

## Chapter 38

### INTOXICATING LIQUORS

Latest Revision: March 26, 2018 (2018-014, 2018-015, 2015-016)

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### **38.01 DEFINITIONS.**

The City adopts by reference the definitions contained in Article 1 of the Illinois Liquor Control Act, 235 ILCS 5/1 ("the Act"), except as expressly superseded herein.

**Alcohol Server:** An Alcohol Server is deemed to be any of the following: 1) any person who greets or seats patrons or who actually sells, pours or delivers Alcoholic Liquors to a customer (including waitresses, bartenders, cashiers, and other personnel); 2) in the case of any establishment with a Permitted Area for Bar Sales, any person responsible for monitoring access to the Permitted Area, for greeting or seating patrons; 3) the Manager of any licensed establishment; 4) in the case of a BYOB license, any employee who provides services relating to the consumption of Alcoholic Liquors (e.g. opens bottles or provides glasses or ice for use with Alcoholic Liquors); and 5) other similar employees or agents of a Licensee.

**Banquet:** Any public place kept, used, maintained and advertised as a facility for private functions such as receptions, meetings, symposiums, parties and similar events, with a minimum seating capacity of at least 100 patrons within a prescribed, confined area, where access to the private event is restricted in accordance with this definition. The base charges for any Banquet event are paid in advance, either with ticket sales conducted at least 48 hours prior to the event or with a host responsible for the base charges. Food is served based upon a limited set of fixed offerings included within the base charge, with seating capacity at tables with plates and silverware for all guests in attendance, and with seating being done in common areas. Alcoholic Liquors may be sold based upon a pre-paid package, a "tab" bar paid after the event, or a pay-per-drink basis. Attendance at Banquet events is not generally open to the public, but rather is limited to invited guests, employees, members or sponsors of the event. Alcoholic Liquors shall be sold for consumption on the premises only, and only to bona fide attendees of a Banquet event. In addition, a Banquet shall be deemed to include Permitted Brunch Events.

Permitted Brunch Events shall be events conducted on a Sunday or on a legal holiday identified in Section 3.45 of the City Code of Ordinances. For a Brunch Event, licensees shall not be required to sell tickets in advance, but may open events to the public and have payment at the time of the event. Brunch Events shall have a price for attending and eating, with one or more options for menu choices or with a buffet. Alcoholic beverages may be sold on a cash-bar (per-drink) basis, or may be included as a component of the entry price. Alcoholic beverages shall only be sold with Real Food, and no attendee shall be permitted to consume alcohol without a corresponding purchase of Real Food. Permitted Brunch Events shall require compliance with all other Banquet restrictions, including minimum seating for 100 persons, at tables with plates and silverware. (13-62)

**Bowling Alley:** Any public place kept, used and maintained where the game of bowling, played with composition balls and ten wooden or composite pins, is played, with a minimum of 10 lanes of bowling available to the public. Outside of a Permitted Area for Bar Sales or Restaurant Sales, if any, the Sale of Alcoholic Liquors shall only be made to persons who are actively engaged in playing or spectating a game of bowling.

**Building:** The fully-enclosed, heated and insulated area of a single structure, lawfully

permitted to be occupied by a Licensee's business, used for the purpose of furthering Licensee's business. In the case of a building with multiple-occupancies, that portion of the Building which is leased and operated by the applicant/Licensee for the licensed purposes—and any adjoining parts or units of said structure which are accessible to patrons without exiting through a lockable door to an outside or common area, not under control of the Licensee – shall be deemed to be the Building. The Liquor Commissioner's interpretation of what constitutes the Building shall be final. A separate liquor license shall be required for each separate Building. A Building shall not include any patio or other area that is not fully enclosed.

**BYOB:** A public place kept, used and maintained as a food service establishment as defined in Chapter 16 of the City Code, engaged in the service of Real Food, which permits customers to bring in their own Low ABV Alcoholic Liquors, for consumption by the customers, on premises, as the holder of a BYOB license under this Code.

**Cross Marketing:** Where permitted under the terms of this Chapter, Cross Marketing shall be deemed to include the display of alcohol at locations other than within a confined primary alcoholic liquor sales area, where done as a promotion showing Low ABV Beverages with an equally sized display of non-alcoholic products that are intended to be purchased and consumed in tandem (e.g. wine and cheese). Cross Marketing shall only be permitted for displays of Low ABV Beverages, and shall not be permitted for display of other alcoholic beverages, nor shall it be used for display of Low ABV Beverages without a corresponding non-alcoholic product display of equal size. Cross Marketing: 1) shall not be permitted within fifty (50) feet of any public entrance or exit to a licensed establishment; 2) shall be no more than fifty percent of the size of the primary alcoholic liquor sales area (but shall not be counted towards such Permitted Area size limitations); and 3) shall be subject to the implementation of reasonable controls on the location, size and nature of display, so as to provide for proper supervision of such areas. Any reference to Cross Marketing being permitted under the terms of this Chapter shall be deemed to include and require compliance with these restrictions.

**Grocery or Drug Store:** A building with at least 5,000 square feet open to the public, which space is used in furtherance of the primary business consisting of the direct retail sale of food items such as meats, grains, cereals, produce, baked goods, dairy products, canned and frozen prepared food products, beverages, household goods, pharmaceuticals and/or prescription drugs and similar items available for purchase to the consumer.

**Hotel:** A building or structure open to the public and advertised to be a place where sleeping accommodations are offered for pay to travelers or guests, which has at least 25 separate rooms for sleeping, and which has sleeping capacity for at least 50 guests, and which pays Hotel-Motel Tax to the City of DeKalb.

**Licensee:** The named holder of a liquor license.

**Liquor Production:** The on-site production, whether by a brewery, distillery, winery or other alcoholic beverage production facility, of alcoholic beverages including but not limited to beers, ciders, wines, distilled liquors, or any other alcoholic beverages whatsoever. (2017-019)

**Low ABV Beverages:** Beer, wine, wine coolers, or other alcoholic beverages having an alcohol content not exceeding 20% alcohol by volume.

**Manager:** The person or persons who control the business and day-to-day operations of the licensed premises, in lieu of or in addition to the owner(s) of the business holding the license.

**Open or Open Container:** A "container" shall mean any device containing a beverage, whether a cup, bottle, glass, can or other container. "Open" shall mean a container that is not hermetically sealed and is either unsealed to the air or which has been previously opened.

**Package Liquor Store:** A building open to the public and engaged in the retail sale of Alcoholic Liquors in the original package, licensed as a Package Liquor store hereunder.

**Permitted Area:** That portion of a Building or Premises which is legally authorized to be used for the Sale or consumption of Alcohol or Alcoholic Liquor, as approved by the Liquor Commissioner. The Permitted Area for each licensed establishment shall be identified in writing.

**Premises:** The building or buildings owned or leased by the Licensee and all appurtenances thereto, including but not limited to parking lots, patios, private sidewalks, walkways and yards. Premises shall not include any public sidewalks or roadways, unless such areas are subject to a valid lease or permit issued by the City to a Licensee, expressly authorizing the use of said areas for the Licensee's licensed business.

**Real Food:** Items of food listed on the establishment's menu as being for sale for immediate preparation and consumption on the Premises, not offered gratuitously, and not including potato chips, pretzels, nuts, popcorn, chips and salsa, or other similar substances.

**Sale:** Sale, sell, attempt to Sell, and Sell at Retail shall be interpreted as defined in the Act. In addition it shall include transfers or exchanges of Alcohol or Alcoholic Liquors for direct or indirect consideration, including selling, exchanging or dispensing Alcohol, providing mix, ice, water or glasses for consumption of Alcohol or providing shots or set-ups containing Alcohol.

### **38.02 ADOPTION OF ILLINOIS LIQUOR CONTROL ACT BY REFERENCE.**

The City of DeKalb herein adopts the provisions of the Illinois Liquor Control Act, 235 ILCS 5/1-1, *et. seq.*, as presently drafted and as may hereafter be amended, by reference, in its entirety ("the Act"). Any violation of the Act shall also be a violation of City Ordinance, punishable by fine.

### **38.03 LICENSE REQUIRED.**

It shall be unlawful to Sell or attempt to Sell, to Sell at Retail or otherwise to transfer for consideration any Alcohol or Alcoholic Liquor, within the City of DeKalb, without first having obtained and maintained a City of DeKalb Liquor License and complied with all terms thereof.

A violation of this Section shall be punishable by a fine of not less than Five Hundred Dollars (\$500.00) for a first violation, and punishable by a fine of not less than One Thousand Dollars (\$1,000.00) for second or subsequent violation.

### **38.04 APPLICATION FOR AND RENEWAL OF LIQUOR LICENSE OR PERMIT.**

- a) Any person seeking to obtain a City of DeKalb Liquor License shall apply for said license on a form acceptable to the Liquor Commissioner. Said form is generally contemplated to consist of a certified copy of an Application for a State of Illinois Liquor License, with such supplemental information as shall be required to comply with this Ordinance or as shall be required by the Liquor Commissioner. Submission of a false or misleading statement on a liquor license application or related paperwork shall be a violation of this Ordinance.
  - 1. In addition, as a condition of applying for or maintaining a City of DeKalb liquor license, the applicant shall copy the City on all subsequent correspondence or forms submitted to the Illinois Liquor Control Commission, and all documents, forms, licenses or correspondence received from the Illinois Liquor Control Commission.
  
- b) For purposes of applying for a liquor license, any person who is: a) required to be disclosed on the State of Illinois liquor license application; b) the owner of five percent (5%) or more of the proposed licensed establishment (hereafter, an "Owner"); or, c) proposed to be the Manager(s) of the licensed establishment, shall be required to be listed on the liquor license application and shall be required to complete all related requirements including a criminal history and background check (and shall pay all fees associated therewith). In the case of companies held under corporate ownership that do not have individual ownership of 5% or more of their stock, the applicant shall disclose at least one Manager for the establishment. In addition, the Liquor Commissioner may require any such corporate applicant to disclose additional information regarding its corporate status (or the ownership of parent or subsidiary companies), to confirm that the true owner(s) of said corporation are eligible for issuance of a liquor license. The required fees, fingerprinting and any related information shall be required to be submitted *at the time of application for a liquor license application to be considered complete*. The Applicant shall also, at the time of application, provide payment of the non-refundable application fee required under this Ordinance.
  - 1. All applicants are required to disclose at least one Manager who will be responsible for the operations of the licensed premises, and whose job will be primarily to run and operate the licensed premises. The Owner may

serve as the Manager. One person cannot serve as the Manager for multiple licensed premises; each licensed premises must have at least one designated and disclosed Manager.

- c) On a case-by-case basis, the Liquor Commissioner or Chief of Police may require applicants to submit to additional questioning, clarification, or investigation as they may determine appropriate to complete consideration of the application. Failure or refusal to complete said additional investigation shall be grounds for denial of an application.
- d) No license shall be issued to any business where any Owner or Manager is ineligible for issuance of a license under the terms of the Act or this Code, nor where any Owner or Manager is, in the judgment of the Liquor Commissioner, otherwise unsuitable for issuance of a liquor license. Further, no license shall be issued to:
  - 1. Any licensee where the license is prohibited by the applicable provisions of the Illinois Liquor Control Act, including but not limited to the then-current provisions of 235 ILCS 5/6-2, relating to the issuance of licenses where a City elected, appointed or law enforcement official is involved in the conduct of the licensed establishment.; (2016-017)
  - 2. Any person who furnishes false information, verbally or in writing, to the City in connection with a liquor license application or licensed establishment;
  - 3. Any establishment where any party listed on the application, in any capacity, is delinquent, by more than 30 days, in the payment of any obligation to the City, including but not limited to the payment of outstanding Restaurant, Bar and Package Liquor Tax, permit fees, water bills, ordinance violation fines or penalties, Liquor Code violation fines or penalties or any other City fines, charges, debts or penalties, whatsoever. Any Licensee that has a person or entity disclosed on its liquor license application that is more than thirty days delinquent in the payment of any amounts due the City shall: 1) be ineligible to receive a new or renewed liquor license; and 2) shall be subject to revocation of a license and imposition of fines and penalties, as a violation of this Liquor Code. Any liquor license revoked under this Section shall be subject to a reinstatement fee of \$500, following the payment of all outstanding amounts due to the City; or
  - 4. Any person or organization who denies to another the full and equal enjoyment of the proposed licensed facilities and/or services because of race, creed, color, gender, religion, sex, age, national origin or ancestry, physical or mental disability, marital status, matriculation, or sexual orientation. Such denial of the full and equal enjoyment of the proposed licensed premises or services thereof will be presumed if either such person or organization directly or indirectly publishes, circulates or displays any written communication, the intent and effect of which is to deny any person the full and equal enjoyment of the proposed licensed facilities and/or

services because of race, creed, color, gender, religion, sex, age, national origin or ancestry, physical or mental disability, marital status, matriculation, or sexual orientation; or in the case of an organization, its international, national, state or local constitutions, bylaws, articles or other official documents deny to any person the full and equal enjoyment of the organization and/or the proposed licensed facilities and/or services because of race, creed, color, gender, religion, sex, age, national origin or ancestry, physical or mental disability, marital status, matriculation, or sexual orientation.

- e) City-Specific Information. The Liquor Commissioner may require submission of any City-specific information desired, including but not limited to security measures to be employed, past ownership/management history, personal and business references, business operation and marketing plan, or other information deemed pertinent to the licensure or operation of the business.
  
- f) The issuance of an original liquor license shall be subject to the recommendation of City Staff and the recommendation of the Liquor Commissioner. The Liquor Commissioner's recommendation shall thereafter be subject to the approval of the City Council. The City Council shall have the authority to make additional inquiry or require additional documentation as shall be requested on a case-by-case basis. Notwithstanding the fact that the Mayor also serves as Liquor Commissioner, the Mayor shall be expressly authorized to provide a recommendation as Liquor Commissioner and to vote as Mayor. The issuance of renewal licenses and the issuance of specialty liquor licenses (e.g. caterer event, special event, outdoor special event, tasting/sampling) shall only require the approval of the Liquor Commissioner with a recommendation of City Staff. The conversion of a liquor license from one classification to another may either be approved by the Liquor Commissioner or, at the Liquor Commissioner's option, may be submitted to the City Council for review and approval. (2014-012)
  - 1. The City Council may, but shall not be obligated to issue a conditionally approved liquor license for Licensees who are otherwise qualified to hold a license and who have demonstrated compliance with all applicable provisions of this Chapter 38, but whose place of business is not yet eligible for issuance of a final certificate of occupancy or is otherwise ineligible for operation because of non-compliance with any other City Code or requirement. Such conditional licenses shall permit the applicant to obtain a state liquor license and shall permit the applicant to purchase and stock alcoholic beverages at the licensed premises, but shall not permit occupancy of the premises and shall not permit the sale of any alcoholic beverages until such point in time as all required City permits and approvals have been received by the Licensee. At such time as all other required City permits and approvals, including but not limited to a certificate of occupancy and final inspection, have been provided, the Liquor Commissioner shall be authorized to convert a conditionally issued liquor license to an unconditional liquor license, subject to the terms of this Chapter 38. Should a Licensee fail, within a time specified by the Liquor Commissioner, to obtain all required City

permits and approvals including but not limited to a certificate of occupancy, the Liquor Commissioner shall be authorized to revoke the conditional liquor license without any requirement of holding a public hearing or providing any due process. Any applicant/Licensee who requests a conditional license under this subsection f) shall execute a waiver agreeing and acknowledging the terms of this subsection, including the provisions relating to revocation. (2014-012)

- g) The application for an initial liquor license shall be forwarded to the Chief of Police. It shall be the duty of the Chief of Police to cause an investigation of such applicant and to issue a written report to the Liquor Commissioner, as to the applicant's character, within sixty (60) days, when practicable. No license shall be issued or reissued until such report has been completed and filed with the Liquor Commissioner. Notwithstanding any other provision in this Section, if a criminal case is pending at the time the application is pending, which if it were determined that the applicant committed such offense would render the applicant ineligible to receive or renew a license under the provisions of this Chapter, then action on the application will be delayed until such time as the case is concluded.

