

Chapter 3 - ALCOHOLIC LIQUOR

ARTICLE I. - CONSTRUCTION

3-1: - NAME OF ACT; SHORT TITLE.

- (A) **Reference to State Statute.** Whenever reference herein is made to the Illinois Liquor Control Act of 1934, or to "the Act," it shall mean and refer to "an act relating to alcoholic liquors," approved January 31, 1934, in force February 1, 1934, as amended, 235 Illinois Compiled Statutes 5/1-1 et seq.
- (B) **Short Title.** This chapter may be cited to and referred to as the DuPage County Liquor Ordinance.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-2: - DEFINITIONS.

- A. All words and phrases shall have the same meaning as the same or similar words or phrases defined by and used in the Liquor Control Act of 1934.
- B. As used in this chapter, unless the context clearly requires otherwise, the following terms are defined as follows:
- (1) **Bar:** A fixed or mobile station for serving liquor, located on premises which have a valid liquor license in effect under this ordinance or its amendment.
 - (2) **Corporations:** means any entity organized under the laws of this state or any other as a corporation, including a not for profit corporation, limited liability company, or limited partnership authorized to do business in Illinois.
 - (3) **Commissioner:** means the Local Liquor Control Commissioner for the unincorporated area of DuPage County.
 - (4) **Place of worship:** Any property whose primary, permanent, and dedicated purposes is to the act of religious worship; such as a church, mosque, synagogue, temple or any similar building or structure.
 - (5) **Premises:** The place of business, room, shop, or area including all rooms and facilities appurtenant thereto wherein alcoholic liquor is offered for sale in any form.
 - (6) **Renewal:** The application by a licensee for the same class license, for the subsequent year.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013; Ord. No. JPS-O-0014-16, 5-24-2016)

3-3: - SEVERABILITY.

The articles, provisions and sections of this article shall be deemed separable and the invalidity of any portion of this article shall not affect the validity of any article, provision or section of the remainder.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

ARTICLE II. - DU PAGE COUNTY LIQUOR CONTROL COMMISSIONER

3-4: - DU PAGE COUNTY LOCAL LIQUOR CONTROL COMMISSIONER.

- (A) **County Board Chairman Is Commissioner.** The Chairman of the DuPage County Board, State of Illinois, shall be the Local Liquor Commissioner. He or she may appoint a person or persons to assist him in the exercises of the powers and the performance of his duties as commissioner.
- (B) **County Clerk Is Secretary.** The Clerk of DuPage County shall keep the records of the Commissioner.
- (C) **Agents Of The Commissioner.** The Commissioner may designate the following individuals as agents of the Commissioner for enforcing the provisions of this ordinance:
 - (1) The Sheriff and his or her deputies with the consent of the Sheriff.
 - (2) The Coroner and his or her deputies with the consent of the Coroner.
 - (3) The State's Attorney and his or her assistants and special investigators with the consent of the State's Attorney,
 - (4) Staff members of the County Department of Economic Development and Planning, Regulatory Services Division, and
 - (5) Any other person the Commissioner may designate as evidenced by his or her filing a copy of such appointment with the office of the County Clerk within five (5) days of such appointment.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-5: - APPLICATION OF ORDINANCE; ADOPTION OF STATE LAW.

- (A) **Application of Ordinance** . This ordinance and the authority it confers to various officers and entities shall apply to:
 - (1) To all areas in DuPage County that lies within the corporate limits of the County and outside of the corporate limits of any municipality therein without limitation; and
 - (2) To any area within the corporate limits of a municipality that, through intergovernmental agreement, has authorized the County to regulate the retail sale of alcohol to such territory within the municipality's boundaries in the manner and to the extent authorized by such agreement.
- (B) **Adoption of State Law** . The County adopts, and makes a part of this Article, any and all sections of the Liquor Control Act of 1934 and any amendments thereto applicable to the Commissioner.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-6: - POWERS AND DUTIES.

- A. **Powers and Duties of the Commissioner:** The Commissioner and his or her assistants or agents, in addition to the powers and duties herein given and provided, shall have all the powers and duties as provided for in the Illinois Liquor Control Act of 1934.
- B. **Rule Making Power:** The Commissioner shall make such reasonable rules as may be necessary in the performance of his or her duties and may prescribe the form of the application which each prospective licensee shall sign prior to receiving a liquor license.
- C. **Hearings:** A hearing before the Commissioner may be called at the direction and by the authority of the Commissioner by giving five (5) days' notice in writing to each licensee whose license shall be the subject of such hearing. The Secretary to the Commissioner shall send written notice of such hearing to the licensee at the licensed premises.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-7: - DURATION OF APPOINTMENTS.

