretary of State must be attached. If the Applicant is a foreign corporation, a certificate from the Illinois Secretary of State to conduct business in Illinois as a foreign corporation must be attached.

(17.) *Documentation of Limited Liability Company.* If Applicant is an Illinois limited liability company, a copy of the articles of organization and a certificate of good standing from the Illinois Secretary of State must be attached. If the Applicant is a foreign limited liability company, a certificate from the Illinois Secretary of State to conduct business in Illinois as a foreign limited liability company must be attached.

(18.) *Connection with police department or City Council.* A statement whether or not the Applicant, his or her spouse, or any member of the Applicant's household is a member or employee of the police department of the City, a City Commissioner, or the Mayor, and whether or not any such person is interested in any way, either directly or indirectly, in the License or Permit applied for, the premises, or the profits or proceeds from the sale of Alcoholic Liquor under the License or Permit applied for.

(19.) *Evidence of Insurance.* No License or Permit shall be granted to an Applicant until such Applicant shall furnish evidence satisfactory to the Local Liquor Control Commissioner that such Applicant is covered by a policy of dramshop insurance issued by a responsible insurance company authorized and licensed to do business in the state of Illinois insuring such Applicant against liability which such Applicant may incur under the provisions of 235 ILCS 5/6-21, and specifically designating the City as an additional insured, on a primary, non-contributory basis. The evidence of the insurance policy shall indicate that the term of the insurance is of sufficient length to encompass the period of the License or Permit sought.

(20.) *Type of License or Permit.* A statement as to what type of License or Permit being applied for. Following a review of the application and any additional documentation and information submitted by the applicant, the Local Liquor Control Commissioner retains the right to determine the appropriate classification of License to be issued.

(21.) Additional Requirements. The Local Liquor Control Commissioner may request additional information to be included in the application, which is necessary to effectuate the purposes of this Ordinance.

B. Fingerprinting of Certain Persons Prerequisite to Filing Application for License. Prior to filing an application for an original License required by this Ordinance, all persons required to be named in the application as provided in Section III, of Article III shall submit his or her fingerprints to the Department of State Police in the form and manner prescribed by the Department for a fingerprint records search. Each applicant shall be required to pay the fees, if any, associated with this process. No Application for License shall be considered, and no License shall issue until such time as the fingerprinting has been completed and documentation of completion is provided to the City.

C. Application Fee – Application for License; Application for Permit.

(1.) An Applicant for any License under the provisions of this Section shall, at the time of application, file with the Deputy Local Liquor Control Commissioner, a non-refundable application filing fee by certified check, cashier’s check, bank money order, personal money order or postal money order, which shall be in addition to the annual License Fee as listed in Paragraph E of this Section. This fee shall be paid by the applicant at the time the respective application is filed. The following application fees shall be paid by the Applicant for the following application type:

Application Classification:	Application Fee
1. Original Application/New License	\$1,000.00
2. Change of License Classification	\$500.00
3. Change of Ownership/Change of Business Entity Designation	\$500.00
4. Expansion of area of Licensed Premises	\$100.00
5. Change of Location for Licensed Premises	\$100.00

(2.) An Applicant for a Permit shall, at the time of application, file with the Deputy Local Liquor Control Commissioner, a non-refundable filing fee by certified check, cashier’s check, bank money order, personal money order or postal money order. Any fee assessed by this section shall not apply to any event for which a Permit is granted which is sponsored in whole or in part by the City. This fee shall be paid by each new applicant at the time the application is filed in the following amounts for the following Permit classification:

Temporary-1 Permit	\$100 per event if the event is one day or \$200 per event if the event is a two or three day
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	event for a resident of the City of Effingham OR \$200 per event if the event is one day or \$300 per event if the event is a two or three day event for nonresident of the City of Effingham
Temporary-2 Permit	\$50 per event for a resident of the City of Effingham OR \$75 per event for nonresident of the City of Effingham
Wine Tasting Permit	\$100/per event

(3.) No Application fee will be required of any Licensee holding a Liquor License from the City on the effective date of this Ordinance, or of any Licensee who first obtains a License from the City only because the property in which such Person previously holds a Liquor License was newly annexed into the City.

D. Procedure for Issuance of New License or Permit.

(1.) **License:** Application for a new License shall be filed with the Local Liquor Control Commissioner. After appropriate investigation of the Applicant's eligibility of a License, the Local Liquor Control Commissioner shall prepare a resolution authorizing a License to be issued to the Applicant. After the City Council has adopted the authorization resolution, the Applicant shall file the required annual fee as stated in Paragraph E of this Section with the Local Liquor Control Commissioner and the new License shall be issued.

(2.) **Permit:** Application for a Permit shall be filed with the Local Liquor Control Commissioner. After appropriate investigation of the Applicant's eligibility of a Permit, the Local Liquor Control Commissioner shall issue a Permit to the Applicant. Upon the application for issuance of a Permit, the Applicant shall file the required fee as stated in Paragraph C (2) of this Section with the Local Liquor Control Commissioner and the Permit shall be issued.