### **38.05 SUPPLEMENTAL FEE.**

In addition to all other fees contemplated by this Ordinance, the submission of an incomplete application for a liquor license or renewal form, or the failure to complete or submit other required documentation properly shall be subject to a Supplemental Processing Fee as provided on the official list of fees, or such other amount as the Liquor Commissioner shall determine, per occurrence.

### **38.06 INSURANCE.**

- a) Each application for a license required under this Chapter 38, and each application for the renewal of a license shall be accompanied by evidence of all required insurance, as described in Section b) below, in the form of a certificate of insurance acceptable to the Liquor Commissioner, issued by an insurance company licensed to do business in the State of Illinois.
1. The certificate shall insure the applicant and the owner or lessor of the premises for not less than the minimum liability amount required by this Ordinance.
  2. The City of DeKalb shall be named as an additional insured on the policy of comprehensive general liability insurance. (2017-055)
  3. Such certificate shall also on its face name the City of DeKalb as a certificate holder and provide that the City of DeKalb shall be entitled to thirty (30) days advance written notice of cancellation before expiration of such policy.
  4. Said coverage shall be from an insurer licensed to do business in the State of Illinois, and shall be kept current at all times. Licensees shall have



certificates of insurance immediately provided to the office of the Liquor Commissioner at the time of renewal and/or within ten (10) days of the date when at such time as a change in insurance carriers occurs. Upon request of the Liquor Commissioner, a Licensee shall provide evidence of current coverage at times other than initial application and renewal. All required insurance shall be required to provide coverage for the Premises and Building where a liquor license is maintained, and also to any Permitted Area for any Sale of Alcoholic Liquors (including any outdoor seating area or the area where any Outdoor Special Event, Caterer Event, Nonprofit Special Event or similar event is to be conducted).

- b) For purposes of this Section, the required insurance shall be defined to include:
  - 1. Dram shop insurance with policy limits at or in excess of the statutory minimum required under Illinois law.
  - 2. Comprehensive General Liability insurance with policy limits of not less than one million dollars per person/per occurrence.
- c) In addition to the foregoing requirements, applicants and Licensees are also required to maintain workers compensation, automobile liability and any other insurance required under applicable Illinois law as a condition of being eligible to obtain or maintain a liquor license. The City may demand proof of such coverage, in the form of a current certificate of insurance or other proof of insurance acceptable to the City, at any time a license is in place, or at any time while processing a license application or renewal application. However, notwithstanding the provisions of Section a) above, an applicant or Licensee is not required to name the City as additional primary insured on any such policy, nor is an applicant or Licensee required to post a current certificate of insurance with the City, except upon request.
- d) In the event of any liquor licensee seeking to conduct any event or sell any alcoholic beverage (either for consumption on premises or as package sales) on any real property owned by or leased by the City of DeKalb (e.g. a special event in a public location, the sale of alcoholic beverages pursuant to a City of DeKalb sidewalk lease, or otherwise), then both the comprehensive general insurance policy and the dram shop insurance policy required hereunder shall name the City of DeKalb as additional primary and non-contributory insured, without right of subrogation, and without any limiting clauses other than those which may be acceptable to the Liquor Commissioner. (2017-055)

### **38.07 CLASSIFICATIONS OF LIQUOR LICENSES.**

- a) **Package Liquor Store.** A Package Liquor Store license shall authorize the Retail Sale of Alcoholic Liquors by a Package Liquor Store in the original packaging, not for consumption on the Premises except as specifically permitted herein.
  - 1. A Package Liquor Store shall only engage in Package Sales under the restrictions of Section 38.10, and shall not engage in other forms of sale of

Alcoholic Beverages.

2. For purposes of those regulations, the entirety of the Building shall be deemed to be the Permitted Area and shall be subject to the entrance/age restrictions applicable to Package Sales.
  3. Package Liquor Stores shall not be permitted to have any other form of liquor license and shall not be eligible for Live Entertainment, Outdoor Special Event or Caterer Events permits.
  4. Package Liquor Stores shall be eligible for a Tasting Permit, which shall authorize limited consumption on the Premises.
- b) **Grocery or Drug Store.** A Grocery or Drug Store license shall authorize the Retail Sale of Alcoholic Liquors by a Grocery or Drug Store in the original packaging, not for consumption on the Premises except as specifically permitted herein.
1. A Grocery or Drug Store shall only engage in Package Sales, under the restrictions of Section 38.10, and shall not engage in other forms of sale of Alcoholic Beverages.
  2. The Permitted Area shall be defined in an exhibit submitted to and approved by the Liquor Commissioner. The Permitted Area shall not exceed the applicable square footage requirements permitted herein, and other than Cross Marketing, no Alcoholic Liquors shall be displayed or offered for Sale at any location outside the Permitted Area. The Permitted Area shall be subject to the entrance/age restrictions applicable to Package Sales. Additionally, while customers over the age of twenty-one (21) are permitted to possess Alcoholic Liquors which have been selected for purchase within other areas of the store, it shall be unlawful for any person under the age of 21, other than an employee of Licensee to possess Alcoholic Liquor at any location in the Premises. If permitted by the Liquor Commissioner, a Grocery or Drug Store may be authorized to maintain one or more locked liquor cabinets with transparent doors, of a size acceptable to the Commissioner, located behind a management counter at the front of the store, outside of the Permitted Area, to house small containers of alcoholic beverages (i.e. 475ml or less) securely, and may be permitted to sell such small containers of Alcoholic Liquors from the locked liquor cabinet.
  3. Grocery or Drug Stores shall not be permitted to have any other form of liquor license and shall not be eligible for Live Entertainment or Outdoor Special Event permits. Grocery or Drug Stores shall be eligible for Caterer Event permits.
  4. Building Sizes: There shall be three different forms of Grocery or Drug Store Licenses available, based upon the size of the proposed licensed Building in question. A Small classification shall apply to Buildings between 8,790 square feet and 19,999 square feet, with a maximum Permitted Area of

- 1,000 square feet. A Medium classification shall apply to Buildings between 20,000 square feet and 40,000 square feet, with a maximum Permitted Area of 2,000 square feet. A Large classification shall apply to Buildings of 40,001 square feet or larger, with a maximum Permitted Area of 4,000 square feet.
5. Cross Marketing: Cross Marketing shall be permitted for Grocery or Drug Stores, provided that the regulations herein are complied with.
  6. Grocery or Drug Stores shall be eligible for a Tasting Permit.
- c) **Bar.** A Bar license shall authorize the Retail Sale of Alcoholic Liquors for consumption on premises.
1. A Bar shall engage in Bar Sales. With an application for licensure, the applicant shall provide a building floor plan clearly delineating the Permitted Area for Bar Sales, which area shall be subject to the restrictions applicable to such sales.
  2. In addition, a Bar may engage in Package Sales of Alcoholic Liquors, not for consumption on premises, provided that said beverages shall be sold "over the counter." No Bar shall maintain any area that is accessible to the public, where patrons can select their own Alcoholic Liquors for purchase; all purchases must be made through Bar employees who retrieve the Alcoholic Liquors for Sale. No sales made as Package Sales may be consumed on-premises, and no Package Sales shall be made in an Open Container. An applicant seeking to operate a Bar engaging in Package Sales shall provide a floor plan showing where such package beverages shall be kept, and shall describe the security mechanisms used to ensure that such beverages are not consumed on-premises.
  3. In addition, a Bar may have a designated area, delineated on a floor plan submitted with its application for a liquor license, for use in Restaurant Sales. Said area shall be subject to the restrictions applicable to Restaurant Sales, and shall be separated from any area used for Bar Sales by a wall, stairway/grade separation, half-wall or other physical separation acceptable to the Liquor Commissioner. In the event that a Bar seeks to have an area available for Restaurant Sales, the Bar must offer restroom facilities for patrons in the Restaurant Area that can be accessed without entering the Bar Area (or passing beyond the physical separation between the Bar Area and Restaurant Area).
  4. All areas shall be clearly delineated on the applicant's floor plan, and shall be clearly delineated by appropriate signs in the Building, of a type and in a location acceptable to the Liquor Commissioner, indicating to the public the applicable restrictions. No area shall be "convertible" or multi-use for Restaurant *and* Bar use; outside of the permitted sales hours for Bars, a designated Permitted Area for Bar Sales may not be used for restaurant purposes, nor may a designated Permitted Area for Restaurant Sales be

used for Bar Sales.

5. Bar Licensees who choose to have a Restaurant Sales area shall be responsible for monitoring the boundary between Bar Area and Restaurant Sales Area, and shall be subject to fines and penalties under this Ordinance for violations of this Code.
6. A Bar may also apply for and obtain Live Entertainment, Outdoor Special Event or Caterer Events Permits.
7. A Bar shall be eligible for a Tasting Permit.
8. A Bar may also apply for and obtain a Hospitality License for Banquet Sales. In the event that a Bar seeks a Hospitality License for Banquet Sales, it shall pay the higher of the applicable Initial Issuance and Renewal License Fees.

**d) Restaurant.**

1. A Restaurant may only engage in Restaurant Sales, under the restrictions of Section 38.12, and shall not engage in any other form of Sales of Alcoholic Liquors. A Restaurant may not engage in Package Sales or Bar Sales, and shall not have a designated Bar area (unless the Restaurant also has a Bar license).
2. The entirety of the Building shall be deemed to be the Permitted Area for Restaurant Sales.
3. A Restaurant may also apply for and obtain Live Entertainment, Outdoor Special Event, BYOB or Caterer Events Permits. (2016-010)
4. Classifications: There shall be two classifications of Restaurant licenses available, both subject to the Restaurant Sales restrictions. Restaurants which seek to serve a full variety of Alcoholic Liquors may seek a Restaurant License. Restaurants which seek to serve only Low-ABV Liquors may seek a Restaurant License with a Low-ABV restriction. A Restaurant which seeks a Low-ABV Liquor license shall be restricted to only serving Low-ABV Beverages (and this restriction shall apply to all activities of the Licensee, including Live Entertainment, Outdoor Special Events, Caterer Events and Tasting).
5. A Restaurant may also apply for and obtain a Hospitality License for Banquet Sales. In the event that a Restaurant seeks a Hospitality License for Banquet Sales, it shall pay the higher of the applicable Initial Issuance and Renewal License Fees.
6. A Restaurant shall be eligible for a Tasting Permit.

**e) Hospitality.**

1. Hospitality licenses shall be available for Hotels, Banquets, and Bowling Alleys. They shall also be available to Bars and Restaurants as contemplated above.
2. For establishments that are full-time Hospitality Licensees, the entirety of the Building shall be deemed to be the Permitted Area for Hospitality Sales.
  - (a) In the event that a Restaurant or Bar wishes to also have a Hospitality License for Banquet Sales, it shall submit a floor plan showing a designated Banquet Area. The Banquet Area may be an area that is used for Bar or Restaurant purposes when not in use as a Banquet Facility. However, it must be capable of being physically separated (by a wall, half-wall, stairs/grade separation or other separation acceptable to the Liquor Commissioner) from the Bar or Restaurant Area of the Building when in use for Banquet purposes. Unless an area is expressly reserved for Banquet use at all times and is used for no other purpose, the Licensee shall give the City not less than 72 hours written notice of its intent to use the Banquet Area for Banquet purposes (and shall describe the nature and duration of the Banquet event contemplated). No separate City approval shall be required for Banquet use of the facility, provided that timely notice has been provided.
  - (b) A Bar that provides a Banquet Area must offer restroom facilities for patrons in the Banquet Area that can be accessed without entering any designated Bar Area that would be in use at the time of the Banquet. The Liquor Commissioner may require such additional maps, floor plans, or descriptions as shall be necessary to evaluate a request for a supplemental Hospitality License for Banquet Sales.
3. Hospitality Licensees shall engage only in sales of Alcoholic Liquors for consumption on the Premises. Hospitality Licensees shall not engage in Package Sales that are not intended for consumption on premises.
4. Hospitality Licensees may also apply for and obtain for Live Entertainment, Outdoor Special Event and Caterer Event permits.
5. Hospitality Licensees shall be eligible for a Tasting Permit.
6. A Hotel operating with a Hospitality License may operate a Hospitality license, Bar license and Restaurant license as one common license, provided that all liquor related operations of the Hotel are under common ownership and management. The license fees applicable to said license shall be the highest of the applicable fees for any of the sub-licenses. (2016-009)

**f) Public Entity/Non-Profit.**

1. Public Entity/Non-Profit ("PENP") licenses are available only to entities that are wholly-owned and operated by the state or federal government or a unit of local government, or which are wholly-owned and operated by a corporation or entity that is organized as a not-for-profit organization and which complies with all regulations and requirements applicable to not-for-profit organizations within the State of Illinois.
2. PENP Licensees shall be required to prepare and submit to the City a proposed operation agreement outlining their terms of operation and service, identifying their Permitted Area and their terms of sale of Alcoholic Liquors, and similar information. Such agreement, once in form acceptable to the Licensee and the Liquor Commissioner, shall be incorporated into the Licensee's liquor license, such that a violation of the Agreement constitutes a violation of this Ordinance. The Liquor Commissioner, or designee, is expressly authorized to negotiate and enter into such agreements, and to enforce the same as if the terms were expressly stated herein.
3. PENP licenses shall permit the Sale of Alcoholic Liquors for consumption on the Premises only, and shall not permit any Package Sales of Alcoholic Liquors. The operating agreement shall define whether the Licensee is responsible for adhering to the regulations applicable to Bar Sales, Restaurant Sales or Hospitality Sales.
4. PENP Licensees may also apply for and obtain Live Entertainment or Outdoor Special Event permits, but shall not be eligible for Caterer Event permits.
5. PENP Licensees shall be eligible for a Tasting Permit.

**g) BYOB. (2016-010)**

1. Standalone BYOB Licensure:
  - (a) A BYOB Licensee may not engage in the sale of alcoholic beverages, but may permit customers who are over the age of twenty-one (21) years to bring their own Low ABV Beverages into the premises, in their original, unopened, sealed containers, for consumption on the premises. It shall be unlawful to permit such consumption in any food service establishment which requires a Life-Safety License under applicable City Codes, without obtaining a BYOB license.
  - (b) The entirety of the Building shall be deemed to be the Permitted Area for BYOB activities.
  - (c) A BYOB establishment shall not be eligible for Live Entertainment, Outdoor Special Event, Tasting or Caterer Events permits.