Appointees of the Commissioner shall serve as the Commissioner's pleasure.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-8: - FILING OF APPOINTMENTS.

The Commissioner shall file a copy of the appointment of any persons the Commissioner appoints to assist him or her in the execution of his or her duties in the office of the County Clerk within five (5) days after their respective appointments.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

ARTICLE III. - LICENSES; CLASSIFICATION, NUMBER, FEES AND REGULATIONS

3-9: - REQUIREMENT OF RETAIL LIQUOR LICENSE.

- (A) No person shall sell, barter, transport, deliver, solicit or receive orders for, keep or expose for sale, keep with intent to sell, or furnish any alcoholic liquor for beverage purposes for sale at retail, in any of the territory subject to the provisions of this chapter, without first having a valid retail liquor license issued by the Commissioner.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-10: - GRANTING OF RETAIL LIQUOR LICENSE.

No retail liquor license shall at any time after the effective date hereof be granted by the Commissioner except as hereinafter provided.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-11: - PLACE OF BUSINESS; CHANGE OF LOCATION.

- A. Any license issued hereunder, except a Class J license, shall embrace only one (1) premises. A Class J license shall permit the sale of alcoholic liquor in any premises described in the application and license which are in compliance with the provisions and regulations of this article.
- B. A license issued hereunder shall permit the sale of alcoholic liquor only in the premises described in the application and license. Such premises may be changed only when and upon the written permit to make such a change shall be issued by the Commissioner. A licensee shall not transfer to a new premise unless the proposed new premises is in compliance with the provisions and regulations of this article.
- C. A license issued hereunder shall permit the sale of alcoholic liquor only in the name of business described in the application for license. Such name may be changed only when and upon the written permit to make such a change shall be issued by the Commissioner.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-12: - CLASSIFICATION OF RETAIL LIQUOR LICENSES.

The Commissioner may grant retail liquor licenses for the selling at retail of alcoholic liquor for the period beginning on July 1 of any year, and ending on June 30 of the next or succeeding year. Such licenses shall be and are hereby divided into the following classes and none other:

Class A - Package Store: Such license shall only permit retail sale of alcoholic liquor, in its original sealed packages, but not for consumption on the premises where sold and not for resale in any form.

Class B - Tavern and Restaurants: Such license shall permit the retail sale of alcoholic liquor for consumption on the premises where sold and not for resale in any form. In the case of a restaurant, said license shall be issued to premises which conform to the definition of a restaurant as defined in the Liquor Control Act.

Class C - Hotels and Recreational Facilities:

A. **Hotels:** Such license shall permit the retail sale of alcoholic liquor for consumption only on the premises where sold, and not for resale in any form, to be issued to premises which conform to definition of a restaurant or hotel as defined in the Liquor Control Act.

B. **Recreational Facilities:** Such license shall permit the retail sale of alcoholic liquor for consumption only on the premises where sold, and not for resale in any form, to be issued to premises which facilitate athletic or sporting events. Service of alcoholic liquor shall be only during the time that the athletic or sports portion of the facility are open and available for use.

Class D - Additional Bar: Such license shall permit a holder of a class B, C, or F license to operate an additional bar on the licensed premises, and shall be issued on the same qualifications and terms and conditions required for the original license under which license was granted. A separate class D license must be obtained for each additional bar.

Class E1 - Temporary License; Daily: Such license shall permit the licensee to sell, at retail, alcoholic liquor for a twenty-four (24) hour period for each class E1 license, for consumption only on the premises where sold, and not for resale in any form, to be issued for temporary stands, booths, or counters such as used at picnics, celebrations, and the like excluding the serving of alcoholic liquor under the control of persons or entities who can demonstrate that they are operating a bona fide restaurant or catering business and are licensed to sell alcohol at retail in the State.

Class E2 - Temporary License; Wine/Champagne/Alcoholic Beverage Tastings: A Class E2 license shall only be issued to licensed premises holding a Class A, B, C, or F license and shall: permit the licensee to conduct wine, champagne and other alcoholic beverage tastings at the licensed premises for a twenty-four (24) hour period for consumption only on the premises where conducted and not for retail sale of samples and not for resale in any form, except that the holder of an E2 license may offer original sealed packages of the alcoholic beverages offered for tasting for consumption off the licensed premises and not for resale in any form during the time such E2 license is in effect. A licensee holding an E2 license may charge a single fee to cover the expenses of the tastings.