E. Annual Fees for License. The following annual License fees shall be paid by each Licensee in the following amounts for the following License classification:

Liquor License Classification:	Annual Fee:
(1.) Class B (Bar/Tavern License - Consumption Sales Only)	\$1,000.00
(2.) Class B-1 (Bar/Tavern License - Consumption Sales and Package Sales)	\$1,400.00

(3.)	Class B/E (Bar/Tavern/Extended Premises License - Consumption Sales and Package Sales)	\$1,500.00
(4.)	Class C (Club License - Consumption Sales Only)	\$850.00
(5.)	Class C-1 (Club License - Consumption Sales and Package Sales)	\$1,050.00
(6.)	Class C/E (Club/Extended Premises License - Consumption Sales and Package Sales)	\$1,200.00
(7.)	Class G (Golf Course License - Consumption Sales)	\$1,200.00
(8.)	Class M (Retail Merchandise and Grocery Store License - Package Sales Only)	\$1,000.00
(9.)	Class P (Package Store License - Package Sales Only)	\$1,000.00
(10.)	Class P-1 (Package Store/Wine Tasting License - Package Sales and Limited Consumption Sales)	\$1,400.00
(11.)	Class R (Restaurant License - Consumption Sales Only)	\$1,000.00
(12.)	Class R-1 (Restaurant License - Consumption Sales and Package Sales)	\$1,400.00
(13.)	Class R/E (Restaurant/Extended Premises License - Consumption Sales and Package Sales)	\$1,500.00
(14.)	Class T (Theatre License - Consumption Sales Only)	\$100.00
(15.)	Class W-1 (Winery/Wine Shop License - Consumption Sales and Package Sales)	\$1,400.00
(16.)	Class W/E (Winery/Wine Shop/Extended Premises License - Consumption Sales and Package Sales)	\$1,500.00

F. Term of License; Prorating Annual Fees. Each License shall terminate on the thirtieth day of April next following its issuance, unless sooner revoked. The annual fee to be paid shall be reduced in proportion to the full calendar months which have expired in the annual or semi-annual period prior to the issuance of the License.

An existing Licensee, who desires to renew his License for a period of time less than a full year, may renew such License for a three-month period or six-month period in lieu of a full year. Any Licensee electing to renew his License for less than a full year, shall pay a pro-rata fee for such License based upon the period of time for which such License is obtained.

G. Disposition of Fees. All application fees and annual License fees paid to the Local Liquor Control Commissioner shall be forthwith turned over to the City

Clerk. The City Clerk shall deposit said fees in the general corporate fund, or in such other fund as shall have been designated by the City Council after proper action.

H. Separate License or Permit Required for Each Location. A separate License or Permit must be obtained for each location desired by an Applicant for a License or Permit under the provisions of this Ordinance. No more than one License may be issued for any one Licensed Premises. Each License for the Sale of Alcoholic Liquor must be issued for a separate street address as determined by the address supplied by the Applicant and confirmed by the Local Liquor Control Commissioner, except that more than one License may be issued for one address, if no Licensee is a landlord or tenant of any other Licensee at the same address.

I. Continuing Obligation to Supply Information.

(1). The requirement to supply all information required in Paragraph A of Section III of this Article is a continuing one. If any supplied information or statements become invalid, it is the duty of the Licensee to provide updated information to the Local Liquor Control Commissioner.

(2). If a limited partnership, the Local Liquor Control Commissioner must be informed within 30 days of the sale or acquisition of a 5% interest in the limited partnership by any one general or limited partner, or upon any general or limited partner or combination thereof acquiring a 50% or greater interest in the limited partnership if such partner or combination was not shown to own a 50% or greater interest on prior application or renewal(s).

(3). If a corporation, the Local Liquor Control Commissioner must be informed within 30 days of the resignation or replacement of any officer or of the sale or acquisition of 5% of the corporate stock by any one stockholder or on any stockholder or combination of stockholders acquiring 50% or more of the stock if such stockholder or combination of stockholders was not shown to own 50% or more of the stock on prior application of subsequent renewal(s).

(4). If a limited liability company, the Local Liquor Control Commissioner must be informed within 30 days of the sale or acquisition of 5% interest in the limited liability company, or upon any member of the limited liability company or combination thereof acquiring a 50% or greater interest in the limited liability company if such member or combination was

not shown to own a 50% or greater interest on prior application or renewal(s).

SECTION IV: RESTRICTIONS ON ISSUANCE OF LICENSES AND PERMITS

A. No License or Permit authorized by this Ordinance may be issued to:

(1.) An Applicant under the age of twenty-one (21) or an Applicant under any legal disability.

(2.) An Applicant who is not of good character and reputation in the community in which he resides.

(3.) An Applicant who is not a citizen of the United States of America.

(4.) An Applicant who has been convicted of a felony, pandering or any other crime or misdemeanor opposed to decency and morality if the Local Liquor Control Commissioner determines, after investigation, that such person has not been sufficiently rehabilitated to warrant a public trust.

(5.) An Applicant who has been convicted of being the keeper or is keeping a house of ill fame.