- (d) Consumption of alcoholic beverages at a BYOB licensed establishment shall only be permitted when incidental to the service of a meal of Real Food, as defined herein. The Licensee is permitted to provide glasses, ice, and an ice-holder for customers, and may charge a corkage fee for the privilege of opening alcoholic beverages within the establishment (provided that such fee is prominently displayed at the establishment). The Licensee may not charge any additional fees for pouring, serving or permitting alcoholic beverages to be consumed, other than a per-bottle corkage fee. Any employee of the Licensee engaged in services relating to the service of Alcoholic Liquors shall be required to be an Alcohol Server.
  - (e) The service of alcohol, or permitting alcohol to be consumed on-premises, shall be conducted in accordance with the restrictions applicable to Restaurant Sales, under Section 38.12.
  - (f) In no event shall a Licensee permit more than six (6) twelve (12) ounce cans or bottles of beer, or an equivalent seventy-two (72) ounces of beer, in original containers, or one (1) 750 milliliter (ml) bottle of wine, in its original container, to be brought upon the premises by each individual customer or party of two (2) customers. Parties of customers larger than two (2) shall be limited to the above quantities per each (2) customers.
2. BYOB Supplemental License: (2016-010)
- (a) The holder of a valid Restaurant liquor license may apply to permit BYOB licensure as a supplemental license. Such supplemental license shall be subject to the payment of the additional BYOB licensure fee then-applicable. The permitted area for BYOB service shall be identical to the permitted area for restaurant liquor service.
  - (b) Consumption of alcoholic beverages in the BYOB format shall only be permitted when incidental to the service of a meal of Real Food, as defined herein. The Licensee is permitted to provide glasses, ice, and an ice-holder for customers, and may charge a corkage fee for the privilege of opening alcoholic beverages within the establishment (provided that such fee is prominently displayed at the establishment). The Licensee may not charge any additional fees for pouring, serving or permitting alcoholic beverages to be consumed, other than a per-bottle corkage fee. Any employee of the Licensee engaged in services relating to the service of Alcoholic Liquors shall be required to be an Alcohol Server.
  - (c) The Liquor Commissioner shall be permitted to approve BYOB licensure for existing City licensees.

**h) Golf Course.**

1. Golf Course licenses are available only to for-profit entities that privately own and operate golf courses within the corporate limits of the City of DeKalb. Publicly owned/operated golf courses shall be eligible for licensure under the PENP license program. A Golf Course license shall permit the sale of alcoholic beverages, either in prepared drinks or in the original packaging, for consumption on the premises of the golf course only. No package sales for consumption off the premises shall be permitted, and no person shall be permitted or authorized to remove alcoholic beverages purchased at a Golf Course from the Golf Course premises.
2. Within the interior portions of any building on the Golf Course premises, the Licensee may designate areas to be utilized as a Restaurant, areas to be utilized as a Bar, and areas to be utilized for Hospitality. Additionally, if the Licensee requests the same and specifically obtains approval from the City Council, the Licensee may designate areas of an indoor portion of its facilities to be utilized as indoor practice areas, where alcoholic beverages may be consumed by persons over the age of 21, with or without Real Food, and such indoor practice areas may also be utilized by persons under the age of 21 who are not engaging in the consumption of alcoholic beverages. The Licensee shall be responsible for devising a security plan outlining the proper supervision of such areas.
  - (a) In the event that a Golf Course wishes to also have a Hospitality License for Banquet Sales, it shall submit a floor plan showing a designated Banquet Area. The Banquet Area may be an area that is used for Bar or Restaurant purposes when not in use as a Banquet Facility. However, it must be capable of being physically separated (by a wall, half-wall, stairs/grade separation or other separation acceptable to the Liquor Commissioner) from the other areas of the Building when in use for Banquet purposes. Unless an area is expressly reserved for Banquet use at all times and is used for no other purpose, the Licensee shall give the City not less than 72 hours written notice of its intent to use the Banquet Area for Banquet purposes (and shall describe the nature and duration of the Banquet event contemplated). No separate City approval shall be required for Banquet use of the facility, provided that timely notice has been provided.
  - (b) A Golf Course that provides a Banquet Area or a Bar Area must offer restroom facilities for patrons in the Banquet Area or Restaurant Area that can be accessed without entering any designated Bar Area that would be in use at the time of the Banquet. The Liquor Commissioner may require such additional maps, floor plans, or descriptions as shall be necessary to evaluate a request for a supplemental Hospitality License or Bar License for a Golf Course.
3. On the exterior premises of the Golf Course, the Licensee may engage in the retail sale of alcoholic beverages, either in prepared drinks or in the original



packaging, for consumption on the premises of the golf course areas. This includes the sale of alcoholic beverages from outdoor bar areas or from golf carts or similar vehicles operated on the premises by the Licensee. The sale and consumption of alcoholic beverages on outdoor portions of the premises shall be permissible on the golf course, golf course pathways, and all outdoor portions of the Golf Course premises, except that *there shall be no sale or consumption of alcoholic beverages*: 1) in any driveway or parking lot areas where motor vehicles are authorized or permitted to drive; or, 2) within fifteen (15) feet of the exterior lot line of the premises. The Licensee shall be responsible for providing a site plan for the golf course, outlining the areas where sale and consumption are and are not permitted, for review and approval by the City. The City reserves the right to impose additional restrictions. Exterior premises of a Golf Course permitted for the sale or consumption of alcoholic beverages are not required to be completely enclosed/fenced.

4. A Golf Course Licensee shall pay the higher of the then-applicable application and renewal fees for a Bar or Restaurant license, and shall have the same term of license as a Bar.
5. Golf Course Licensees may also apply for and obtain Live Entertainment, Outdoor Special Event, and Tasting permits. Golf Course Licensees shall not be authorized to obtain Caterer permits or BYOB licensure. All package sales of alcoholic beverages shall be for consumption on the premises only.

i) **Liquor Production. (2017-019)**

1. Liquor Production liquor licenses are available for facilities within the City of DeKalb that engage in Liquor Production as defined herein, and which also engage in any retail sale of alcoholic beverages.
2. A Liquor Production liquor license shall only be available for a Premises that includes at least 1,000 square feet of dedicated floor space utilized on a continuous or nearly continuous basis for the commercial production of alcoholic beverages produced for commercial sale. Such area shall be required to comply with all applicable code and hygiene requirements of the City of DeKalb or any other agency having jurisdiction, and shall be required to be equipped with commercial equipment designed and permanently installed for the purpose of Liquor Production.
3. A Liquor Production licensee may produce alcoholic beverages within the facility. A Liquor Production licensee may also utilize portions of the premises as described in this subsection (3). The purposes outlined herein shall be permitted uses which shall not require any supplemental licensure. The floor plan for the Premises shall accurately describe the use of each area therein, and shall be

subject to the imposition of age limits and signage requirements in form and content acceptable to the Liquor Commissioner with the advice and recommendation of the Chief of Police. The Permitted Area for each type of activity shall be as defined on the approved floor plan for the Premises. More than one use may occur within given areas, in accordance with the following restrictions:

- (a) A portion of the Premises shall be required to be utilized for the on-site production of alcoholic beverages, as described above.
- (b) A portion of the Premises may be utilized for the on-site consumption of alcoholic beverages (indoors or outdoors), with or without a corresponding sale of Real Food.
- (c) A portion of the Premises may be utilized for Banquet liquor sales, and the licensee may designate an area either for permanent use as a Banquet facility or for temporary/convertible use. The Banquet Area may be an area that is used for on-site consumption of alcoholic beverage purposes when not in use as a Banquet Facility. However, it must be capable of being physically separated (by a wall, half-wall, stairs/grade separation or other separation acceptable to the Liquor Commissioner) from the other areas of the Building when in use for Banquet purposes. Unless an area is expressly reserved for Banquet use at all times and is used for no other purpose, the Licensee shall give the City not less than 72 hours written notice of its intent to use the Banquet Area for Banquet purposes (and shall describe the nature and duration of the Banquet event contemplated). No separate City approval shall be required for Banquet use of the facility, provided that timely notice has been provided. Banquet liquor sales shall be as provided for in Section 38.13.
- (d) A portion of the Premises may be utilized for the retail sale of package liquors, either produced on-site or produced elsewhere. For purposes of this Code, package liquors may be dispensed in the original container, or may be dispensed in sealed containers filled at the premises or elsewhere (e.g. bottles or growlers). If a portion of the Premises is used exclusively for the sale of package liquors, such area shall be restricted to permit access only by those who are 21 years of age or older, or in the company of their parent or legal guardian. If a portion of the Premises is used for on-site consumption of alcoholic beverages either at tables or at a bar, the licensee may engage in carryout package liquor sales of sealed containers to patrons who are seated in such areas as a component of their purchase from the licensee (provided that items sold as carryout package liquors shall not be consumed

on-premises). The licensee shall not be required to comply with the provisions of Section 38.10 or any conflicting provision of Section 38.21(a).

- (e) A portion of the Premises may be utilized for tasting or sampling of alcoholic beverages, either for charge or not for charge. Such area may be utilized in conjunction with other purposes (e.g. package liquor sales and tasting or sampling). All service of alcoholic beverages as a component of tasting or sampling shall be done only by an Alcohol Server, and only after verification of the recipient's age. The licensee shall not be required to comply with the provisions of Section 38.20 and shall not be required to obtain supplemental licensure for tasting and sampling.
  - (f) Given the unique nature of Liquor Production facilities and the large variety of operational models therefor, the City Council reserves the right to amend, modify, limit or waive any provision of this Chapter 38 through the Resolution approving of or amending an individual liquor license, as may be required to fully authorize or regulate an individual Premises or licensee. This Code specifically recognizes that such Resolution approving of a liquor license or conditions of operation may conflict with and/or supersede provisions of this Code.
- 4. Liquor Production licensees shall not be permitted to have Video Gaming Terminals, unless specifically approved by the City Council by Resolution, and then only in accordance with the conditions of approval.
  - 5. Liquor Production licensees shall be permitted to apply for supplemental licensure for Live Entertainment, Outdoor Special Events or Catering. For an existing Liquor Production licensee, approval of a supplemental license shall only require the authorization of the Liquor Commissioner.

### **38.08 TERM OF LICENSES AND LICENSE FEES.**

- a) License Fees: The fee applicable to the issuance or renewal of any license or permit contemplated herein shall be as provided in the official list of such fees maintained by the City of DeKalb from time to time. Additional fees for non-liquor licenses, inspections and permits (e.g. inspection fees, construction permit fees, etc.) shall also be applicable.
- b) Term of Licenses:
  - 1. Schedule and Fees Applicable to 2013-014: All liquor licenses issued prior to

the effective date of this revised Ordinance shall have a term as follows:

- (a) Bar and Package Liquor licenses renewed in 2013 shall have a term from September 1, 2013 through December 31, 2014. The fee for renewal of these licenses renewed in 2013 shall be determined by multiplying the fee that would otherwise apply under this Code by 1.33.
  - (b) Restaurant and BYOB licenses renewed in 2013 shall have a term from September 1, 2013 through April 31, 2015. The fee for renewal of these licenses renewed in 2013 shall be determined by multiplying the fee that would otherwise apply under this Code by 1.66.
  - (c) Grocery and Drug Store, Hospitality and PENP licenses renewed in 2013 shall have a term from September 1, 2013 through August 31, 2014. The fee for renewal of these licenses renewed in 2013 shall be determined by using the fee that would otherwise apply under this Code.
2. Schedule applicable following 2013-014 renewals: Following the terms described in subsection 38.08(b)(1) above, all liquor licenses issued or renewed shall have a term as follows:
- (a) Bar and Package Liquor licenses shall have a term from January 1 of a year to the last day in December of that year. Applications for renewal shall be due not later than December 1 of the year of the license. (E.g. a liquor license issued on January 1, 2016 shall be valid through December 31, 2016; a renewal application for that license shall be due not later than December 1, 2016). Liquor Production licensees shall have a liquor license term coterminous with the calendar year.
  - (b) Restaurant and BYOB licenses shall have a term from May 1 of a year to the last day of April of the following year. Applications for renewal shall be due not later than April 1 of the year in which the license expires. (E.g. a liquor license issued on May 1, 2016 shall expire on April 31, 2017; a renewal application for that license shall be due not later than April 1, 2017).
  - (c) Grocery or Drug Store, Hospitality and PENP licenses shall have a term from September 1 of a year to the last day of August of the following year. Applications for renewal shall be due not later than August 1 of the year in which the license expires. (E.g. a liquor license issued on September 1, 2016 shall expire on August 31, 2017; a renewal application for that license shall be due not later than August 1, 2017).
- c) Application, Initial Issuance and Renewal fees shall not be refundable, once tendered to the City.
  - d) For new licenses, the Initial Issuance fee shall be payable prior to issuance of the

license. Initial Issuance fees shall not be discounted or prorated. A new license issued in the last six (6) months of the then-current license term for the type of license sought shall be eligible for a discount on the next-due renewal fee of up to fifty percent 50%, which discount shall be calculated to be prorated such that an initial license issued with a six (6) month or greater remaining term receives no discount on the renewal fee, and a license issued with a one (1) day remaining term has a fifty percent (50%) discount on the renewal fee. Liquor Production liquor licenses shall have no Initial Issuance fee.

- e) Renewal license fees shall be paid, in full, at least thirty (30) days in advance of the current expiration date of a license. Any license renewal must include all required renewal documentation, in a format acceptable to the Liquor Commissioner (generally contemplated to consist of a certification that no changes have been made to the business, and/or a description of any changes that is acceptable to the Liquor Commissioner). Failure to submit a renewal application at least thirty (30) days before the date of expiration of an existing license shall result in the assessment of a Two Hundred Dollar (\$200.00) late fee. Failure to submit a renewal application at least seven (7) days before the date of expiration of an existing license shall result in the assessment of an additional Two Hundred Dollar (\$200.00) late fee. Failure to submit a renewal application by the expiration date shall result in the emergency suspension, revocation or expiration of a liquor license, as determined by the Liquor Commissioner.
  - 1. Licensees may pay license renewal fees in two installments, if desired. To pay in two installments, the Licensee must submit a payment equal to one half of the renewal fee, plus a supplemental fee of Two Hundred and Fifty Dollars (\$250.00) at the time of renewal, and must submit the second half of the renewal fee by the date which is five (5) months from the date of issuance of the license. In the event a Licensee fails to tender the second payment in a timely fashion, the liquor license shall expire and terminate on that date which is six (6) months following the date of issuance of the license.  
**The City shall not provide notice of the second payment due date.**
- f) Upon termination or non-renewal of any license, the Licensee shall immediately surrender its physical liquor license to the City and shall terminate all sales of alcoholic beverages. Any sales of alcoholic beverages or transactions involving alcoholic beverages following this license termination shall be treated as sales/transactions without a license under City Code. Any Licensee discontinuing a liquor license shall, upon discontinuation, notify the City, in writing, of its election to discontinue the license and immediately return and surrender the liquor license to the City. A Licensee which is closed for business for a continuous period of one hundred twenty (120) days or more shall be considered as discontinuing business under this Section and shall be subject to the return of its liquor license to the City. Such a Licensee may make a written request for a hearing before the Liquor Commissioner to contest a determination of discontinuing business, and shall bear the costs of such hearing. In the event that a Licensee fails to return an expired, suspended, revoked or discontinued license to the City, the Chief of Police or designee is hereby authorized to remove the license for the Licensee's premises

and return the same to the City.