In addition to the other requirements of this chapter, a class E2 license shall only be issued to persons who can demonstrate that they are conducting a bona fide wine/champagne/alcoholic beverage tasting event.

Class F - Clubs: Such license to sell alcoholic liquor at retail may be granted to any social or fraternal corporation of national scope, organized not for profit, provided that sales on such premises shall be limited to members of the licensee and their guests, and the licensee shall not operate a public tavern under such license.

Class G - Reserved.

Class H - Reserved.

Class I - Catering License: Such license shall permit the licensee to sell alcoholic liquor for a twenty-four (24) hour period for each class I license in connection with providing catering services to a location in the unincorporated area of the County. Such sale shall only be made at the registered office of the licensee, which shall be the license premises. Alcoholic liquor shall be sold and served by the licensee in connection with the catering of foods for consumption only on the premises where food is catered and not for resale in any form. The Commissioner shall only issue a Class I license to persons or entities who can demonstrate that they are operating a bona fide restaurant or catering business and are licensed to sell alcohol at retail in this State.

Class J - Public Community Colleges: Such license shall permit the licensee to sell alcoholic liquor at any and all locations on the main campus of a public community college. The retail sale of alcoholic liquor is subject to licensure by the Commissioner. The Class J license shall permit the license holder to sell and dispense alcohol as part of the educational curriculum and as permitted in Classes B, C, D, E1, E2, G, and I of Section 3-12 of the DuPage County Code for both established indoor and outdoor locations. The license applicant shall provide the Commissioner its rules and procedures to allow the sale of liquor to be utilized in an educational program in full conformance with the state and local regulations regarding alcoholic liquor, except during the first year following this provision's adoption when the license applicant shall make such submittal within one hundred twenty (120) days of issuance of a Class J license. Licensee may only conduct outdoor sales of alcohol at established outdoor venues on the main campus between the hours of 9:00 a.m. and 11:00 p.m. All individuals allowed to sell alcoholic liquor shall be required to successfully complete a state certified beverage alcohol sellers and servers education and training program. A Class J license shall only be issued to a public community college organized under the Public Community Colleges Act, 110 ILCS 805, et seq. A Class J license authorizes the retail sale of alcohol at multiple bars at the licensed premises without the requirement of additional Class D licenses. The consumption of alcohol is only permitted at the defined premise and venue where the sale and/or service of alcohol occur.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-13: - NUMBER OF LICENSES.

- A. No more than twenty-five (25) class A licenses shall be issued in any one (1) license year.
- B. No more than one hundred (100) class B licenses shall be issued in any one (1) license year.
- C. No more than ten (10) class C licenses shall be issued in any one (1) license year.
- D. No more than six (6) class E1 licenses shall be issued to any person, organization or person representing any organization in any one (1) license year.
- E. No more than two (2) class F licenses shall be issued in any one (1) license year.
- F. No more than one hundred (100) class I licenses shall be issued in any one (1) license year to any one (1) licensee.
- G. No more than one (1) class J license shall be issued in any one (1) license year.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-14: - FEES FOR LICENSES AND RENEWAL FEES.

The fee for any of the licenses hereinafter set forth shall accompany the application for such license. No license, or renewal of any license, may be issued until the fee therefor has been paid.

The application and renewal fees for class B, C and D licenses shall be accompanied with proof of completion of a state certified beverage alcohol sellers and servers education and training program (hereinafter "BASSET") for server's of alcoholic beverages. Within ninety (90) days of employment, a

server of alcoholic beverages shall complete a BASSET program. A photocopy of the certificate of completion must be filed with the Commissioner. All certificates of completion shall be maintained in the manager's office on the premises of the liquor establishment.

Class	License Type	Application Fee	Initial Fee	Renewal Fee
A	Package Store	\$1,000.00	\$2,250.00	\$2,250.00
B	Restaurant and tavern	1,000.00	2,250.00	2,250.00
C	Hotel or motel	1,000.00	2,400.00	2,400.00
D	Additional bar supplemental to B or C	n/a	200.00	200.00
E	Temporary daily license	n/a	50.00	n/a
F	Clubs	n/a	375.00	375.00
I	Catering	n/a	100.00	n/a
J	Public Community Colleges	1,000.00	5,850.00	5,850.00

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-15: - CERTIFICATION BY COUNTY DEPARTMENTS.