(6.) An Applicant who has been convicted of a violation of any federal or state law concerning the manufacture, possession, or sale of Alcoholic Liquor, subsequent to July 12, 1937, or shall have forfeited his bond to appear in court to answer charges for any such violation, if the Local Liquor Control Commissioner determines, after investigation, that such person has not been sufficiently rehabilitated to warrant a public trust.

(7.) An Applicant convicted of any crime involving the illegal distribution or abuse of Alcoholic Liquor, including driving while intoxicated or illegal transportation of Alcoholic Liquor, if the Local Liquor Control Commissioner determines, after investigation, that such person has not been sufficiently rehabilitated to warrant a public trust.

(8.) An Applicant who previously had a license or permit issued under this Ordinance, or prior liquor control ordinance, revoked or denied renewal for any cause.

(9.) An Applicant who at the time of application for renewal of any License or Permit issued hereunder would not be eligible for such License or Permit on a first application.

(10.) An Applicant who is not a beneficial owner of the business to be operated by the Licensee.

(11.) A partnership, unless all of the members of such partnership shall be qualified to obtain a License or Permit.

(12.) A limited partnership, unless all of the general partners of such limited partnership shall be qualified to obtain a License or Permit and no limited partner owning more than a 5% interest in the limited partnership would not be eligible to receive a License or Permit hereunder for any reason other than citizenship and residence within the City.

(13.) A corporation, if any officer, director, or any stockholder or stockholders owning in the aggregate more than 5% of the stock of such corporation, would not be eligible to receive a License or Permit hereunder for any reason other than citizenship and residence within the City.

(14.) A limited liability company, if any member owning in the aggregate more than 5% interest in the limited liability company, would not be eligible to receive a License or Permit hereunder for any reason other than citizenship and residence within the City.

(15.) A limited partnership, unless it is organized in Illinois, or unless it is a foreign limited partnership, which is qualified under the Illinois Uniform Limited Partnership Act of 2001 to transact business in Illinois.

(16.) A corporation, unless it is incorporated in Illinois, or unless it is a foreign corporation which is qualified under the Business Corporation Act of 1983 to transact business in Illinois.

(17.) A limited liability company, unless it is organized in Illinois, or unless it is a foreign limited liability company which is qualified under the Illinois Limited Liability Company Act to transact business in Illinois.

(18.) A person who is not an actual resident of the City of Effingham, Illinois prior to the date of his or her application. In the case of a general partnership, residency shall not be required for partners, if the general partnership Applicant employs a Resident Manager to operate the business. In the case of a corporate Applicant, residency shall not be required for corporate officers and stockholders if the corporate Applicant employs a Resident Manager to operate the business. In the case of a limited liability company Applicant, residency shall not be required for limited liability company members if the limited liability company employs a Resident Manager to operate the business. In the case of a limited partnership Applicant, residency shall not be required for limited partners or general partners if the limited partnership applicant employs a Resident Manager to operate the business.

(19.) An Applicant whose place of business is to be conducted by a Resident Manager or Managing Agent who would not be eligible to receive a license for a reason other than citizenship.

(20.) An Applicant who does not own the Premises for which a License or Permit is being sought, or does not have a written lease for the full period for which the License or Permit is to be issued.

(21.) An Applicant leasing the Premises for which a License or Permit is being sought where the terms of the lease are in conflict with this Ordinance, any provision of the City Code or the Illinois Liquor Control Act.

(22.) Any law enforcing public official, including the Mayor, commissioners or any elected official; and no such official shall be interested directly or indirectly in the manufacture, sale, or distribution of Alcoholic Liquor, except that license may be granted to such official in relation to premises which are not located within the territory subject to the jurisdiction of that official, provided, however, that persons described herein may be members or unpaid officers of Clubs, as defined in Paragraph G of Section VI of Article I of this Ordinance, which are licensed in accordance with Paragraph A (2) of Section II of Article III of this Ordinance.

(23.) Any Applicant not eligible for a state retail liquor license.

(24.) An Applicant who has in any way failed to cooperate in a background investigation required by this Ordinance as ordered or authorized by the Local Liquor Control Commissioner.

(25.) An Applicant who fails to furnish information or to make statements required in the application for License or Permit as set forth in this Ordinance or requested by the Local Liquor Control Commissioner.

(26.) A Person who knowingly furnishes false or misleading information or falsely answers the statements required in the Application for a License or Permit, or one who furnishes false or misleading information on the application or to any investigator during the application process.

(27.) Any Applicant whose business appears underfinanced and whose credit history justifies the Local Liquor Control Commissioner's reasonable belief that the Applicant is financially unstable and that issuance of a License or Permit would not be in the public interest.

(28.) A Person who has been convicted of a gambling offense as proscribed by any of subsections (a)(3) through (a)(11) of Section 28-1 of, or proscribed by section 8-1.1 or 28-3 of the Illinois Criminal Code of 1961, or as proscribed by a statute replaced by any of the aforesaid statutory provisions.

(29.) 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 Raffles Act or the Illinois Pull Tabs and Jar Games Act.