1. Failure to surrender or return an expired, revoked, suspended or terminated liquor license shall be punishable by a fine of not less than Five Hundred Dollars (\$500.00), plus not less than Two Hundred and Fifty Dollars (\$250.00) per day for each day after the first day.
- g) A late fee penalty of five per cent (5%) shall be added to fees paid one (1) to five (5) days after the due date. A late fee penalty of ten per cent (10%) shall be added to fees paid six (6) to ten (10) days after the due date. Fees not paid within ten (10) days of the due date shall subject the license to a fine, suspension or revocation.
- h) A Licensee that seeks to maintain multiple licenses for a single Building or Premises shall pay the *higher of* the applicable Initial Issuance and Renewal Fees for such licenses, but shall not be required to pay each applicable fee.

### **38.09 RESTRICTIONS GENERALLY APPLICABLE.**

- a) Submission of a signed application for a liquor license and/or acceptance of a liquor license constitutes the applicant's consent to an inspection of any and all portions of the licensed premises by the City: 1) at any time during the normal business hours of the licensed premises, with or without advance notice; or, 2) at such other time as the City shall designate to the applicant/Licensee in writing, with not less than 48 hours advance notice. Inspections pursuant to this consent may be conducted by any City personnel, including Police Department, Building, Public Works, or Fire Department staff, the Liquor Commissioner, City Manager or other staff authorized by the Liquor Commissioner or City Manager, for purposes of determining compliance with the provisions of this Liquor Code, or for purposes of determining compliance with any other applicable code or regulation. The consent for inspection shall extend to any portion of the premises. An applicant or Licensee's refusal to grant access to the premises for an inspection shall constitute grounds for denial of a pending application (without refund of any posted application fees), and shall constitute a violation of this Liquor Code for liquor license holders, which may subject a liquor Licensee to suspension or revocation of their liquor license, imposition of fines and penalties under this Liquor Code, or both. All holders of a Liquor License must also hold a valid Fire Life Safety License issued by the City. The existence of code violations shall justify suspension, denial or non-renewal of a liquor license.
- b) Upon approval of a liquor license application by the Liquor Commissioner, the applicant shall have thirty (30) days to submit the Initial Issuance Fee; upon payment of said fee, the license shall issue. Failure to pay the fee shall result in forfeiture of the application fee and rejection of the license application.
- c) No Alcoholic Liquors shall be sold through a drive-through, nor offered for delivery (except for delivery via US Postal Service or a commercial carrier not owned or operated by the Licensee and not more expeditious than overnight).

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- d) It shall be unlawful to engage in the Sale of Alcoholic Beverages outside the permitted hours of operation applicable to a given liquor license, or in violation of any of the terms of this Ordinance, or the conditions applicable to a liquor license by virtue of its issuance or by virtue of any accompanying license agreement.
- e) In the event the Liquor Commissioner receives a liquor license application which the Commissioner determines is not adequately regulated under this Code, the Commissioner may temporarily delay review of the application for purposes of seeking an amendment to this Code to add additional regulation.
- f) Prior to engaging in any conduct regulated under the terms of this Ordinance, the Licensee/applicant shall provide the City with a copy of any state-issued licensure related to the regulated activity.
- g) It shall be unlawful to engage in the Sale of Alcoholic Beverages without a license where required under this Code, or to engage in a sale of Alcoholic Liquors other than in a fashion permitted by an applicable license.
- h) It shall be unlawful to sell Alcoholic Liquors for consumption on premises, or to permit the consumption of sold Alcoholic Liquors on premises, without a liquor license permitting such consumption.
- i) It shall be unlawful to sell or permit the sale or consumption of Alcoholic Liquors at any location outside of a Permitted Area for such activities.
- j) It shall be unlawful to peddle Alcoholic Liquors by selling or offering them for sale in any street, sidewalk or public place, or travelling from place to place within the City, or selling or offering them for sale and delivery from any receptacle, vehicle or pushcart going from place to place in the City.
- k) It shall be unlawful for any person to carry on any street, alley, park or other public way (including sidewalks and rights-of-way) an Open Container of any beverage containing any Alcohol or Alcoholic Liquors, unless such public area is a Permitted Area under the terms of a then-valid City-issued liquor license. The minimum penalty for a violation of this subsection shall be a fine of not less than seventy-five dollars (\$75.00) if paid as a mail-in violation, or two-hundred dollars (\$200.00) if imposed in Court. (2015-048)
- l) It shall be unlawful to engage in any sale of Alcoholic Liquors that is not intended for consumption on premises in anything other than the original package (meaning bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle, as corked, capped, sealed and labeled by the manufacturer of Alcoholic Liquors). No Licensee, his agents or employees shall permit and no person shall remove from the Permitted Area any Alcoholic Liquor except in its original package as defined herein, unless permitted for consumption on the premises.
- m) It shall be unlawful to sell beer or malt liquor, not intended for consumption on the premises, in any single container of less than seven (7) ounces capacity.

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- n) All premises used for the sale of Alcoholic Liquors shall be kept in a clean and sanitary condition, in full compliance with all requirements of City Code and applicable federal, state or local health and sanitation codes, including any occupancy limits established by the City of DeKalb or another agency having jurisdiction over the premises. Any establishment with a determined occupancy limit shall prominently post the same in a fashion acceptable to the Liquor Commissioner.
  
- o) Preparation, sale or service of Alcoholic Liquors shall only be done by persons eighteen (18) years of age or older, who are Alcohol Servers as defined herein. Stocking of Alcoholic Liquors shall only be done by Licensee's employees who are 18 years of age or older. No person under the age of twenty-one (21) shall be permitted to consume Alcoholic Liquors, and no person other than an employee of the Licensee, eighteen (18) years of age or older, shall be permitted to possess Alcoholic Liquors. At any time that Alcoholic Liquors are available for Sale, at least one Alcohol Server over the age of twenty-one (21) shall be present and supervising all Sales. Employees over the age of eighteen (18) who are engaged in the performance of their work shall be exempt from the prohibitions on persons under the age of twenty-one (21) entering or remaining in a licensed establishment, and on possessing alcoholic beverages within a licensed Building.
  
- p) It shall be unlawful to sell or offer for sale any Alcoholic Liquor anywhere in the City unless the property is zoned other than RC-1, SFR-1, SFR-2, TFR, MFR, or PD-R, as defined in the Unified Development Ordinance of the City, unless: 1) the owner or owners of at least two-thirds of the frontage feet along the street and streets adjacent to the place of business for which a license is sought file a written consent to the issuance of the license; or, 2) the license sought is a PENP license or an Event license.
  
- q) It shall be unlawful to permit sound or vibration exceeding 90 decibels when measured with a standard meter A scale within two (2) feet of the outside of any exterior wall of the Building or Permitted Area.
  
- r) It shall be unlawful to advertise the sale of Alcoholic Liquors in a fashion that would not be permitted under this Code.
  
- s) No Licensee shall be eligible to obtain or maintain a liquor license if any person or entity required to be listed on the liquor license application (e.g. owner, partner, manager, member, director, stockholder of more than five percent (5%) of the applicant company) is delinquent, by more than thirty (30) days, in the payment of any obligation to the City, including but not limited to the payment of outstanding restaurant and bar taxes, permit fees, water bills, ordinance violation fines or penalties, Liquor Code violation fines or penalties or any other City fines, charges, debts or penalties, whatsoever. Any Licensee that has a person or entity disclosed on its liquor license application that is more than thirty (30) days delinquent in the payment of any amounts due the City shall: 1) be ineligible to receive a new or renewed liquor license; and 2) shall be subject to revocation of a license and imposition of fines and penalties, as a violation of this Liquor Code. Any liquor



license revoked under this Section shall be subject to a reinstatement fee of Five Hundred Dollars (\$500.00), following the payment of all outstanding amounts due to the City.

- t) Other than an approved mini-bar at a Hotel with a Hospitality license, it shall be unlawful to sell any Alcoholic Liquors for consumption on the premises and to deliver said Alcoholic Liquors to the customer in anything other than an Open Container (i.e. it is unlawful to deliver a sealed, unopened bottle to the customer, for consumption on the premises). All sales of Alcoholic Liquors for consumption on premises shall be done only in containers that have been opened prior to final delivery to the consumer.
- u) It shall be unlawful for any person, Licensee, Owner, Manager, Alcohol Server or other agent or employee of any Licensee to permit any person to engage in any violation of this Code, or to allow any violation of this Code within a licensed Premise.
- v) Any licensed establishment that is permitted to allow the consumption of wine on premises shall be authorized to seal a partially consumed bottle of wine in a one-time-use, tamper-evident, clear plastic bag, with a time/date-stamped receipt, to permit a customer to take the partially consumed bottle of wine with them without violating this Ordinance, provided that said conduct is permitted under applicable state law.
- w) Other than an establishment holding a Hospitality liquor license, no licensed liquor establishment shall host a Private Party as defined in the Illinois Liquor Control Act, and no licensed liquor establishment shall offer to sell an unlimited number of alcoholic drinks for a fixed price or otherwise sell any entitlement to consume drinks in a fashion that does not directly correspond to paying for individual drinks. (2013-029)
- x) Any violation of any other provision of City Code, state statute or applicable ordinance or regulation which in any way relates to the sale of alcohol, the consequences of the sale of alcohol, the conduct of patrons or employees, or the operation or management of the licensed business or licensed premises, including but not limited to noise violations under any City Code and disorderly business charges, shall constitute a violation of the underlying ordinance or regulation and shall separately also constitute a violation of this Chapter 38, punishable as a violation hereof. (2013-062)

### **38.10 RESTRICTIONS APPLICABLE TO PACKAGE SALES.**

- a) Package Sales shall consist of the retail sale of packaged beer, wine and liquor in original packages for consumption off the premises only. Curb sale or service is prohibited. Consumption on premises is prohibited (unless otherwise permitted under the applicable license, e.g. Bar license permits consumption on premises), unless conducted as part of a permitted Tasting Event.

- b) Unless accompanied by a parent or legal guardian, no person under the age of twenty-one (21) shall enter the Permitted Area, nor possess or be in custody of Alcoholic Liquors at any location within the Building or Premises.
- c) In establishments that permit access by persons under the age of twenty-one (21) outside of the Permitted Area (e.g. Grocery or Drug Stores), any Alcoholic Liquors that are not stored within the Permitted Area shall be stored in a secure, locked area accessible only to Licensee's employees over the age of 18.
- d) All Licensees engaging in Package Sales shall use security measures acceptable to the Chief of Police and Liquor Commissioner, to ensure that minors will not have access to Alcoholic Liquor. The Permitted Area shall be completely enclosed so as to not be accessible as a "pass-thru" to other areas of the premises, and the access point(s) for the Permitted Area shall be located so as to be under direct supervision of the Licensee's personnel at all times. All such access points shall be posted with appropriate signage approved by the Liquor Commissioner. The Permitted Area shall be capable of being separately locked from the remainder of the premises, and the Permitted Area shall be kept locked and closed, with no access to the public or to consumers, when not legally open for sales of Alcoholic Liquors.
- e) Package Sales conducted at a Bar shall only be done "over the counter" as described in Section 38.07(c)(2), above.
- f) Notwithstanding any contrary provision of this Chapter, this Ordinance shall not prohibit a facility licensed for Package Sales from engaging in the sale of items other than Alcoholic Liquors.

**38.11 RESTRICTIONS APPLICABLE TO BAR SALES.**

- a) Bar Sales shall consist of the retail sale of Alcoholic Liquors, for consumption on premises, with or without Real Food. Unless otherwise permitted, sale in the original package for consumption off-premises is prohibited.
- b) Entry to the Permitted Area for Bar Sales shall only be permitted to persons who are twenty-one (21) years of age or older, or who are accompanied by their parent or legal guardian. All access points to the Permitted Area for Bar Sales shall have prominently displayed signage so indicating, in a format acceptable to the Liquor Commissioner.
- c) In an establishment that has a Permitted Area for Bar Sales, it shall be unlawful to permit any person to remove or be permitted to remove any Alcoholic Liquors from the Permitted Area for Bar Sales and take them to any other location within the Premises, unless the customer is being seated in a portion of the Building used for Restaurant Sales for the purpose of purchasing and consuming Real Food.
- d) It shall be unlawful for any person, other than an employee of the Licensee, to remain in the Permitted Area for Bar Sales outside of the permitted hours of sale.

**38.12 RESTRICTIONS APPLICABLE TO RESTAURANT SALES.**

- a) Restaurant Sales shall consist of the retail sale of Alcoholic Liquors, for consumption on premises, only when accompanied by the contemporaneous (same meal) sale and consumption of Real Food. Unless otherwise permitted, sale in the original package for consumption off-premises is prohibited.
  - 1. Restaurants that engage in the sale of Alcoholic Liquors under a Restaurant Low-ABV license shall be permitted to engage in the sale of Alcoholic Liquors without a corresponding purchase of Real Food, at times when Real Food is available for purchase from the establishment. (2016-011)
- b) Restaurants shall have prominently displayed signage, in a format acceptable to the Liquor Commissioner, indicating age restrictions applicable to service and consumption of Alcoholic Liquors.

**38.13 RESTRICTIONS APPLICABLE TO HOSPITALITY SALES.**

- a) Any Sale of Alcoholic Liquors under a Hospitality liquor license shall only be permitted where the Sale of Alcoholic Liquors is incidental to the primary business of the Licensee, of being a Bowling Alley, Hotel or Banquet Facility (or incidental to use of the facility as a Restaurant or Bar, if licensed for such purpose).
- b) Hospitality Sales shall not be permitted to include any Package Sales of Alcoholic Liquors, but shall permit Sale for consumption on premises only.
  - 1. Hotels may apply for authorization from the Liquor Commissioner to display for sale Alcoholic Liquors within guest rooms in the original, sealed container within a "mini-bar" or other similar display, provided that such sales are intended for consumption on the premises only. The Liquor Commissioner may permit such displays, subject to any security requirements that the Liquor Commissioner may require.
  - 2. Hotels that maintain a Hospitality liquor license may operate with designated portions of their facility operating with Hospitality, Restaurant and Bar licensure. Such areas shall be clearly denoted on the floor plan of the premises provided to the City, and each designated area shall be subject to the restrictions applicable to that form of licensure. (2016-009)
- c) An establishment with a Hospitality License may apply for permission to maintain a Permitted Area for Bar Sales, which shall be subject to all applicable Bar Sales restrictions, and subject to approval by the Liquor Commissioner. Any such Permitted Area for Bar Sales shall be subordinate in nature, use and size to the primary use of the Premises and Building for Hospitality Sales, and any approval shall be in the Liquor Commissioner's discretion. No Permitted Area for Bar Sales under a Hospitality license shall be allowed to engage in Package Liquor Sales.
  - 1. A Bowling Alley may apply for permission to maintain a Permitted Area for

Restaurant Sales, which shall be subject to all applicable Restaurant Sales restrictions, subject to approval by the Liquor Commissioner. Any such Permitted Area for Restaurant Sales shall be subordinate in nature, use and size to the primary use of the Premises and Building as a Bowling Alley, and any approval shall be in the Liquor Commissioner's discretion.