- (A) At the time of the application for license or renewal, the applicant shall submit a certification from the DuPage County Health Department, from the DuPage County Economic Development and Planning Department (EDP) that the proposed licensed premises are in conformity with all of the regulations and ordinances of DuPage County. Further, it shall be a condition of the granting of any liquor license that the geographical location of premises upon which the license is to be exercised shall conform: a) to all the provisions and regulations made pursuant to the authority vested in the DuPage County Board relating to building and zoning and administered by the EDP, and b) to all the provisions and regulations made pursuant to the authority vested in the County Board and the Board of Health and administered by the DuPage County Health Department. In addition, the applicant shall submit a certification from the Sheriff that the proposed licensee is in conformity with all the regulations and ordinances of DuPage County and laws of the State of Illinois.
- (B) In making the certifications set forth in paragraph (a) of this Section, a County department may, but is not required to, rely on certifications made by other governmental entities, including, but not limited to fire protection districts.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-16: - FINGERPRINTS.

No license shall be issued hereunder until the applicant shall have been investigated by the Commissioner and the Commissioner files approving the issuance of such license. As a part of this

investigation, the Commissioner shall require all new applicants and shall have the right to require fingerprints of any applicant for renewal thereof other than an applicant who is an air carrier operating under a certificate or a foreign air permit issued pursuant to the Federal Aviation Act of 1958. For purposes of obtaining fingerprints under this section, the Commissioner shall collect a fee and forward the fee to the County Sheriff who shall submit the fingerprints and the fee to the Illinois Department of State Police and Federal Bureau of Investigation. A copy of fingerprints shall be held on record by the Sheriff of DuPage County, and a signed affidavit from the Sheriff of DuPage County showing compliance with the prohibitions as stated in this article.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-17: - NUMBER OF RETAIL LIQUOR LICENSES.

All lawful retail liquor licenses of class A, class B, class C and class F issued and in force on June 30, 1988, shall be renewed or reissued upon strict and full compliance with the ordinances of the County Board, in effect at the time of the application for such renewal or reissue, but no new retail liquor license, (other than a renewal or reissue as hereinafter provided) shall at any time hereafter be granted or issued until the number of licenses in force at the time shall be less than twenty (20) for class A, one hundred (100) for class B, and ten (10) for class C, and whereupon such new licenses shall be issued from time to time to lawful applicants upon full compliances by the applicant with the regulations and ordinances of the DuPage County Board in force at the time of the application for such license, until the total number of retail liquor licenses shall be issued to such lawful applicants as the Commissioner shall in his or her discretion deem most desirable.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-18: - LAPSE OF LICENSE FOR NONUSE.

If a retail liquor license is issued in accordance with the above terms and held by said licensee without the licensee being in actual operation of said business at any time during the course of said year or without having premises for the operation of said business, said premises to be approved by the Commissioner, then, the license so issued shall automatically become null and void.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-19: - LAPSE OF LICENSE FOR MERGER INTO ANOTHER LIQUOR JURISDICTION.

If the premises for which a retail liquor license has been issued by the Commissioner by reason of annexation or otherwise comes within the jurisdiction of any other liquor control commissioner or commission and a license issued from said other jurisdiction to the holder of the DuPage County license in effect hereunder, then the said DuPage County license shall automatically become null and void.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-20: - WAIVER OF LICENSE APPLICATION REQUIREMENTS.

The Commissioner may, at his or her discretion, waive all, or part, of the license application requirements for sections 3-15 and 3-16 of this article, during a license year, for all persons making an application for a liquor license for any one (1), or several, classes of liquor license. Such waiver shall be made by written rule promulgated by the Commissioner, prior to the beginning of a license application period, pursuant to the Commissioner's authority under section 3-6 of this chapter.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-21: - PROHIBITED LIQUOR LICENSE HOLDERS.

No retail liquor license shall be issued to or held by:

- A. A person who is not a resident of the County of DuPage.
- B. A person who is not a citizen of the United States of America.
- C. A person who has been convicted of a felony, or who has been convicted of two (2) or more criminal misdemeanors other than for a traffic violation within the two (2) years next preceding his application.
- D. A person who has been convicted of being the keeper or is keeping a house of ill fame.
- E. A person who has been convicted of pandering or other crime or misdemeanor opposed to decency or morality.
- F. A person whose license, issued under this article or under the State Liquor Control Act, has been revoked for cause.
- G. A person who or corporation which at the time of application for renewal of any license issued hereunder would not be eligible for such license upon first application.
- H. A co-partnership, unless all the persons forming a part of such co-partnership shall be qualified to obtain a license, except that only one (1) partner shall be required to be a resident of DuPage County.
- I. A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate amount of five percent (5%) of the stock of such corporation, would not be eligible to receive a license hereunder for any reason other than citizenship and residence within DuPage County.
- J. A corporation unless it is incorporated in Illinois or unless it is a foreign corporation which is qualified under the "Business Corporation Act of 1983" to transact business in Illinois.
- K. A corporation unless its place of business is supervised by a manager or agent, who is a resident of DuPage County, present on the premises at least forty (40) hours per week, at least fifty (50) weeks per year.
- L. A person, corporation or association whose place of business is supervised by a manager or agent, unless said manager or agent possesses the same qualifications required of the licensee.
- M. A person, corporation or association which does not own the premises for which a license is sought or does not have a lease thereof for the full period for which the license is to be issued.
- N. Any person, association or corporation not eligible for a state retail liquor license.
- O. Any individual, corporation, partnership, organization, association or society for more than two (2) premises, provided, however, that if through error or mistake more than two (2) licenses shall be issued to any individual, corporation, partnership, organization, association or society for more than two (2) premises, then sufficient licenses shall be revoked by the DuPage County Liquor Commission so that the number remaining shall be two (2).
- P. Any law enforcing public official, any mayor, alderman, or member of the city council or commission, any president of a village board of trustees, any member of a village board of trustees, or any president or member of a County Board, except that a license may be granted to such official in relation to premises which are not located within the territory subject to the jurisdiction of that official if the issuance as such license is approved by the state liquor control commission.

- Q. A person who has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor, subsequent to the passage of this article or has forfeited his bond to appear in court to answer charges for any such violation.
- R. A person who is not a beneficial owner of the business to be operated by the licensee.
- S. A person who has been convicted of a gambling offense as proscribed by Article 28 of the Criminal Code of 2012 or a similar offense under any former Illinois statute or statute of another State.
- T. A person to whom a federal wagering stamp has been issued by the federal government for the current tax period.
- U. A corporation to which a federal wagering stamp has been issued by the federal government for the current tax period, or if any of the partners have been issued a federal gaming device stamp or federal wagering stamp by the federal government for the current tax period.
- V. A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than twenty percent (20%) of the stock of such corporation has been issued a federal wagering stamp for the current tax period.
- W. Any premises for which a federal wagering stamp has been issued by the federal government for the current tax period.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-22: - VIOLATION OF RETAILERS' OCCUPATION TAX ACT.

In addition to other grounds specified in this article, the Commissioner, on a complaint of the Department of Revenue of the State of Illinois, may refuse the issuance or renewal of a retailer's license, or suspend or revoke such license, for any of the following violations of the "Retailer's Occupation Tax Act," approved June 28, 1933, as amended:

- A. Failure to make a tax return.
- B. The filing of a fraudulent tax return.
- C. Failure to pay all or part of any tax or penalty finally determined to be due.
- D. Failure to keep books and records.
- E. Failure to secure and display a certificate or subcertificates of registration.
- F. Willful violation of any rule or regulation of the Department of Revenue, of the State of Illinois, relating to the administration and enforcement of tax liability.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-23: - LICENSES SUBJECT TO CHANGES BY LIQUOR COMMISSIONER.

Any and all licenses issued pursuant to this article shall be subject to any and all changes or amendments which may be hereafter made, and any and all rules adopted by the Commissioner.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-24: - INSURANCE REQUIREMENTS.

No license shall be issued to any person, association or corporation that cannot produce a policy of insurance in a solvent and responsible company authorized to do business in the State of Illinois insuring

said person, association or corporation against liability for any injury or death which said parties may incur while operating under the provisions of the Illinois Liquor Control Act of 1934 and this article, in the amount of one hundred thousand dollars (\$100,000.00) per person and three hundred thousand dollars (\$300,000.00) per occurrence for bodily injury liability; one hundred thousand dollars (\$100,000.00) for loss of means of support.

Each applicant shall show by evidence satisfactory to the Commissioner, the issuance of a policy of liquor liability insurance, and in the event he is not the owner of the premises described in said application, that he has a lawful right to possession of the same until the expiration of the term of license for which application is made.

Each licensee shall furnish the Commissioner, the Declarations page of their insurance policy and in the event of cancellation, shall immediately suspend all business activity and take the necessary steps to purchase, maintain, and provide the required insurance coverage. If a suspension of business should occur due to insurance requirements, upon verification by the Commissioner of the required insurance coverage, the Commissioner shall notify the licensee that they may resume all business activities. Failure to provide and maintain the required insurance coverage could result in the immediate cancellation of the license and the licensee shall accept and bear all costs that may result due to their failure to provide and maintain the required insurance.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

ARTICLE IV. - APPLICATION

3-25: - FILING OF APPLICATION.