(30.) Any Person if the following criteria is applicable: If any tax payable to the City or other debt owed to the City remains unpaid after its due date and the delinquent taxpayer or debtor (henceforth debtor) holds a License or a Permit, for the benefit of the debtor or his property, issued by the City, or the debtor applies for such License or Permit, the City Treasurer may request the licensing or issuing authority to suspend or refuse to issue, renew or extend such License or Permit. The Local Liquor Control Commissioner shall then suspend or refuse to issue, renew, or extend such License or Permit until such time as all taxes and outstanding debts are paid. Every Licensee or Applicant for License or Permit shall attest, under penalties of perjury that he has paid all taxes or other debts owed to the City.

(31.) An Applicant requesting a License or for Premises already licensed to another Licensee under this Ordinance.

(32.) Any Applicant who has not obtained and provided proof to the Local Liquor Control Commissioner of adequate dram shop insurance. The City of Effingham, Illinois shall be named as a certificate holder and it will be the responsibility of the insurer to notify all certificate holders of any restriction or termination of said policy. Failure to maintain adequate dram shop insurance shall be grounds for revocation of any License or Permit granted under this Ordinance. A Licensee is required to give notice within seven (7) calendar days to the Deputy Local Liquor Control Commissioner in the event its liquor liability insurance is restricted in any way or terminated for any cause. A Licensee must provide prior written notice regarding any changes of liquor liability insurance to the Deputy Local Liquor Control Commissioner thirty (30) days prior to the changes being made.

(33.) Any Applicant who uses or proposes to use a Licensed Premises, which are not in compliance with all applicable health and safety codes and regulations pertaining to the City of Effingham, including, but not limited to Building, Plumbing, Electrical, Fire Codes and Zoning Regulations.

SECTION V: RENEWAL.

A. Any Licensee may renew his License at the expiration thereof; provided, that he is then qualified to receive a License, and the Premises for which such renewal License is sought are suitable for the purpose; provided, further, that the renewal privilege herein contained shall not be construed as a vested right which shall in any case prevent the City Council from decreasing the number of Licenses to be issued within the City. Except for the original application fee, the requirements for and the procedures for obtaining a renewal of a License shall be the same as that provided for in case of an original application for a License, however, that any application for renewal shall be filed with the Local Liquor Control Commissioner not less than thirty (30) days prior to the expiration of the License.

B. The failure to renew a License as prescribed or to pay the required annual license fee before the expiration date shown on the License being renewed shall result in the lapse of the License. No Licensee may Sell Alcoholic Liquor after the expiration of his or her License until the License has been reissued after payment of the annual fee.

SECTION VI: PRIVILEGE GRANTED BY LICENSE.

A License issued under this Ordinance shall be purely a personal privilege, good for a period of time not to exceed one (1) year after issuance, unless sooner revoked as provided in this Ordinance. It shall not constitute property, nor shall it be subject to attachment, garnishment or execution, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such License shall not descend by the laws of testate or intestate devolution, but it shall cease upon the death of the Licensee; provided that, the executor of the will or administrator 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 at Retail of Alcoholic Liquor under order of the appropriate court, and may exercise the privileges of the deceased, insolvent, or bankrupt Licensee until the expiration of such License or until six (6) months after the death, insolvency or bankruptcy of such Licensee, whichever is the shorter period of time.

SECTION VII: TRANSFER.

All Licenses and Permits issued under this Ordinance shall be considered personal and no License or Permit may be transferred to any Person.

SECTION VIII: CHANGE OF LOCATION

Any License or Permit issued under this Ordinance shall be for a single and particular location. Upon application being filed with the Local Liquor Control Commissioner for a change of location, the Local Liquor Control Commissioner may allow the location authorized by a particular License or Permit to be changed. The application for a change of location shall be similar to that required of an original applicant for a License or Permit. After investigation, the change of location may be approved or rejected, as in the case of an original License or Permit application, and if approved, the authorized change of location shall be shown by endorsement upon the face of the existing License or Permit. Nothing contained herein shall be construed to permit any Licensee or Permittee to change the location of his business and/or event, or to operate his business, or a portion thereof, as a subtenant or otherwise at a site or place of business which, under the ordinances of the City, would be prohibited or denied to an original applicant.

SECTION IX: ANNEXATION OF LICENSED PREMISES.

Whenever the City annexes land on which a business is located which is licensed by the County of Effingham to Sell at Retail Alcoholic Liquor, the Local Liquor

Control Commissioner may issue a License of substantially the same License classification as that of the annexed premises provided that the Licensee and the Licensed Premises comply with all laws and ordinances applicable to the regulation of the Sale of Alcoholic Liquors, except that no application fee shall be charged and except that no annual license fee shall be charged for that period of time for which such Licensee has previously paid the County. The Licensee of any such annexed premises shall make application for a License not less than thirty (30) days before the effective date of the annexation of the licensed property.

SECTION X: LICENSE OR PERMIT TO BE POSTED.