- d) Other than a Permitted Area for Bar Sales (which shall be restricted to persons over the age of 21), a Hospitality Licensee is permitted to allow comingling of persons over and under the age of twenty-one (21) within the Permitted Area for Hospitality Sales, and there shall not be a limitation that Alcoholic Liquors only be delivered with Real Food. It shall continue to be unlawful to sell, deliver or permit the sale, delivery, possession or consumption of Alcoholic Liquors by a person under the age of twenty-one (21) subject to the terms provided within the balance of this Code.
- e) Where a Bar or Restaurant applies for and obtains a Hospitality License for Banquet use, the Permitted Area for Banquet use shall be subject to these Restrictions Applicable to Hospitality Sales when such area is in permitted to be used for Hospitality Sales, and shall be subject to the restrictions applicable to Bar Sales or Restaurant Sales, as applicable, at all other times.

#### **38.14 OUTDOOR SEATING AREAS.**

- a) Use of Public Property: The City may permit, by separate agreement, a Licensee to use publicly-owned outdoor seating areas as a component of their Permitted Area for the Sale of Alcoholic Liquors, where acceptable to the Liquor Commissioner. For example, the City may permit a Licensee to utilize sidewalk or public property by virtue of a lease agreement, where approved by the Liquor Commissioner, and the City may permit the closure of a street, alley, right-of-way, sidewalk or other property for use by a Licensee either as a temporary or permanent accommodation, again where provided for by a written agreement, license or permit, and where approved by the Liquor Commissioner. In the absence of such agreement or permit and approval by the Liquor Commissioner, it shall be unlawful to utilize an outdoor seating area for the Sale of Alcoholic Liquors upon public property or right-of-way owned by the City of DeKalb, County of DeKalb or State of Illinois.
- b) Outdoor Seating Areas, Generally: It shall be unlawful to utilize any area not fully enclosed within a Building for the Sale or Consumption of Alcoholic Liquors, unless such area is owned or leased by the Licensee for such purpose, and such area is approved by the Liquor Commissioner under the terms of this Section.
  - 1. It shall be unlawful to engage in the Sale of Package Liquors in any area that is not fully enclosed within a Building. There shall be no outdoor Permitted Area for Package Sales, regardless of whether the Licensee is a Bar.
  - 2. The applicant for or holder of a valid liquor license permitting consumption of Alcoholic Liquors on the Premises may apply for authorization to operate an outdoor seating area to be included in the Permitted Area for the Premises. Such application shall be in a form acceptable to the Liquor Commissioner

and shall include all information required by the Liquor Commissioner, including but not limited to a detailed schematic drawing of the area proposed to be utilized.

3. Any outdoor seating area must be:
  - (a) Included for coverage within the Licensee's required insurance, and in compliance with other applicable City Codes and Ordinances (including but not limited to the UDO).
  - (b) Fully enclosed by walls or fences constraining the movement of patrons, with entrances at locations monitored by the Licensee. Access points to said areas must meet any requirements imposed by the Liquor Commissioner as to monitoring and signage. Alcoholic Liquors shall only be permitted to be sold and consumed within the Permitted Area of the Building and the Permitted Area of the outdoor seating area; no Alcoholic Liquors shall be sold, delivered to a customer, permitted to be possessed by a customer, or consumed in any other area. The enclosed area shall be permanently improved with walls and fencing, unless otherwise permitted by the Liquor Commissioner.
  - (c) Transportation or delivery of Alcoholic Liquors between the Permitted Area of the Building and the Permitted Area of outdoor seating shall only be done by Licensee's employees. It shall be unlawful for any person other than an employee of Licensee to possess any Open Container of Alcoholic Liquor or consume any Alcoholic Liquor on any outdoor area of a Premise, other than within a completely fenced/enclosed, approved Permitted Area of outdoor seating, and it shall be unlawful for a Licensee to permit such conduct.
  - (d) Licensee shall be responsible for monitoring any Permitted Area for outdoor seating, and shall locate it in a position where it is capable of being actively monitored by Licensee to confirm compliance with these requirements. If Licensee maintains a bar or other area from which Alcoholic Liquors are Sold within the Permitted Area of outdoor seating, Licensee shall be required to post an Alcohol Server in such area at all times that any Alcoholic Liquor is accessible to customers (i.e. not fully enclosed and locked) at such sales point.

### **38.15 VOLUNTARY SUSPENSION OF LICENSE.**

Any Licensee may request, in writing, the voluntary suspension of their Liquor License for any purpose. Said requests shall be reviewed by the Liquor Commissioner, whose decision shall be final, and shall be issued in writing. During any period of voluntary suspension, the Licensee shall not be permitted to engage in any Sale of Alcoholic Liquors of any form, but shall not be subject to the requirements of this Code pertaining to age restriction for access to the premises. Voluntary suspension of a liquor license does not toll the renewal period for said license, nor does it entitle the Licensee to any refund of

liquor license fees.

**38.16 LIVE ENTERTAINMENT PERMIT.**

- a) An applicant for or holder of a Bar, Restaurant, Hospitality or PENP license or a Golf Course may also apply for issuance of an annual Live Entertainment Permit, which shall authorize live entertainment, including personal appearance of amateur or professional entertainers, or musicians, and the showing of commercially produced motion pictures and/or cable televised special events within the Permitted Area of the Building. Such a permit shall be issued on an annual basis, but shall be issued only if the licensed establishments have a regular seating capacity at tables in accordance with existing City and State public health and fire prevention ordinances and statutes. Nothing herein shall be construed to prohibit Licensees from permitting dancing in the licensed premises during the hours such premises are lawfully open to the public. The permitted hours for any outdoor live entertainment shall end one hour before the required closing hour for the Sale of Alcoholic Liquors under the Licensee's primary license, unless otherwise amended by the Liquor Commissioner. Golf courses may apply for a Live Entertainment Permit. (2014-47)
- b) Prior to issuance of a Live Entertainment Permit, the applicant shall pay the applicable issuance or annual registration fee, shall submit a description of the activities proposed, a floor plan showing the area to be utilized, and shall answer any questions posed by the Liquor Commissioner.
- c) It shall otherwise be unlawful for a Licensee to use a Permitted Area of a building for the activities described in subsection (a). Use of live radio or television broadcasts shall not require a permit.

**38.17 OUTDOOR SPECIAL EVENT PERMIT.**

- a) The holder of a valid Bar, Restaurant, Hospitality or PENP license may apply for issuance of an Outdoor Special Event Permit. Outdoor Special Events shall be an outdoor public or private event sponsored, conducted or serviced by a Licensee, upon any owned or leased premises within the City of DeKalb. Use of any outdoor area other than an approved Outdoor Seating Area, by a Licensee, for any activity involving the sale, service or consumption of alcohol shall require an Outdoor Special Event Permit. No more than three (3) Outdoor Special Events Permits shall be issued for any individual parcel of land or address within a given calendar year. Golf courses may apply for an Outdoor Special Event Permit. (2014-047)
- b) Application for an Outdoor Special Event shall be made at least thirty (30) days before the date of the proposed event, on a form approved by the Liquor Commissioner. Said application may require any information that the Liquor Commissioner deems appropriate, which shall include at minimum confirmation of applicable insurance coverage for the area proposed, floor plan and description of area to be utilized, description of any proposed sound amplification and/or live entertainment, and a detailed description of any temporary structures, entry/exit to such facilities, utility services, restroom facilities, signage and alcohol

service/storage areas.

- c) The Liquor Commissioner may deny an Outdoor Special Event permit for any reason, including but not limited to his determination that too many Outdoor Special Events are proposed for a given date.
- d) Applications for Outdoor Special Events shall be reviewed by the following parties:
  - 1. The Chief of Police, for verification of appropriate security. The Chief of Police may require the applicant to execute an Expense Reimbursement Agreement whereby the applicant covers the cost of police detail or City responses to the Outdoor Special Event, on terms and conditions acceptable to the Chief.
  - 2. The Building Department, for verification that all required permits, inspections and fees relating to any structures or utility services, temporary or otherwise, are in place, and for inspection to confirm the absence of any violation of applicable City Codes, and such other items as shall be required by the Building Department.
  - 3. The Fire Department, for verification of appropriate fire safety measures and for verification that all required permits, inspections and fees relating to the event have been conducted.
  - 4. Other staff as deemed appropriate by the Liquor Commissioner. Any of the foregoing staff may require the conduct of inspections of the proposed area to be utilized for the Outdoor Special Event, with the cost of such inspections to be paid by the applicant.
- e) The Liquor Commissioner shall be authorized to approve and impose additional inspection or permit fees relating to any City personnel's involvement in or review of a proposed Outdoor Special Event Permit, as determined to be appropriate from time to time, or based upon the unique nature of a given application.
- f) At all times during the conduct of an Outdoor Special Event, the area authorized for the Outdoor Special Event shall be considered to be a component of the Permitted Area of the Licensee's Building, and shall be subject to all restrictions applicable to the Licensee's operation as if incorporated therein.

**38.18 CATERER EVENT PERMITS.** (2014-026)

- a) Annual Permit: The holder of a valid Bar, Restaurant, Hospitality, or Grocery or Drug Store license may apply for Caterer permits. To be eligible for a Caterer Event Permit, a Licensee must obtain an annual Caterer Permit by providing such information as shall be required by the Liquor Commissioner and paying the annual registration fee. Once approved for the annual Caterer Permit, a Licensee must then apply for Caterer Event permits on an event by event basis.

- b) License Required: A Catering License shall be required for any form of catering at any location in the City of DeKalb.
  
- c) Permit Required: A Caterer Event Permit shall be required on a per-event basis for certain types of events as contemplated herein.
  - 1. A Permit shall not be required at a non-commercial Caterer Event conducted on private property at a single-family residence, unless such event is being conducted in a fashion as to require a Mass Gathering Permit pursuant to Chapter 34 of the City Code (e.g. is anticipated to have more than 200 persons in attendance, involves street closure, involves hazardous activity or involves temporary structures or temporary utility connections that require permits). For such events not requiring a Permit, the holder of a Caterer's License shall provide the City Legal Department with not less than 48 hours-notice of the date, time, location and nature of the proposed event, but shall not be required to obtain a permit or pay any fees.
  
  - 2. For all other Caterer's events at any other form of property, or for any event which requires a Mass Gathering Permit under the then-current terms of Chapter 34 of the City Code, a Caterer's Event Permit is required.
  
- d) Event Permit: The holder of a valid annual Caterer permit shall apply for a Caterer Event permit relative to a specific proposed catering event, where required. A Caterer Event permit shall permit the holder to serve Alcoholic Liquors outside of its Building, within the City, as an incidental part of a food service that serves prepared Real Food as a primary meal. The food service may be done by the holder of the permit or by a third party.
  - 1. Application for a Caterer Event permit shall be made at least fourteen (14) days before the date of the proposed event, on a form approved by the Liquor Commissioner. Said application may require any information that the Liquor Commissioner deems appropriate, which shall include at minimum confirmation of applicable insurance coverage for the area proposed, floor plan and description of area to be utilized, description of any proposed sound amplification and/or live entertainment, and a detailed description of any temporary structures, entry/exit to such facilities, utility services, restroom facilities, and alcohol service/storage areas.
  
  - 2. Applications for Caterer Event permits shall be reviewed by the same parties that review Outdoor Special Event permits, subject to the same conditions. For Caterer Event permits that are repeated at a given, previously inspected location, staff may, in their discretion, waive reinspection.
  
  - 3. The Liquor Commissioner shall be authorized to approve and impose additional inspection or permit fees relating to any City personnel's involvement in or review of a proposed Caterer Event Permit, as determined to be appropriate from time to time, or based upon the unique nature of a given application.



4. The approval of a Caterer Event permit shall include approval of a Permitted Area for liquor sales, which may be indoors or outdoors. At all times during the conduct of a Caterer Event, the Permitted Area for the Caterer Event shall be considered to be subject to the restrictions applicable to Banquets under Hospitality licensure.

#### **38.19 NON-PROFIT SPECIAL EVENT PERMIT.**

- a) A corporation or entity that is organized as a not-for-profit organization and which complies with all regulations and requirements applicable to not-for-profit organizations within the State of Illinois may apply for issuance of a Non-Profit Special Event Permit, which authorizes the sale of Alcoholic Beverages for consumption on the premises of the Special Event or the related retail sale of Alcoholic Liquors in the original package (subject to the terms of a Special Event Agreement acceptable in form and content to the Liquor Commissioner). (2013-29)
- b) An individual corporation or entity may apply for up to three (3) permits per year, with each permit for a period not exceeding four (4) consecutive days. The license fee applicable to a Non-Profit Special Event Permits may be waived by the Liquor Commissioner on a case-by-case basis.
  1. Application for a Non-Profit Special Event permit shall be made at least thirty (30) days before the date of the proposed event, on a form approved by the Liquor Commissioner. Said application may require any information that the Liquor Commissioner deems appropriate, which shall include at minimum confirmation of applicable insurance coverage for the area proposed, floor plan and description of area to be utilized, description of any proposed sound amplification and/or live entertainment, and a detailed description of any temporary structures, entry/exit to such facilities, utility services, restroom facilities, signage, and alcohol service/storage areas.
  2. Applications for Non-Profit Special Event permits shall be reviewed by the same parties that review Outdoor Special Event permits, subject to the same conditions.
  3. At all times during the conduct of a Non-Profit Special Event, the area authorized for the Non-Profit Special Event shall be considered to be subject to the restrictions applicable to Banquets under Hospitality licensure.
  4. All service of Alcoholic Liquors shall be done by parties with training acceptable to the Liquor Commissioner. The Liquor Commissioner may also require the applicant to complete an Event Agreement providing additional detail and restrictions on the event, as a condition of issuing the Non-Profit Special Event Permit.
  5. Non-Profit Special Event Licensees may also obtain a Live Entertainment Permit or an Outdoor Special Event Permit, upon application to the City,

without imposition of a separate fee.