Application for any such license hereinabove provided for shall be made to the Commissioner on application forms he or she provides, filed with the Clerk, and shall contain the statements and information required by the Commissioner.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-26: - APPLICATION REQUIREMENTS.

Application for such licenses shall be made to the Commissioner, in writing, signed by the applicant if an individual, all the partners, if a partnership, or by a duly authorized agent thereof, if a club or corporation, verified by oath or affidavit, and shall contain the following statements and information.

- A. The name, age and address of the applicant in the case of an individual; in the case of a copartnership, the persons entitled to share in the profits thereof; in the case of a corporation, the names and address of the officer and directors and if a majority interest of the stock of such corporations is owned by one (1) person or his nominee, the name and address of such person. In the case of a public community college, the names and addresses of the officials responsible for the management and operations of the facilities at which alcoholic liquor or beverages shall be stored, distributed, furnished or sold.
- B. The citizenship of the applicant, his place of birth, and if a naturalized citizen, the time and place of his naturalization.
- C. The character of business of the applicant, and in the case of a corporation, the objects for which it was formed.
- D. The length of time said applicant has been in business of that character, or in the case of a corporation, the date when its charter was issued.
- E. The location and description of the premises or place of business which is to be operated under such license.

- F. A statement whether applicant has made application for a similar or other license on premises other than described in this application, and the disposition of such application.
- G. A statement that applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this article, laws of this state, or the ordinance of this County.
- H. Whether a previous license by any state or subdivision thereof, or by the federal government has been revoked, and the reasons thereof.
- I. Should any applicant for a license make a false or fraudulent statement in such affirmation, the same shall be cause for revocation by the DuPage County Liquor Commissioner for such license previously issued and shall be cause for denial of issue or reissue of such license.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-27: - SIGNATURE OF CORPORATION.

When any applicant for license is a corporation, said application shall be signed by the president and secretary thereof, and should the applicant be a partnership, then each and every member of the partnership (including a silent partner if any) shall sign such application.

(2005 Code)

ARTICLE V. - LICENSES; TRANSFER OR RENEWAL

3-28: - RENEWAL BY OWNER.

Each license issued hereunder shall terminate on June 30 following the issuance thereof. Any licensee may renew such license at the expiration thereof, provided that it is then qualified to receive a license and the premises for which such renewal license is sought are suitable for such purpose; provided further that the renewal privilege herein provided for shall not be construed as a vested right which shall in any case prevent the Commissioner or County Board from decreasing or limiting the number of classes of licenses to be issued within the County.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-29: - APPLICATION FOR RENEWAL.

All applications for renewal of any license shall be made on or before thirty (30) days prior to expiration thereof. Failure to make timely application shall cause the license not to renew.

(2005 Code)

3-30: - TRANSFER LICENSE; DEATH OF OWNER.

- (A) A license shall be a purely personal privilege, good for not to exceed one (1) year after issuance unless sooner revoked as in this article provided, and shall not constitute property, nor shall it be subject to attachment, garnishment, or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated.
- (B) Such license shall cease upon the death of the licensee or upon the dissolution of a partnership or corporation or upon the bankruptcy thereof and shall not descend by the laws of testate or intestate devolution, provided that executors or administrators of the estate of any deceased licensee, and the

trustee of any insolvent or bankrupt licensee, may continue the business of the sale of alcoholic liquor under the order of the appropriate court, and may exercise the privileges of the deceased or insolvent or bankrupt or bankruptcy, until the expiration of such license, but not longer than six (6) months after the death, bankruptcy, or insolvency of such licensee.

- (C) When a license has been issued to a partnership and a change of ownership occurs resulting in a partnership interest by one who is not eligible to hold a liquor license, said license shall terminate. When a license has been issued to a corporation and a change takes place in officers, directors, managers, or shareholders of more than five percent (5%) of the stock resulting in the holding of office of such shares of stock by one who is not eligible for a license, said license shall terminate.
- (D) Any changes in partnership, officers, directors, persons holding directly or beneficially more than five percent (5%) of the stock or ownership interest, or managers of establishments licensed under this chapter, shall be reported in writing to the Commissioner within ten (10) days of the change. All new personnel shall meet all the standards of this chapter and must otherwise qualify to hold a liquor license. All such changes in personnel shall be subject to review by the Commissioner within thirty (30) days of the change.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-31: - INTEGRATION OF PREEXISTING LICENSES.

Any valid license in effect at the time of the adoption of this article should not be subject to the increased license fees as promulgated by this article. However, at the time of the expiration or revocation of any valid license in effect at the time of the adoption of this article, a renewal, if any, should be subject to all the provisions, rules and regulations and the fee schedule as promulgated by this article.