Every Licensee or Permittee under the provisions of this Ordinance shall cause his License or Permit, as the case may be, to be framed and hung in plain view in a conspicuous place on the Licensed Premises which is visible to customers.

SECTION XI: HOURS OF OPERATION

A. Licensed Premises or Permitted Premises in the City may Sell or Offer for Sale Alcoholic Liquor on any day of the week, including Sundays. It shall be unlawful, however, to Sell or Offer for Sale at Retail any Alcoholic Liquor in the City between the hours of 1:00 a.m. and 6:00 a.m. on any day except for New Year's Day when it shall be unlawful to Sell or Offer for Sale at Retail any Alcoholic Liquor between the hours of 2:00 a.m. and 6:00 a.m.

B. It shall be unlawful to allow the consumption of any Alcoholic Liquor on a Licensed Premises between the hours of 1:30 a.m. and 6:00 a.m. except for New Years Day when it shall be unlawful to allow the consumption of Alcoholic Liquor on Licensed or Permitted Premises between the hours of 2:30 a.m. and 6:00 a.m. For the purposes of this Paragraph, "Licensed Premises" shall be construed to include the parking area owned or under the control of the Licensee upon when the Licensed Premises is located.

C It shall be unlawful to keep open for business or admit the public to any Licensed Premises where Alcoholic Liquor is sold at retail during the hours at which the consumption of such Alcoholic Liquor is prohibited; provided, however, that in the case of Restaurants, Clubs, Hotels, Motels, Golf Course/Club House, bowling alleys and other separate businesses conducted on such premises, such establishments may be kept open during such hours, but no Alcoholic Liquor may be sold during such hours.

SECTION XII: REVOCATION OR SUSPENSION OF LICENSE; IMPOSITION OF FINES ON LICENSES OR PERMITS; NOTICE; HEARING; APPEAL.

A. The Local Liquor Control Commissioner may revoke or suspend any License issued by him if he determines that the Licensee has violated any of the provisions of the Illinois Liquor Control Act, this Ordinance, any applicable rule or regulations established by the Local Liquor Control Commissioner or the Illinois State Commission. In addition to or in lieu of suspension or revocation, the Local Liquor Control Commissioner may instead levy a fine on a Licensee for such violations. Furthermore, the Local Liquor Control Commissioner may levy a fine on a Permittee if he determines that the Permittee has violated any of the provisions of the Illinois Liquor Control Act, this Ordinance, any applicable rule or regulations established by the Local Liquor Control Commissioner or the Illinois State Commission.

B. No such License shall be so revoked or suspended and no Licensee or Permittee shall be fined except after a public hearing by the Local Liquor Control Commissioner and written notice to the Licensee or Permittee affording the Licensee or Permittee an opportunity to appear and defend. All such proceedings shall be instituted by a written citation. Said citation shall state the particular provision, rule, or regulation alleged to have been violated and shall be signed by the Local Liquor Control Commissioner, or his or her designee. Said citation and a notice of hearing shall be served on the Licensee or Permittee named therein, not less than three (3) calendar days prior to the date specified in the notice of hearing. Service of the citation and notice of hearing on the Resident Manager shall constitute service on the Licensee or Permittee. If the Licensee's or Permittee's whereabouts are unknown or reasonable attempts to serve the Licensee or Permittee have failed, service shall be by publication in a newspaper of general circulation within the City of Effingham. Said Licensee or Permittee named in the citation and notice of hearing shall appear at the time and place designed in said citation and notice of hearing.

C. The hearing shall be conducted under the rules issued by the Local Liquor Control Commissioner. Such rules shall be consistent with the nature of the proceedings and shall ensure that each party may present evidence, cross-examine witnesses, and be represented by legal counsel. All such hearings shall be open to the public and the Local Liquor Control Commissioner shall reduce all evidence to writing and shall maintain an official record of the proceedings.

D. The Local Liquor Control Commissioner shall, within five (5) calendar days after such hearing, if he determines after such hearing that the license should be revoked or that the Licensee or Permittee shall be fined, state the reason or reasons for such determination in a written order, and either the amount of the fine to be imposed on the Licensee or Permittee, the period of suspension for a License, or that the license has been revoked. The amount of fine, the period or the suspension or the declaration of revocation, and all costs shall be clearly set

forth in said written order. All costs of the public hearing incurred by the City shall be charged to the Licensee or Permittee upon a determination of a violation and the issuance of an order setting forth a fine, suspension, revocation or any combination thereof. A copy of the written order shall be served on the Licensee or Permittee within the five (5) calendar days after the hearing. Service of the written order on the Resident Manager shall constitute service on the Licensee or Permittee. If the Licensee's or Permittee's whereabouts are unknown or reasonable attempts to serve the Licensee or Permittee have failed, service shall be by publication in a newspaper of general circulation within the City of Effingham.

E. If the Local Liquor Control Commissioner has reason to believe that any continued operation of a particular Licensed Premises will immediately threaten the welfare of the community he, or his designee, may, upon the issuance of a written order stating the reason for such conclusion and without notice or hearing order the Licensed Premises closed for not more than seven (7) calendar days, giving the Licensee or Permittee an opportunity to be heard during that period, except that if such Licensee or Permittee shall also be engaged in the conduct of other business or businesses on the Licensed Premises such order shall not be applicable to such other business or businesses.