**38.20 TASTING/SAMPLING PERMIT.**

- a) Annual Permit: The holder of a valid Package Liquor, Grocery or Drug Store, Bar, Restaurant or PENP license may also apply for issuance of an annual Tasting Permit. To be eligible for a Tasting Permit, a Licensee must obtain an annual Tasting Permit by providing such information as shall be required by the Liquor Commissioner, and by paying the applicable issuance or annual registration fee. Golf courses may apply for a Tasting/Sampling Permit. (2014-047)
- b) Routine Tasting/Sampling: The holder of a valid Annual Tasting Permit may conduct routine tasting or sampling, where a consumer may be served up to five (5) separate samples, each sample containing no more than: (i) one (1) ounce of wine; or (ii) two (2) ounces of beer, in any one day. Such events shall be conducted during normal business hours, shall not be publicized, and shall be conducted on an individualized basis (i.e. shall not be conducted for organized groups). All service of alcoholic beverages as a component of the sampling or tasting shall be done only by an Alcohol Server, and only after verification of the recipient's age. There shall be no charges for any such Routine Tasting/Sampling.
- c) Organized Event Notification: The holder of a valid Annual Tasting Permit may conduct up to six (6) Organized Tasting Events per year, subject to the restrictions contained below. Prior to conducting a Tasting Event, the Licensee must provide at least thirty (30) days written notice to the City of its intent to conduct a Tasting Event, including such detail as shall be required by the Liquor Commissioner. Organized Tasting Events shall be any events other than ad-hoc Routine Tasting/Sampling, including but not limited to events before or after normal business hours, events publicized as tasting or sampling events, events with a charge for the privilege of tasting/sampling, and events for organized groups. The City reserves the right to refuse to permit any proposed Tasting Event. However, in the event that the City does not respond to a Tasting Event notice, said event shall be permitted to go forward (i.e. there shall not be a requirement of per-event permit approval).
- d) Conduct of Tasting Event: The following restrictions shall be applicable:
  - 1. A Tasting Permit holder may offer a class, clinic or seminar to educate its patrons on alcoholic beverages and food items and as part of that class, clinic or seminar, may offer up to eight (8) separate samples, each sample containing no more than: (i) one (1) ounce of wine; or (ii) two (2) ounces of beer, in any one day. The Licensee may charge a registration fee to defray the cost of offering the class, clinic or seminar.
  - 2. Sampling or tasting may only be conducted during the applicant's approved hours for sale of alcoholic beverages.
  - 3. Sampling or tasting must be conducted within a confined area of the store, access to which is permitted only to persons twenty-one (21) years of age or

older. The Licensee shall post signs approved by the Liquor Commissioner indicating the penalties applicable to violations of this Liquor Code. These required signs shall be posted at each access point to the confined area of the store in which sampling or tasting is being conducted, and the Licensee shall undertake reasonable measures to control access to the portions of the premises where sampling or tasting is being conducted to persons over the age of twenty-one (21) years. In the case of a Bar, Restaurant or Hospitality Licensee that also holds a Tasting Permit, the confined area shall be located within the Permitted Area of the establishment.

4. There shall be a minimum of five (5) Alcohol Servers for every one hundred (100) persons in attendance during the sampling/tasting. There shall also be at least one person designated as the manager of such Tasting Event, who is certified as an Alcohol Server, to have primary responsibility for complying with this Code.
5. During sampling or tasting sessions, a Licensee shall provide adequate restroom and litter control facilities, and shall constrain sampling and tasting to locations on the licensed premises and indoors only.
6. All service of alcoholic beverages as a component of the sampling or tasting shall be done only by an Alcohol Server, and only after verification of the recipient's age.

### **38.21 PERSONS UNDER THE AGE OF TWENTY-ONE.**

- a) It shall be unlawful for any person under the age of twenty-one (21) to enter or remain in the Permitted Area for Bar Sales of any establishment, or the Permitted Area for Package Sales of any establishment, unless: 1) an employee over the age of 18, in the course of employment and as lawfully permitted herein; or, 2) accompanied by a parent or legal guardian.
- b) Except for the permitted stocking or selling of alcohol by Licensee's employees eighteen (18) years of age or older, it shall be unlawful for any person under the age of twenty-one (21) to possess any Alcohol or Alcoholic Liquors upon a licensed Premises.
- c) It shall be unlawful for any person under the age of twenty-one (21) to purchase or consume any Alcoholic Liquors.
- d) It shall be unlawful to sell, deliver, offer to sell, purchase on behalf of, or transfer Alcoholic Liquors to any person under the age of twenty-one (21) at any licensed establishment within the City of DeKalb.
- e) It shall be unlawful for any person to present to any Licensee or their agents or employees, or to any City employee, any evidence of age or identity which is false, fraudulent, not his/her own, misleading or otherwise inaccurate for the purpose of gaining access to a licensed premises or a Permitted Area thereof, or for the

purpose of purchasing, possessing or consuming Alcoholic Liquors. Any person entering any Permitted Area for Bar Sales or Package Sales shall have in their possession a state-issued photo-identification card positively identifying such person and their correct date of birth. (Any violation of this specific provision shall be dismissed upon satisfactory proof that the alleged offender is twenty-one (21) years of age or greater).

- f) It shall further be unlawful for any Licensee or agent or employee thereof to allow or permit a person less than twenty-one (21) years of age to violate the provisions of subsections (a) through (e) hereof. The privilege of obtaining a liquor license includes the mandatory obligation of supervising one's Premises to confirm compliance with this Ordinance. It shall be unlawful for any Licensee or its agents to sell, give, deliver or permit possession of alcoholic liquor before demanding presentation of a state-issued form of photo-identification that positively and accurately identifies the customer as being of lawful age for said purchase, possession or consumption, where the Licensee or its agents have or should have reason to believe that the prospective recipient is not of legal age to so possess, purchase or consume an Alcoholic Liquor.
- g) Without regard to liquor licensure, it shall be unlawful for any person to sell, transfer, deliver, gift, or permit the consumption of Alcoholic Liquors to a person under the age of twenty-one (21) years, unless: 1) the person permitting consumption is the parent or legal guardian of the person under the age of twenty-one (21) years; or, 2) the person under the age of twenty-one (21) years is participating in a bona fide religious ceremony or service.
- h) All Licensees shall post appropriate signs on their Premises, in form and location acceptable to the Liquor Commissioner, advising patrons of the restrictions applicable to possession and consumption of alcoholic beverages.
- i) It shall be a violation of this section for a person under the age of twenty-one (21) to engage in any other conduct prohibited by this Ordinance, based upon their age.

### **38.22 TRANSFER OF LIQUOR LICENSE.**

A license or permit issued under this Code shall be a purely personal privilege, good for the term indicated thereon unless earlier suspended, terminated or revoked, and shall not constitute property, nor shall it be subject to attachment, garnishment, execution, transfer, assignment, encumbrance or hypothecation in any form. It shall not transfer by laws of testate or intestate devolution or corporations or business entities, but shall cease upon the death, termination, bankruptcy or sale of the Licensee.

### **38.23 CHANGE IN INFORMATION.**

- a) **Change in Status.** At any time after submission of an application for liquor license, whether before or after the date of issuance of said license, the applicant/Licensee shall be obligated to update the City immediately upon the change of any information listed in said application.

1. For Licensees/companies with multiple owners, a change in ownership that is simply a reduction in the number of owners (i.e. from five (5) owners to four (4) owners) shall require notification to the City, but shall not result in an interruption of licensure.
2. Other changes in ownership (i.e. addition of new owners) shall require such documentation, fees and forms as the Liquor Commissioner shall require. In the event of a complete change in ownership, a new license application (and all required components thereof) shall be required. For purposes of this Ordinance, all ownership changes that occur within a rolling five-year window shall be considered cumulatively, and such cumulative changes may trigger the requirement for a new license application and fees. Any transfer (or series of transfers in a five (5) year rolling period) resulting in transfer of more than one half of the assets or stock of a Licensee shall be deemed to be a sale or transfer of the Licensee's business and shall require the surrender of an existing liquor license and the application and approval of a new liquor license, with payment of all required fees.

**Any time there is a change in the identity of the Manager, the liquor license must be updated with new background checks and approval of the proposed Manager, before such change takes effect.** Licensees are required to inform the City of any changes to the information listed on their liquor license application and, in accordance with applicable laws, seek approval for changes in Owners or Managers, with the conduct of required background checks, before effectuating such changes. Any such change shall require the submission of such documentation and fees as the Liquor Commissioner shall require.

- b) A retail liquor dealer's license shall permit the sale of alcoholic liquor only in the premises described in the application and license. Such location may be changed only upon the written authorization of the Liquor Commissioner. No change of location shall be permitted unless the proposed new location is a proper one for the retail sale of alcoholic liquor under the law of this state and the ordinances of the City, as evidenced by submission of a complete, new application for issuance of a liquor license in the form required above. Said application shall also include information on the estimated cost and time to complete any new construction or remodeling of existing premises to be licensed, accompanied by a copy of plans for any and all renovations, along with proof of all required insurance for the new location. For the new location, a Licensee shall comply with all building, zoning and property maintenance codes then in force. Said application shall be processed in the same fashion as a new application for a liquor license, and shall be subject to the same review and applicable fees, except that a new Initial Issuance Fee shall not be required (provided that ownership of the Licensee remains the same).
- c) Where a Licensee anticipates a change in ownership or Licensee information, it may apply for a liquor license in advance of the triggering event, so as to permit issuance of a conditional license (if approved by the Liquor Commissioner) conditioned upon the triggering event, to avoid a discontinuation of operations.

### **38.24 POWERS OF THE LIQUOR COMMISSIONER.**

The Mayor of the City of DeKalb shall serve as liquor commissioner, and shall have all of the power and authority permitted under the Act and all of the power and authority delegated herein. The Liquor Commissioner shall have the following powers, functions and duties:

- a) To receive applications, investigate applicants and grant, renew, or deny Liquor Licenses and Permits, and to delegate to staff the authority to approve event-specific permits for Licensees possessing the requisite annual permits and licensure.
- b) To receive or direct complaints from any citizen of the City that any of the provisions of this Chapter have been or are being violated to the appropriate City staff for investigation and/or prosecution and to act upon such complaints in a manner hereinafter provided.
- c) To enter or authorize any law enforcement officer or other City Personnel to enter at any time upon any premises licensed hereunder to determine whether any of the provisions of this Chapter have been or are being violated and at such time to examine such premises of said Licensee.
- d) In response to complaints or upon reports from an investigating agent of the Liquor Commissioner to conduct hearings on alleged violations of this Chapter and to examine or cause to be examined under oath complaints, license holders, and other interested parties. Furthermore, the Liquor Commissioner may examine or cause to be examined the books and records of any Licensee under this Chapter 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 Liquor Commissioner under this Chapter, he may authorize a designee to act on his behalf. For the purpose of administering or enforcing the provisions of this Chapter, the Commissioner may, at his discretion, hold public hearings at any time within the City concerning any matter embraced within this Chapter, and may exercise any authority permitted under State law.
- e) To fine license holders, and/or to suspend or revoke any liquor license(s) in the manner provided herein for any of the following reasons:
  1. That 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, or of this Chapter, or any applicable rules and regulations adopted by the Liquor Commissioner or by the State Commission.
  2. The willful making of any false statement as to a material fact in the application for such license or in any change of ownership application or request or affidavit for the renewal of any license. Making a false statement shall include not making a complete statement of all relevant facts which relate to the situation.

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3. The permitting of any violation of state law or DeKalb Municipal Code by any person upon the licensed premises.
  4. 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 DeKalb, including but not limited to Building, Plumbing, Electrical, Property Maintenance, and Fire Codes, Zoning Ordinances, DeKalb County Health Ordinances, and all regulations and orders of the DeKalb County Health Department.
  5. 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 or to permit access to the licensed Premises by any City personnel where required or authorized under this Code.
  6. Suspension or revocation of the license of the Licensee by the State Commission.
  7. Permitting any gambling device or equipment to be located on the licensed premises, except as permitted herein.
  8. Failure to file a return and/or pay Restaurant and Bar taxes as provided in the DeKalb Municipal Code.
  9. The Licensee, any of its officers, directors, shareholders or members is a defaulter in any financial obligation to the City, including but not limited to: the payment of any fines, fees, taxes, bills or assessments due to the City, or otherwise is in a condition that would justify denial of a liquor license upon initial application therefor.
- f) To cause the initiation of legal proceedings under the penalty provisions hereof.
  - g) To notify any other governmental agency of any actual or suspected violation of the laws of the State of Illinois.
  - h) Following submission and review, the Liquor Commissioner may adopt such rules and regulations consistent with the provisions of this Chapter, which shall be necessary to carry on his functions and duties to the end that the health, safety, and welfare of the people of the City of DeKalb shall be protected and temperance in the consumption of alcoholic liquor shall be fostered and promoted, and to distribute copies of such rules and regulations to all Licensees affected thereby.
  - i) To take any and all action necessary and incidental to the furtherance of his/her duties and functions, as set forth in this Chapter.
  - j) To summarily suspend any license for a period not to exceed seven (7) days, in the event that the Liquor Commissioner determines that continued operation of the Licensee immediately threatens the health, safety or general welfare of the City of

DeKalb or its residents. Notice of the suspension and provision for a subsequent hearing shall be afforded the Licensee in accordance with the requirements herein.

- k) To appoint the members of a Liquor Commission for the City of DeKalb, with such appointments being subject to the advice and consent of the City Council, and to call meetings of such Liquor Commission from time to time as the Liquor Commissioner deems appropriate, to conduct such business as the Liquor Commissioner shall delegate to the Liquor Commission. If appointed, the members of the Liquor Commission shall serve for the term appointed, and the Liquor Commission shall be a public body of the City of DeKalb.
  
- l) To approve arrangements for the sale of Alcoholic Liquors, in the original package and not for consumption on the premises, by vendors at farmer's market events that are otherwise lawfully permitted and approved by the City, to formally authorize such sales under this Code, and to impose any restrictions or limitations on such sales as shall be deemed appropriate based upon the recommendations of the City Manager, Police Chief and City Attorney, without requirement of conforming to a specified liquor license category outlined above. Such approval may also authorize the conduct of Tasting/Sampling in conjunction with the Farmer's Market Sales. There shall be no fee associated with the issuance of a Tasting/Sampling permit, and such Tasting/Sampling shall be conducted only as Routine Tasting/Sampling pursuant to Section 38.20 b). All service of alcohol shall be performed by Basset-trained Alcohol Servers, and shall be performed in accordance with all applicable laws and ordinances. (2013-029, 2015-022)

### **38.25 HOURS FOR SALE OF ALCOHOL.**

The permitted hours for sale of Alcoholic Liquors shall be as described below. For establishments that are permitted to engage in more than one type of sale (e.g. Bar Sales and Restaurant Sales), the areas designated as a Permitted Area for each type of sale shall be separately subject to the time restrictions described below.

- a) Bar, Golf Course, Package License, PENP, Hospitality, Liquor Production: (2014-047, 2017-019)
  - 6:00 a.m. Monday - 1:00 a.m. Tuesday
  - 6:00 a.m. Tuesday - 1:00 a.m. Wednesday
  - 6:00 a.m. Wednesday - 1:00 a.m. Thursday
  - 6:00 a.m. Thursday - 2:00 a.m. Friday
  - 6:00 a.m. Friday - 2:00 a.m. Saturday
  - 6:00 a.m. Saturday - 2:00 a.m. Sunday
  - 10:00 a.m. Sunday - 1:00 a.m. Monday
  - 6:00 a.m. December 24 - 7:00 p.m. December 24
  - 6:00 a.m. December 25 - 12:00 noon December 25
  - 4:00 p.m. December 25 - 1:00 a.m. December 26 (or 2:00 a.m. if Friday or Saturday)
  
- b) Restaurant, BYOB:
  - 6:00 a.m. Monday - 1:00 a.m. Tuesday



- 6:00 a.m. Tuesday - 1:00 a.m. Wednesday
  - 6:00 a.m. Wednesday - 1:00 a.m. Thursday
  - 6:00 a.m. Thursday - 1:00 a.m. Friday
  - 6:00 a.m. Friday - 2:00 a.m. Saturday
  - 6:00 a.m. Saturday - 2:00 a.m. Sunday
  - 10:00 a.m. Sunday - 1:00 a.m. Monday
  - 6:00 a.m. December 24 - 7:00 p.m. December 24
  - 6:00 a.m. December 25 - 12:00 noon December 25
  - 4:00 p.m. December 25 - 1:00 a.m. December 26 (or 2:00 a.m. if Friday or Saturday)
- c) Grocery or Drug Store:
- Monday through Saturday: 10:00 a.m. to 10:00 p.m.
  - Sunday: 10:00 a.m. to 9:00 p.m.
- d) Event Permit and Caterer Licenses: As permitted by the Liquor Commissioner, on the permit issued for the event. Unless the applicant seeks other permission, events shall be subject to the Restaurant/BYOB hour restrictions listed above.
- e) New Year's Eve Hours: Notwithstanding the foregoing, it shall be lawful for any Licensee other than a Grocery or Drug Store to sell or offer Alcoholic Liquor for sale from 12:00 Midnight on December 31 through 2:00 a.m. on January 1 of any year.
- f) It shall be unlawful to permit any open container containing an Alcoholic Liquor within a licensed Premises to remain in the possession of or accessible to a customer before or after the hours during which the sale of Alcoholic Liquors is permitted, and is unlawful to possess an open container of containing Alcoholic Liquors on the premises of a licensed establishment before or after the hours during which the sale of Alcoholic Liquors is permitted.