(2005 Code)

ARTICLE VI. - PENALTIES OR SUSPENSION OF LICENSES; FINES

3-32: - PENALTIES.

The Commissioner may revoke or suspend any license issued hereunder upon a determination that the license has violated any provision of this article, or of the Illinois Liquor Control Act of 1934, or any valid resolution or ordinance enacted by the DuPage County Board, or any applicable rule or regulation established by the Commissioner or by the Illinois Liquor Control Commission. A period of suspension may not exceed thirty (30) days for each violation, and during such period no alcoholic liquor shall be sold on said licensed premises. In addition to suspension or revocation, the Commissioner may levy a fine on the licensee for such violations. The fine imposed shall not exceed one thousand dollars (\$1,000.00) for each violation. Each day on which a violation continues shall constitute a separate violation. Not more than ten thousand dollars (\$10,000.00) in fines under this section may be imposed against any licensee during the period of the license. Proceeds from such fines shall be paid in to the general corporate fund of DuPage County.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-33: - COMPLAINT OF VIOLATION; HEARING.

The Sheriff, the State's Attorney, any five (5) residents of the County, or the Commissioner on his or her own motion, shall have the right to initiate a complaint stating that any licensee, subject to the jurisdiction of the Commissioner, has been or is violating the provisions of this article or the rules or regulations issued pursuant hereto. Such complaint shall be in the form prescribed by the Commissioner and shall be signed and sworn to by the party or parties complaining. The complaint shall state the

particular provision, rule or regulation believed to have been violated and the facts in detail upon which belief is based. If the Commissioner is satisfied that the complaint substantially charges a violation and that the facts alleged there is reasonable cause for such belief, he or she shall set the matter for hearing and shall serve as notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint.

(2005 Code; Ord. OCB-002-09, 8-11-2009; Ord. No. OJP-001-13, 6-11-2013)

3-34: - CONVICTION; FORFEITURE OF LICENSE, MONIES AND LICENSE REVOCATION.

Whenever any licensee shall have been convicted by any court of a willful violation of any of the provisions of this article, the licensee shall, in addition to the penalties for such offense, incur a forfeiture of the licensee's license and all monies that have been paid therefor; the Commissioner may thereupon revoke the licensee's license.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-35: - HEARINGS AND APPEALS.

No such license shall be so revoked or suspended and no licensee shall be fined except after a public hearing by the Commissioner with a five-day written notice to the licensee affording the licensee an opportunity to appear and defend. All such hearings shall be open to the public according to the provisions of the Open Meetings Act and the Commissioner shall reduce all evidence to writing and shall maintain an official record of the proceedings. If the Commissioner has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the community the commission or commissioner may, upon the issuance of a written order stating the reason for such conclusion and without notice of hearing, order the licensed premises closed for not more than seven (7) days, giving the licensee an opportunity to be heard during that period, except that if such licensee shall so be engaged in the conduct of another business or businesses on the licensed premises such order shall not be applicable to such other business or businesses.

Review of decisions of the Commissioner shall be as provided for 235 ILCS 5/7-9, as hereafter may be amended, and shall be a review of the hearing conducted by the Commissioner.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-36: - ASSESSMENT OF COST OF HEARINGS.

- (A) Any licensee determined by the Commissioner to have violated any of the provisions of the Illinois Liquor Control Act of 1934, or any ordinance or resolution of the County, or any rule or regulation established by the Commissioner, or the State Commission, shall in addition to suspension, revocation or fine pay to the County of DuPage the costs of the hearing before the Commissioner on such violation.
- (B) The Commissioner shall determine the costs incurred by the County for the hearing, including: court reporter fees, the cost of transcripts or records, attorney fees, the cost of preparing and mailing or service of notices and orders, and other miscellaneous expenses incurred by the County. The licensee shall pay the said costs to the County within thirty (30) days of notification of the costs by the Commissioner.
- (C) The Commissioner shall suspend the license of any licensee who fails to pay said costs within forty (40) days of notification. In the event of an appeal to the state commission, and in cases where appeal is taken under the Administrative Review Act, payment is due forty (40) days after entry of an order affirming or modifying the determination of the Commissioner. The remedies afforded in this

section are not exclusive, and any such sums assessed thereunder may be collected as any other debt.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-37: - RESERVED.

3-38: - USE OF PREMISES AFTER REVOCATION.

When a license shall have been revoked for any cause, no license shall have been granted to any person for the period of one (1) year thereafter for the conduct of business of distributing or selling alcoholic liquor in the premises described in such revoked license.