F. Any review of decisions of the Local Liquor Control Commissioner shall be as provided for in Section 5/7-9 of the Illinois Liquor Control Act.

G. Any fine imposed pursuant to Paragraph A. of this Section shall not exceed \$1,000.00 for a first violation within a 12-month period, \$1,500 for a second violation within a 12-month period, and \$2,500 for a third or subsequent violation within a 12-month period. Not more than \$15,000 in fines under this Section may be imposed against any Licensee during the period of his License. Proceeds from such fines shall be paid into the General Corporate Fund of the City of Effingham. Any suspension imposed pursuant to Paragraph A. of this Section shall not exceed five (5) days for a first violation within a 12-month period, ten (10) days for a second violation within a 12-month period, and 180 days for a third or subsequent violation within a 12-month period. Each day on which a violation continues shall constitute a separate violation.

ARTICLE III: MISCELLANEOUS VIOLATIONS AND REQUIREMENTS

SECTION I: NO SALE, GIFT, OR DELIVERY TO OR BY MINORS OR INCOMPETENTS

A. No Licensee or Permittee, or any officer, associate, member, representative, agent or employee of such Licensee or Permittee shall Sell, give, deliver, or serve any 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 under legal disability or in need of mental treatment.

B. No person under the age of twenty-one (21) years shall purchase, accept, or procure or attempt to purchase, accept, or procure any Alcoholic Liquor from any Licensee or Permittee in the City or from any other person.

C. No Person shall purchase or otherwise obtain Alcoholic Liquor and then Sell, give, or deliver such Alcoholic Liquor to another person under the age of twenty-one (21) years unless in the performance of a religious ceremony or service.

D. For the purpose of preventing a violation of this Section, any Licensee or Permittee, or his agent or employee may refuse to Sell or serve Alcoholic Liquor to any person who is unable to produce adequate written evidence of identity and of the fact that he or she is twenty-one (21) years of age or older.

E. Adequate written evidence of age and identity of the person is a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act, or an identification card issued to a member of the armed forces. Proof that a Licensee or Permittee, or his agent or employee, demanded, was shown, and reasonable relied upon such written evidence in any transaction, prohibited by this Section is competent evidence and may be considered in any criminal prosecution therefore or to any proceedings for the suspension or revocation of any License or Permit based thereon.

F. It shall be unlawful for any Person under the age of twenty-one (21) years to provide any false or fraudulent written, printed, or photostatic evidence of the age and identity of such person or to sell, give or furnish to any person under the age of twenty-one (21) years, evidence of age and identification of any other person.

G. It shall be unlawful for any person under the age of twenty-one (21) years to present or offer to any Licensee or Permittee, or his agent or employee, any written, printed or photostatic evidence of age and identity which is false, fraudulent, or not actually his own for the purpose of ordering, purchasing or attempting to purchase or otherwise procuring or attempting to procure, the serving or Sale of any Alcoholic Liquor, or to have in his or her possession any false or fraudulent written, printed or photostatic evidence of age or identity.

H. It shall be unlawful for any person under the age of twenty-one (21) years to have any Alcoholic Liquor in his or her possession on any street or highway, in any public place, or in any place open to the public. This prohibition shall not apply to possession by a person under the age of twenty-one (21) years making a delivery of Alcoholic Liquor pursuant to the order of his or her parent or in pursuant of his or her employment.

SECTION II: EMPLOYMENT OF MINORS.

No Licensee, Permittee, or his agent or employee shall permit any person under the age of eighteen (18) years to attend any draw, to serve or dispense, or in any other way to handle Alcoholic Liquor, including packaged Alcoholic Liquor, upon his Licensed Premises.

SECTION III: APPROVAL OF SALES.

Every Licensee or Permittee operating under the provisions of this Ordinance shall so conduct his Licensed Premises that every Sale of Alcoholic Liquor is approved on behalf of the Licensee or Permittee by an adult (being twenty-one (21) years of age or older) competent person so designated by the Licensee or Permittee, as the case may be, with said adult being required to be physically present during such sales.

SECTION IV: OFFENSIVE PERSONS.

It shall be unlawful for any Licensee or Permittee or his or her employee or agent to permit in his place of business or in any area Licensed or Permitted for the Sale of Alcoholic Liquor, any person by tumultuous or offensive carriage, threatening, producing quarreling, challenging to fight, or fighting or to permit any person to display any pistol, knife, sling shot, club, brass, steel or iron knuckles, or any other deadly weapon.

SECTION V: NO GAMBLING ON PREMISES.