### **38.26 EMERGENCY CLOSURE.**

All liquor license holders shall, as a condition of maintaining their license, adhere to any emergency closure or suspension order issued by the City in conformance with this Section 38.26.

- a) The Liquor Commissioner or the Liquor Commissioner's authorized designee as described in subsection (b) below, shall be authorized to temporarily suspend the sale of alcoholic beverages and/or require the temporary closure of any premises subject to which a liquor license has been issued where, in his or her sole and absolute discretion, such action is necessary or advisable in order to: prevent the endangerment of public safety; secure the continuation of public peace or order; abate, prevent, or stop any imminent or actual public nuisance, criminal activity or riotous behavior; or otherwise prevent or respond to a threat to public safety or order.
- b) The power to suspend the sale of alcohol or close licensed premises may be exercised by the Liquor Commissioner, the City Manager or Acting City Manager,

the Chief of Police, or the Acting Chief of Police in the absence of the Chief of Police. Any time any of these authorized individuals exercises the authority to issue a temporary suspension or closure order, any City employee may be utilized to circulate and disseminate the emergency order.

- c) All Licensees shall adhere to a closure order that is received by the Licensee in any method of communication from the City, including but not limited to: a telephone call from the City; written notice provided via mail or personal delivery; verbal notice provided by any City employee providing proper proof of identification; radio, television, newspaper or other public communication medium; or any other form of emergency communication. A suspension/closure order may be issued city-wide, may be issued on a geographic basis (e.g. all licensed premises within a defined area of the City), or on a Licensee by Licensee basis. The City shall use reasonable efforts to make personal contact via telephone or via a visit to licensed premises by a City employee, to notify Licensees of an emergency suspension or closure. Within a reasonable time after the notification of emergency suspension or closure, the City shall use reasonable efforts to notify Licensees of the term or duration of the emergency suspension or closure order, if such term is not announced at the start of the order.
- d) At any time that an emergency suspension order is in effect, it shall be unlawful and shall be a violation of the conditions of licensure for any persons licensed by the City, or their servants or agents, to sell, give away or permit to be distributed, served or drawn, in or about the licensed premises any liquors or alcoholic beverages. At any time that an emergency closure order is in effect, it shall be unlawful and shall be a violation of the conditions of licensure for any licensed premises to remain open for business or to permit persons other than the Licensee, owner of the premises, or employees or agents of either to remain within the premises.

### **38.27 GAMBLING DEVICES.**

- a) No holder of a liquor license issued by the City of DeKalb shall permit, allow or maintain the presence or operation of any gambling device as hereinafter defined on the licensed premises, except as authorized by subsection (c), below.
- b) A "gambling device" is any clock, tape machine, slot machine, video slot machine, video poker machine, video Black Jack machine or other machines or device for the reception or upon the action of which money or other things of value is staked, hazarded, bet, won or lost; or any mechanism, furniture, fixture, equipment or other device designed primarily for use in a gambling place. A "gambling device" does not include any device authorized under subsection (c) below, nor does it include:
  - 1. A coin-in-the-slot operated mechanical device for amusement which rewards the player with the right to replay such mechanical device, which device is so constructed or devised as to make such result of the operation thereof depend in part upon the skill of the player and which returns to the player thereof no money, property or right to receive money or property.

2. Vending machines by which full and adequate return is made for the money invested and in which there is no element of chance or hazard.
  3. A crane game. For the purposes of this Section, a "crane game" is an amusement device involving skill, if it rewards the player exclusively with merchandise contained within the amusement device proper and limited to toys, novelties and prizes other than currency, each having a wholesale value which is not more than seven (7) times the cost charged to play the amusement device once or Ten Dollars (\$10.00), whichever is less.
  4. A redemption machine. For the purposes of this Section, a "redemption machine" is a single-player or multi-player amusement device involving a game, the object of which is throwing, rolling, bowling, shooting, placing, or propelling a ball or other object into, upon, or against a hole or other target, provided that all of the following conditions are met:
    - (a) The outcome of the game is predominately determined by the skill of the player.
    - (b) The award of the prize is based solely upon the player's achieving the object of the game or otherwise upon the player's score.
    - (c) Only merchandise prizes are awarded.
    - (d) The average wholesale value of prizes awarded in lieu of tickets or tokens for single play of the device does not exceed the lesser of Ten Dollars (\$10.00) or seven (7) times the cost charged for a single play of the device.
    - (e) The redemption value of tickets, tokens, and other representations of value, which may be accumulated by players to redeem prizes of greater value, does not exceed the amount charged for a single play of the device.
- c) State-Authorized Electronic or Video Gaming Permitted with License.
1. The holder of a City of DeKalb issued, current and valid liquor license permitting consumption of alcoholic beverages on the premises which license is actually used for operations including consumption on the premises, which is eligible for the use of a Video Gaming Terminal as described in the Video Gaming Act, 240 ILCS 40/1, et. seq. (hereafter, "the Video Gaming Act") may utilize Video Gaming Terminals (as defined in the Video Gaming Act) within the licensed premises after obtaining a City of DeKalb Video Gaming License and acquiring any required County or State licensure, provided that all such Video Gaming Terminals are used in compliance with all terms of this Ordinance.
    - (a) Any person seeking to utilize one or more Video Gaming Terminals

within a licensed premise shall only be permitted to do so in strict accordance with all provisions of the Illinois Video Gaming Act.

- (b) Prior to installation or use of any Video Gaming Terminal, any licensed liquor establishment seeking to utilize such devices shall first obtain a license from the State of Illinois Gaming Board. After obtaining such license, the applicant shall submit to the City: 1) a copy of the state-issued license; 2) an application for a City of DeKalb Video Gaming License, on a form approved by the City of DeKalb Liquor Commissioner; 3) the City of DeKalb Video Gaming License Application Fee, as outlined below; 4) a drawing or depiction of the location within the licensed premises where the Video Gaming Terminals are proposed to be installed; and 5) such other information as the Liquor Commissioner shall require. Any application for renewal of a City of DeKalb Video Gaming Terminal shall also include all of the foregoing items, except that the City of DeKalb Video Gaming License Renewal Fee shall be substituted for the Application Fee.
- (c) If approved, the term of a City of DeKalb Video Gaming License shall be coterminous with the City of DeKalb liquor license for the licensed premises. All renewal applications for City of DeKalb Video Gaming Licenses shall be required to be submitted at the same time as renewal applications for a City of DeKalb liquor license for the licensed premises.
- (d) The initial Application Fee for a City of DeKalb Video Gaming License shall be Five-Hundred Dollars (\$500.00) per proposed Video Gaming Terminal. The Renewal Fee for a City of DeKalb Video Gaming License shall be Two Hundred and Fifty Dollars (\$250.00) per Video Gaming Terminal, per year, for machines other than those operated by a Qualified Not For Profit (as defined herein). For any licensee that is tax-exempt as recognized by the Internal Revenue Service, organized as a not-for-profit corporation, and registered with the State of Illinois as a charitable organization, such organization shall be deemed a Qualified Not For Profit. For Qualified Not For Profit agencies, the annual renewal fee shall be \$25 per machine, per year. (2016-021)
- (e) City of DeKalb Video Gaming License shall be treated as a supplemental license to the licensed premises' liquor license. Any violation of the Video Gaming Act or any violation of any provision of this Chapter 38 shall constitute a violation of the terms and conditions of both the Video Gaming License and the establishment's liquor license. Any suspension, revocation, termination or other disciplinary proceeding applicable to a licensed premises liquor license shall be applicable to its Video Gaming License, and any proceeding applicable to the Video Gaming License shall be applicable to the liquor license. A suspension, revocation or termination of either license shall automatically result in the suspension, revocation or termination of the

other license. Any disciplinary proceeding relating to a Video Gaming License shall utilize the same procedures as a disciplinary proceeding relating to a liquor license, as outlined in this Chapter 38.

- (f) Any Video Gaming Terminal utilized in a licensed premises shall be installed in a fixed location described in the license application, acceptable to the Liquor Commissioner, from which the Video Gaming Terminal is visible to staff of the licensed premises at all times.
  - (g) All installations of Video Gaming Terminals are subject to any applicable City building code or regulatory requirements, codes and ordinances.
  - (h) It shall be unlawful for any person under the age of twenty-one (21) years to operate, play or utilize a Video Gaming Terminal. It shall be unlawful for any person, place or licensed establishment to permit or allow any person under the age of twenty-one (21) years of age to operate, play or utilize a Video Gaming Terminal.
2. Any violation of this Section 38.27(c) shall be an ordinance violation, punishable by a fine of up to Seven Hundred and Fifty Dollars (\$750.00) per occurrence. In addition, any violation may be pursued as a violation of a licensed premises' liquor license or City of DeKalb Video Gaming License, with fines and costs assessed pursuant to the established process therefor.
  3. Any Video Gaming Terminal properly licensed by the City of DeKalb and State of Illinois shall be permitted to operate within a licensed premise in accordance with applicable state regulations and this Ordinance, and such licensed Video Gaming Terminal shall not constitute a violation of any other City code or ordinance prohibiting gambling or gaming.
  4. Video Gaming Terminals shall only be permitted to be installed in facilities that possess a liquor license permitting them to sell alcohol for consumption on the premises without a corresponding sale of food. Video Gaming Terminals shall not be permitted at any establishment that is not permitted to sell alcohol for consumption on premises, nor shall they be permitted at any restaurant that is required to serve food with purchases of alcohol (other than a restaurant included within a Golf Course). Under the current classifications of the City of DeKalb Liquor Code, Video Gaming Terminals shall only be permitted at: 1) facilities that have a Bar or Golf Course license; 2) facilities that have a PENP or Hospitality liquor license and which maintain a bar area restricted to persons twenty-one (21) years of age or older, separated from areas unrestricted in age by full walls and doors, which age-restricted bar area is kept closed and locked when not in operation (provided that all video gaming machines or terminals shall be installed in such restricted-age bar area). Video Gaming shall not be permitted at any facility which has a combination license authorizing use of any portion of the premises as a Restaurant (i.e. shall not be permitted at any facility with a Restaurant and

Bar Liquor License), or in any facility other than an establishment licensed as a Bar, PENP, Hospitality, or Golf Course establishment (or combination of those licenses). (2014-030, 2014-047)

5. Any City-issued license for Video Gaming Terminals shall be considered to be provisional in nature and shall be conditioned upon the applicant's receipt of a required state license for the terminals. The City reserves the right to issue licenses that do not make a determination about applicant eligibility for a Video Gaming Terminal license, and to rely upon the determination of the Illinois Gaming Board as to said eligibility. No video gaming shall be conducted at a City-licensed premise until such time as the City has received and approved a State-issued license.
6. Licenses issued pursuant to this Ordinance shall be valid for the time period specified in such license, unless suspended or revoked (with suspension or revocation proceeding under the same hearing process utilized for City-issued liquor licenses). Notwithstanding anything to the contrary, any license issued hereunder shall automatically terminate, and no new license shall issue or shall be valid, on or after January 1, 2019.
7. Notwithstanding any contrary provision of state statute or other applicable regulation, no license issued pursuant to this section 38.27(c) shall authorize the establishment or maintenance of more than five (5) video gaming terminals per licensed establishment. (2017-012)
8. The City has defined Video Gaming Establishments (VGE) within the City's Unified Development Ordinance. As of the date of passage of this Ordinance, the City has issued seven (7) liquor licenses with supplemental licensure for Video Gaming Terminals to facilities that qualify as VGEs. The City shall hereafter have a fixed number of liquor licenses available for establishments that qualify as VGEs under the Unified Development Ordinance, and that fixed number shall be seven (7), equal to the number presently outstanding. This restriction shall not affect the issuance of Video Gaming Terminal supplemental licenses for facilities that do not qualify as VGEs, nor shall it limit the renewal of existing VGE licenses, nor shall it limit the issuance of VGE licenses at any time, up to the maximum limit of seven (7). (2017-012, 2018-014 - subject to outlined conditions, 2018-015 - subject to outlined conditions, 2018-016 - subject to outlined conditions.)

### **38.28 OBSCENITY IN LICENSED ESTABLISHMENTS.**

- a) No Licensee, his agent or employee shall allow or permit any person to perform acts of or acts which simulate:
  1. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
  2. The actual or simulated touching, caressing or fondling of the breast,

- buttocks, anus or genitals.
3. The actual or simulated displaying of the pubic hair, anus, vulva or genitals.
  4. The actual or simulated displaying of the breast so as to expose the nipple of the female breast.
- b) The displaying of films or pictures depicting acts, a live performance of which is prohibited by a) 1. through a) 4. above.
  - c) No Licensee, his agent or employee shall allow or permit any person to remain in or upon the licensed premises who exposes to public view any portion of his or her genitals or anus.
  - d) Nudity and semi-nudity prohibited.
  - e) No person or entity licensed under the provisions of this chapter, or any agent, officer or employee of any such person or entity, shall knowingly allow or otherwise participate in any kind of agreement or arrangement which allows or requires any person to appear before or amidst the public in attendance at any establishment to which said license has been issued, in the nude or in any kind of apparel which as worn or by virtue of its design, fit or material, makes visible or tends to make visible all or any portion of such person's: (1) genitalia; (2) pubic hair or pubic hair region; (3) anus and/or anal crevice; and (4) if such person is a female, her breasts, at, below and including the areola.
  - f) No person shall appear or enter into any kind of agreement or arrangement which allows or requires such person to appear before or amidst the public in attendance at an establishment licensed under the provisions of this chapter, in the nude or in apparel such as that described in subsection e) hereof.
  - g) Any person or entity licensed under the provisions of this chapter, or any agent, officer or employee of any such person or entity, who violates any provision of this section, shall have his license revoked or suspended.

### **38.29 HEARINGS AND FINES.**

A Liquor License may be revoked or suspended, and/or a fine imposed by the Liquor Commissioner as follows:

- a) With the exception of emergency closures as set forth in this Chapter, no license shall be revoked or suspended nor shall a fine be imposed except after a public hearing with a three-day written notice to the Licensee affording the Licensee an opportunity to appear and defend. The public hearing shall be held by the Liquor Commissioner.
- b) The Licensee, after receipt of such order of fine, suspension or revocation, shall have the privilege within a period of twenty (20) days after the receipt of such order of suspension or revocation of appealing the order to the State Liquor Control

Commission for a decision sustaining, reversing or modifying the order of the Liquor Commissioner. If the State Commission confirms the Liquor Commissioner's order to suspend or revoke the license at the first hearing, the appellant shall cease to engage in the business for which the license was issued until the Liquor Commissioner's order is terminated by its own provisions or reversed upon the rehearing or by the Courts.