No gambling shall be permitted and no gambling device shall be kept in any premises Licensed or Permitted pursuant to this Ordinance. This prohibition, however, shall not apply to any game or gaming event for which a license or permit has been issued by the Illinois Department of Revenue or the Illinois Gaming Board pursuant to the Pull Tabs and Jar Games Act, 230 ILCS 20/1 *et. seq.*, the Bingo License and Tax Act, 230 ILCS 25/1 *et. seq.*, the Illinois Video Gaming Act, 230 ILCS 40/1 *et. seq.*, or the Charitable Games Act, 230 ILCS 20/1 *et seq.*, so long as such game or gaming event is conducted in compliance with all requirements of said acts and all rules and regulations of the Illinois Department of Revenue.

SECTION VI: EMPLOYEES.

It shall be unlawful to employ on 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 such premises or to engage in any way in handling, preparation or distribution of such Alcoholic Liquor.

SECTION VII: TRANSPORTATION OF ALCOHOLIC LIQUOR.

A. Except as provided in paragraph B of this Section, no person shall transport, carry, possess, or have Alcoholic Liquor within the passenger area of any motor vehicle upon a public way, including but not limited to public highways, alleys, or sidewalks, except in the original package and with the seal unbroken.

B. This Section shall not apply to passengers of a chartered bus when it is being used for purposes for which chartered buses are ordinarily used or on a motor home or mini motor home as defined in 625 ILCS 5/1-145/.01. However, this provision shall not extend to buses chartered for school purposes. Furthermore, this provision shall prohibit a driver of any such vehicle, including a chartered bus, motor home, or mini motor home, from consuming or having any Alcoholic Liquor in or about the driving area of such vehicle.

SECTION VIII: SERVING TO PERSONS IN MOTOR VEHICLES.

No Licensee, Permittee, or his agent or employees, shall serve, give, or in any manner be concerned with placing any Alcoholic Liquor in, upon, or about any motor vehicle or to any occupant of a motor vehicle whether such motor vehicle is moving or parked or is at a curb or in a public place or on the Licensed Premises or other private place except in the original package with the seal unbroken.

SECTION IX: DRINKING ON PUBLIC WAY.

No person shall consume any Alcoholic Liquor on any Public Property, including, but not limited to public highways, streets, alleys, parking lots and sidewalks, within the corporate limits of the City. This Section shall not apply if a Temporary-1 Permit, Temporary-2 Permit, or Wine Tasting Permit specifically authorizes the Sale of Alcoholic Liquors on Public Property.

SECTION X: CARRYING AND/OR POSSESSION ON A PUBLIC WAY.

No person shall carry or possess, transport or have any Alcoholic Liquor on any Public Property, including, but not limited to public highways, streets, alleys, parking lots and sidewalks, except in the original package with the seal unbroken, within the

corporate limits of the City. This Section shall not apply if a Temporary-2 Permit specifically authorizes carrying and/or possessing Alcoholic Liquors on Public Property.

SECTION XI: PRIVATE PARKING AREAS MAY BE CONSIDERED PUBLIC FOR ENFORCEMENT PURPOSES; RECORDS.

A. For the purposes of enforcing this Ordinance, privately owned or occupied parking lots and privately owned driveways, sidewalks, and open spaces shall be considered as “public places” or “public ways” if so requested by the owners or legal occupants thereof.

B. The Chief of Police is hereby directed to keep, or have kept on his behalf a file of all such requests made by the owners or legal occupants of any private parking lots or other areas described in paragraph A of this Section.

SECTION XII: OPEN CONTAINERS.

No Licensee or Permittee, or his officer, employee, or agent, shall permit and such persons are in fact obligated to attempt to prevent, without causing a breach of the peace, any person on the Licensed or Permitted Premises with consuming, carrying, possessing, transporting or having any open container of any Alcoholic Liquor on any Public Property. This Section shall not apply if a Temporary-1 Permit, Temporary-2 Permit, or Wine Tasting Permit specifically authorizes the Sale of Alcoholic Liquors on Public Property.

SECTION XIII: CONSUMPTION ON PREMISES.

It shall be unlawful for anyone not having a Class B, B-1, B/E, C, C-1, C/E, G, M, P, P-1, R, R-1, R/E, T, W-1 or W/E License or a Temporary-1, Temporary-2 or Wine Tasting Permit to Sell or Offer for Sale, Alcoholic Liquor for consumption on the Premises where sold, or to permit the same to be consumed on the Premises where sold.

SECTION XIV: SANITARY FACILITIES.

All Licensees shall provide separate toilets and washstands for male and female patrons, and shall maintain the same in a clean and sanitary condition.

SECTION XV: SANITARY CONDITIONS.

All premises used for the Retail Sale of Alcoholic Liquor or for the storage of Alcoholic Liquor for such Sale, shall be kept in a clean and sanitary condition, and shall be kept in full compliance with all Federal, State and/or local regulations concerning the condition of a premises used for the storage or sale of food for human consumption.

SECTION XVI: ORDINANCE NOT TO PERMIT ZONING VIOLATIONS.

Nothing contained in this Ordinance shall be so construed to permit the Sale of Alcoholic Liquor in any place where the conduct of such business is prohibited under the terms and provisions of the City's zoning regulations, as contained in Appendix B of the Municipal Code of Effingham.