- c) **Emergency Closures:** In the event that the Liquor Commissioner determines that continued operation of the Licensee immediately threatens the health, safety or general welfare of the City of DeKalb or its residents, the Liquor Commissioner may summarily suspend any license for a period not to exceed seven (7) days. Notice of the suspension and provision for a subsequent hearing within five (5) days of the suspension shall be afforded the Licensee and the hearing shall be conducted in accordance with Section d) herein. The Liquor Commissioner may impose such administrative costs, fines or further suspension or revocation as may be permitted in under this Code as a result of the emergency closure or hearing. In the event that the Licensee corrects the violation which led to the emergency closure and waives its rights to a hearing on the emergency closure, the Liquor Commissioner may impose a fee for such administrative costs that were incurred in the emergency closure, suspension and reinstatement of the license, in an amount of not less than Three Hundred and Fifty Dollars (\$350.00), but nor more than Seven Hundred and Fifty Dollars (\$750.00), taking into account the egregiousness of the offense, the Licensee's prior history of violation(s) and their nature(s) and the amount of administrative time spent on the emergency closure, suspension and reinstatement of the license. The Licensee shall have the right to request, in writing, a hearing on the amount of the fee for administrative costs. Such request shall be made within five (5) days of the imposition of the administrative fee.
- d) **Hearing Procedures:**
1. The Licensee shall at all times be afforded due process including the right to subpoena witnesses in his own behalf, the right to hear witnesses and evidence given against him, the right to counsel, the right to cross-examination, and the right to demand a written specification of charges against him in advance of the hearing.
  2. Witnesses shall be sworn, but in all other respects the hearings shall be informal and strict rules of evidence shall not apply.
  3. A certified court reporter shall, at the public hearing take the complete record of all evidence, testimony and comments and, upon notification by the Liquor Commissioner, shall prepare a certified official record of the proceedings suitable for filing with the State Liquor Control Commission and that all reviews of the proceedings of the Liquor Commissioner be "on the record" so that the State Commission's scope of review is limited to those three (3) instances stated therein. The cost of taking and preparing the certified official record of the proceeding shall be paid by the Licensee, with payment of the cost to be made to the City at or before the time the Order of the Liquor



Commissioner becomes effective, provided, however, if the Order action or decision of the Liquor Commissioner is reversed by the State Commission or a court of law, any such payment made by the Licensee shall be returned.

- e) No person shall make a false statement to the Liquor Commissioner, material to the issue or point in question, knowing such statement to be false.
  
- f) After public hearing as provided herein and if the Liquor Commissioner determines that any of the grounds for fine and/or suspension or revocation of a license exists as stated in this Chapter, the Liquor Commissioner may do any of the following:
  - 1. Impose a fine and costs against the Licensee. Any fine imposed shall not exceed One Thousand Dollars (\$1,000.00) for the first violation and Two Thousand Five Hundred Dollars (\$2,500.00) for the second violation and Five Thousand Dollars (\$5,000.00) for the third or subsequent violation which occurs within an eighteen (18) month period for each violation. Each day on which a violation continues shall constitute a separate violation for which a separate fine may be assessed. The maximum amount of fines that may be imposed upon a Licensee during each annual license period shall not exceed Twenty-Five Thousand Dollars (\$25,000.00). Fines and costs may be payable in the manner indicated in any order which results from a hearing, or as the Liquor Commissioner may otherwise specify in writing, and the failure to pay any part of a fine and costs as so indicated or specified may result in the license being summarily suspended or revoked by the Liquor Commissioner. The Licensee may request a hearing on such action; but, pending a hearing and a decision thereon by the Liquor Commissioner, the license shall remain suspended or revoked. It shall be the duty of each Licensee who cannot make a fine and costs payment as indicated or specified to request a hearing at the earliest possible time to explain the situation and request that license(s) not be suspended or revoked, as provided for herein, or for any other reason. Costs may include that portion of the court reporter's fee, the costs of the attorney for the Liquor Commissioner, reimbursement for any witness fees or subpoena costs incurred by the City and any costs for certified mailing by the City. Any fine and costs may be collected in court as provided by law.
  
  - 2. Suspend the liquor license of such Licensee for a period of not more than ninety (90) days.
  
  - 3. Revoke the liquor license of such Licensee.
  
- g) In making his determination to reprimand, fine, or suspend or revoke, or in determining the amount of a fine imposed or the length of a suspension imposed, the Liquor Commissioner may consider any of the following: 1) the nature of the violation; 2) past violations of the Licensee occurring within the immediately preceding three (3) year period; 3) past action of the Liquor Commissioner in comparable situations; 4) the factual situation and circumstances surrounding the violation as presented at the public hearing; and 5) such other information as the

Liquor Commissioner shall deem relevant.

- h) Any person or entity whose liquor license has been suspended or revoked shall not permit the presence, consumption or serving of alcohol on the premises at any time during the period of suspension or following revocation. In addition to the penalties provided in this Section, any person who violates any provision of this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not less than Three Hundred Dollars (\$300.00) nor more than One Thousand and No/100 Dollars (\$1,000.00), unless otherwise specified in this chapter, and may be incarcerated in the DeKalb County Jail for a term not to exceed six (6) months under the provisions of Section 1-2-1.1 of the Illinois Municipal Code (65 ILCS 5/1-2-1.1) and under the provisions of the Illinois Code of Criminal Procedure (725 ILCS 5/100-1 et. seq.)
- i) A liquor license may be suspended or revoked for any period of time that a fine due relating to a liquor code violation remains unpaid, subject to any applicable limitations of Illinois law.
- j) **Agreed Violation Process:** In cases where: 1) the Liquor Commissioner and the Licensee agree and stipulate to the facts of a given violation, and agree that a violation has occurred; 2) the Liquor Commissioner and the Licensee agree that use of the Agreed Violation Process is appropriate, and are willing to execute a stipulation, settlement and waiver agreement so-indicating; 3) the violation(s) in question are not severe, and do not evidence a pattern of repeat violations by a Licensee; and 4) the Licensee is willing to accept the penalties recommended by the Liquor Commissioner and waive the right to a hearing, to avoid the cost and expense thereof, the Liquor Commissioner and Licensee *may* elect to utilize a written agreement to resolve a proposed violation. Such agreement shall waive the Licensee's right to a hearing, and shall impose a mutually acceptable fine and/or suspension or revocation of a license, and such other terms as the Liquor Commissioner and Licensee shall agree upon. Either party shall be free to reject the Agreed Violation Process and proceed to a formal hearing. The period of time when the parties are investigating the potential use of the Agreed Violation Process shall toll any Liquor Commissioner timelines for initiating a hearing or filing charges against the Licensee.

### **38.30 SERVER TRAINING.**

All Alcohol Servers, as defined above, and all Managers must complete a certified alcohol server education program approved by the State of Illinois and approved by the City of DeKalb Chief of Police as an acceptable training program. Said training program shall be certified as "TIPS" training (Training for Intervention Procedures), and shall also be an accredited BASSET training program. At the discretion of the Chief of Police, said training may be required to be obtained through the City of DeKalb Police Department, in which case an appropriate fee shall be imposed by the Chief of Police for such training. Said training shall be completed before the employees in question begin serving as Alcohol Servers or Managers. Said training shall be repeated and kept current in accordance with the requirements of the Chief of Police. Prior to issuance of a liquor license, the applicant shall demonstrate that at least one Owner or Manager has completed all training required

under this Code or under the Act. The Liquor Commissioner may require that Owners, Managers or Alcohol Servers recomplete Server Training in the event of the occurrence of any violation or alleged of this Liquor Code, with a hearing or by agreement. Managers shall complete training prior to the time of opening of the establishment. All training for all other Alcohol Servers shall be completed within 120 days of a new employee's date of hire. Prior to completion of required training, any Alcohol Server within their first 120 days of employment shall only serve or sell alcohol under the direct supervision of a TIPS-trained employee. (2016-014)

### **38.31 LICENSE CONVERSION AND PARCEL-SPECIFIC EXEMPTIONS.**

- a) In 2013, the City of DeKalb adopted a new Chapter 38 that provided for revised liquor license classifications. Within six (6) months of the adoption of this new Chapter 38, the Liquor Commissioner shall notify each current Licensee, in writing, of the new liquor license classification that their establishment fits under. Said determination shall be made based upon the classification that most closely approximates their current license status and entitlements. In the event that a Licensee believes an alternate license is more appropriate, the Licensee may request reconsideration of the Liquor Commissioner's determination, in writing, within thirty (30) days of the date of the Liquor Commissioner's written determination. The Liquor Commissioner shall consider any such request and shall respond in writing, which decision shall be final. At the first renewal of licenses following this initial conversion, the Licensee shall be responsible for payment of the renewal fee for the new class of license assigned to the Licensee.
- b) At any time after the initial conversion of licenses (or at any time in the future, for new Licensees), a Licensee may request conversion of its license from the license that they currently hold to an alternate form of license or may request the addition of another license. In order to be eligible for such a conversion or addition, the Licensee shall submit an application for conversion in a form acceptable to the Liquor Commissioner, and shall pay the additional difference, if any, in initial issuance fees applicable to the new license sought, as compared to the initial issuance fee for the currently held license.
- c) The City recognizes three existing licenses that shall be granted special status under the terms of this Ordinance, as temporarily exempted from certain provisions hereof, as more fully outlined below. These temporary exemptions shall expire upon the first to occur of: 1) the termination, revocation or surrender of the liquor license for the referenced premises(s); 2) the discontinuation of the licensed business; or, 3) the sale or transfer of the licensed business to any party other than the current owner(s).
  - 1. Oakbrook Beverage Centers, Inc., d/b/a Osco Drug #3272, located at 1322 Sycamore Road, shall be permitted to maintain a Package Liquor license for the currently approved floor plan, notwithstanding the fact that the liquor store is within the same Building as a Grocery or Drug Store, provided that the Licensee maintains a separate checkout for Alcoholic Liquors, and prohibits entry of those under twenty-one (21) years of age (other than

employees over the age of eighteen (18) in the course of their official duties and persons in the company of their parent or legal guardian) into the Permitted Area for Package Liquor Sales.

2. Sullivan's Tavern, Inc., d/b/a Sullivan's Tavern, located at 722 East Lincoln Highway, shall be permitted to maintain a Bar license, and shall be permitted to engage in Package Liquor Sales using the currently approved floor plan, and shall be permitted to allow customers to obtain their own Package Liquor items for purchase from the shelves, instead of being required to sell Package Liquors over the counter as required for other Bars.
  3. Twin Tavern & Discount Liquors, Inc., d/b/a Twin Tavern & Discount Liquors, located at 1016 and 1028 South 4th Street, DeKalb, Illinois, shall be permitted to maintain a single Bar liquor license for both existing Buildings, which shall authorize the conduct of sales permitted under a Bar license in the existing building at 1028 South 4th Street, and which shall authorize the conduct of sales permitted under a Package Liquor license in the existing building at 1016 South 4th Street.
  4. The House Café of DeKalb, Inc., d/b/a The House Café of DeKalb, located at 263 East Lincoln Highway, DeKalb, Illinois, shall be permitted to continue its current operations and regardless of its status as a for-profit entity, shall be deemed to qualify for a PENP license with a licensure agreement governing its terms of operation, with such license agreement authorizing the continuation of existing business practices relating to the sale of alcoholic beverages and admission. The Liquor Commissioner shall be authorized to negotiate and approve any such licensure agreement.
- d) Following the adoption of this Ordinance, the City may continue to issue citations referencing the chapter and section of former provisions of this City Code and may prosecute such violations without regard to the renumbering of this Code, provided that the elements of the offense are substantially similar to the offenses listed herein.

### **38.32 NOTICE TO THE CITY.**

Any provision of this Code that requires the issuance of a notice, renewal, fee or other item (collectively, "notice") to the City of DeKalb shall require the mailing, via first-class USPS mail, postage prepaid, or the personal, hand delivery, of a written notice to the City of DeKalb, Attention Legal Department, 200 South Fourth Street, DeKalb, Illinois 60115. Notices to the City shall be effective upon receipt by the City, and Licensees shall be responsible for ensuring timely delivery and receipt of any required notice.

### **38.33 FINES AND PENALTIES.**

A violation committed by a person under the age of twenty-one (21) who has violated or who is attempting to violate the provisions of this Ordinance shall be punishable by a fine of not less than Three Hundred Dollars (\$300.00) for a first offense, and not less than Five

Hundred Dollars (\$500.00) for a second or subsequent offense. A violation by a Licensee or agent or employee thereof shall be punishable by a fine of not less than Five Hundred Dollars (\$500.00) for a first offense, and not less than Seven Hundred and Fifty Dollars (\$750.00) for a second or subsequent offense.

**38.34 DISRUPTIVE INTOXICATION.** (2013-029)

a) Definitions:

1. "Public Place" shall be defined as a street, sidewalk, park, property owned by any unit of government, or other location reserved for public use or available to the public to utilize, or appearing on any private property without the consent of the landowner.
2. "Intoxicated" shall mean under the influence of drugs, alcohol or any other intoxicants based upon the reasonable belief of a sworn police officer, which belief shall be described on the basis of objective observations of condition including but not limited to a combination of one or more of the following factors: a) admission of use of any intoxicant; b) odor of intoxicants on breath, clothing, body or person; c) bloodshot, watery eyes; d) dilated pupils; e) stumbling or staggering; f) slurred speech; g) failure of any component of a generally accepted field sobriety test; h) alcohol concentration in excess of the legal limit for driving (i.e. 0.08 blood alcohol concentration) measured in accordance with standard protocols for the same; or i) other reliable indicia of intoxication. Refusing to submit to the conduct of a sobriety test or breathalyzer test shall constitute prima facie evidence of being intoxicated.
3. "Disruptive Behavior" shall mean behavior which consists of one or more of the following elements: a) public urination; b) lewd or combative conduct including but not limited to shouting that can be heard from more than fifty (50) feet away; c) engaging in any behavior otherwise prohibited under City Code or state law; d) disrupting, disturbing, interfering with or blocking the use of any public or private way; e) littering; f) damaging or threatening harm to any person or to any public or private property; g) being intoxicated to a point of being a harm to self or others, or to the point of being incapable of controlling one's behavior; h) failing or refusing to adhere to any lawful command of a sworn police officer; i) engaging in any conduct that inhibits or disrupts the lawful actions of a sworn police officer while in the performance of his duties; or j) engaging in other conduct that is similar in nature to any of the foregoing, or otherwise likely to cause a disruption or disturbance of the public peace, whether observed by third party complainants or not.

b) It shall be unlawful to be intoxicated and engage in Disruptive Behavior in any Public Place as defined herein.

c) A violation of this Ordinance shall be punishable by a fine of not less than Three Hundred Dollars (\$300.00) and not more than Seven Hundred and Fifty Dollars (\$750.00). For purposes of this Ordinance, a sworn police officer may serve as

complaining witness without requirement of a third party complainant.