SECTION XVII: NUDE ENTERTAINMENT ON LICENSED PREMISES PROHIBITED.

A. Prohibited Conduct by Licensee or Permittee:

(1.) No Licensee or Permittee shall permit any person, while on the premises and in public view, to:

(a.) Expose his or her genitals, pubic hair, buttocks, anus, or anal cleft; or

(b.) Employ any device or covering which is intended to give to appearance or simulate his or her genitals, pubic hair, buttocks, anus, or anal cleft; or

(c.) Appear without a fully opaque covering of his or her genitals, pubic hair, buttocks, anus or anal cleft.

(2.) No Licensee or Permittee shall permit any female, while on the Premises and in public view, to:

(a.) Expose that area of the human breast below the top of the areola; or

(b.) Employ any device or covering which is intended to give the appearance of or simulate that area of the human breast below the top of the areola; or

(c.) Appear without a fully opaque covering of that area of the human breast below the top of the areola.

B. Prohibited Conduct by Patrons:

(1.) No person, while on the premises of a Licensee or Permittee and in public view, shall engage in the following conduct:

(a.) Expose his or her genitals, pubic hair, buttocks, anus, or anal cleft; or

(b.) Employ any device or covering which is intended to give to appearance or simulate his or her genitals, pubic hair, buttocks, anus, or anal cleft; or

(c.) Appear without a fully opaque covering of his or genitals, pubic hair, buttocks, anus or anal cleft.

(2.) No female person, while on the Premises of a Licensee or Permittee and in public view, shall engage in the following conduct:

(a.) Expose that area of the human breast below the top of the areola; or

(b.) Employ any device or covering which is intended to give the appearance of or simulate that area of the human breast below the top of the areola; or

(c.) Appear without a fully opaque covering of that area of the human breast below the top of the areola.

ARTICLE IV: PENALTY

SECTION I:

A. Whoever violates any provision of this Ordinance shall, upon conviction, be subject to punishment as provided in section 1-14 of the Municipal Code of the City of Effingham, Illinois.

B. Every act or omission of whatsoever nature constituting a violation of any provision of this Ordinance, by any officer, director, manager or other agent or employee of any Licensee or Permittee, shall be deemed and held to be the act of such employer, Licensee or Permittee, and the employer, Licensee or Permittee shall be punishable in the same manner as if the act or omission had been done or omitted by him personally.

C. For violations of this Ordinance, the penalty provided in Paragraph A of this Section is in addition to, not in lieu of, any administrative action taken by the Local Liquor Control Commissioner as contained within Section XII of Article II of this Ordinance.

ARTICLE V: MISCELLANEOUS PROVISIONS

SECTION I: INVALIDITY. In the event a court of competent jurisdiction declares any particular provision of this ordinance to be invalid or unenforceable, the remaining provisions of this Ordinance shall be construed to be valid and enforceable. The invalidity of any part of this Ordinance shall not affect any other part or parts thereof.

SECTION II: EFFECTIVE DATE. This Ordinance shall be in full effect from and after passage and approval as provided by law.

SECTION III: Any ordinance of the City of Effingham contrary to the terms and conditions of this Ordinance shall be deemed to be repealed.

Placed on file this _____ day of _____, 2012.

Presented, passed and approved this _____ day of _____, 2012.

Commissioner Hirtzel: _____
Commissioner Milleville: _____
Commissioner Althoff: _____
Commissioner Harris: _____
Mayor Gillenwater: _____

YEAS: _____
NAYS: _____

CITY OF EFFINGHAM, ILLINOIS

Mervin D. Gillenwater, Mayor

ATTEST:

Kelsey R. Lock, City Clerk

EXHIBIT A

Liquor License Classification:	# of Licenses:
(1.) Class B (Bar/Tavern License - Consumption Sales Only)	1
(2.) Class B-1 (Bar/Tavern License - Consumption Sales and Package Sales)	9
(3.) Class B/E (Bar/Tavern/Extended Premises License - Consumption Sales and Package Sales)	2
(4.) Class C (Club License - Consumption Sales Only)	0
(5.) Class C-1 (Club License - Consumption Sales and Package Sales)	4
(6.) Class C/E (Club/Extended Premises License - Consumption Sales and Package Sales)	1
(7.) Class G (Golf Course License - Consumption Sales)	1
(8.) Class M (Retail Merchandise and Grocery Store License - Package Sales Only)	1
(9.) Class P (Package Store License - Package Sales Only)	7
(10.) Class P-1 (Package Store/Wine Tasting License - Package Sales and Limited Consumption Sales)	1
(11.) Class R (Restaurant License - Consumption Sales Only)	9
(12.) Class R-1 (Restaurant License - Consumption Sales and Package Sales)	3
(13.) Class R/E (Restaurant/Extended Premises License - Consumption Sales and Package Sales)	2
(14.) Class T (Theatre License - Consumption Sales Only)	1
(15.) Class W-1 (Winery/Wine Shop License - Consumption Sales and Package Sales)	1
(16.) Class W/E (Winery/Wine Shop/Extended Premises License - Consumption Sales and Package Sales)	1