(2005 Code)

ARTICLE VII. - GENERAL PROVISIONS

3-39: - SANITATION REQUIREMENT.

The licensed premises shall at all times be kept in a clean, orderly and sanitary condition. If at any time during the period that the license is in effect, the operating permit issued by the DuPage County Health Department is revoked, the said health department shall notify the Commissioner in writing of such revocation. The Commissioner is empowered, after hearing, to suspend or revoke the liquor license theretofore issued.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-40: - BUILDING CODE REQUIREMENT; ZONING ORDINANCE REQUIREMENT.

The licensed premises at all times shall be built and maintained in conformance with the DuPage County Building Code and the DuPage County Zoning Ordinance. If at any time during the period that the license is in effect the licensed premises is found to be in violation of the DuPage County Building Code or the DuPage County Zoning Ordinance, Regulatory Services shall notify the Commissioner in writing of such violation. The DuPage County Liquor Commissioner is empowered, after hearing, to suspend or revoke the liquor license theretofore issued for said licensed premises.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-41: - PROHIBITION OF PROSTITUTION AND DISTURBANCE OF THE PEACE.

- (A) It shall be unlawful for any licensee, manager, agent or other person in any manner in charge of any licensed premises where alcoholic liquor is sold or offered for consumption thereon to engage, employ or permit the engagement or employment of any person, nor shall solicit any patron or customer thereof to purchase alcoholic or nonalcoholic liquor or sexual favors or services for herself, himself, or any other person; nor shall any person, whether employer, entertainer or otherwise, solicit any patron or customer therein to purchase alcoholic or nonalcoholic liquor for himself, or any other person therein; provided, however, that nothing herein contained shall prohibit any adult manager, waitress or waiter from accepting and serving the order of a patron or customer in the regular course of employment as such manager, waitress or waiter.
- (B) It shall be unlawful for any licensee, individually or through his agents or employees, to allow intoxicated persons to loiter on or about that part of the premises described in the license which part

is in use by or in view of the general public, or permit any conduct which shall tend to disturb the people or quiet of the neighborhood or the premises.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-42: - SALES TO NONAGE PERSONS, HABITUAL DRUNKARDS, MENTAL INCOMPETENTS.

- (A) No licensee or officer, associate, member, representative, agent, employee or servant of such licensee shall sell, give or deliver alcoholic liquor to any person under the age of twenty-one (21) years, to any intoxicated person, or to any person known to be a habitual drunkard, insane, mentally ill, mentally deficient or in need of mental treatment. No person, after purchasing or otherwise obtaining alcoholic liquor, shall sell, give or deliver such alcoholic liquor to another person under the age of twenty-one (21) years to misrepresent his or her age for the purpose of purchasing or obtaining alcoholic liquor in any place in the County where alcoholic liquor is sold.
- (B) In every place in the County where alcoholic liquor is sold, there shall be displayed at all times in a prominent place easily viewable by the public, a printed card which shall be supplied by the County Clerk and which shall read substantially as follows:

WARNING TO PERSONS UNDER THE AGE OF 21 YEARS

Illinois law prohibits persons under the age of 21 from purchasing, possessing, consuming, and accepting a gift of alcoholic beverages. A person under the age of 21 violating this provision is guilty of a Class A Misdemeanor, shall have their privilege to operate a motor vehicle suspended, and may be fined up to \$2,500 and sentenced to up to 364 days in a county jail.

- (C) It shall be unlawful for any holder of a liquor license, or his or her agent or employee, to suffer or permit any persons under the age of twenty-one (21) to be or remain in any room or compartment adjoining or adjacent to or situated in the room or place where such licensed premises are located; provided that this paragraph shall not apply to any person under the age of twenty-one (21) who is accompanied by his or her parent or guardian, or to that portion of any licensed premises which derives its principal business from the sale or service of commodities other than alcoholic liquor. In addition to all other fines and penalties, the Commissioner may suspend or revoke the liquor dealer's license for any violation of this subsection.
- (D) It shall be unlawful for any person under the age of twenty-one (21) to draw, pour or mix any alcoholic liquor in any licensed premises, and it shall be unlawful for any person under the age of twenty-one (21) years to dispense, sell or deliver any alcoholic liquor in the original package, bottle or case for consumption on or off the premises of any licensed establishment. Except for the prohibitions provided for in this section, it shall be lawful for any person eighteen (18) years of age or older to work in a licensed premises and to serve alcoholic liquor only in conjunction with the service of food.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-43: - PURCHASE, POSSESSION OR ACCEPTANCE OF GIFT BY PERSONS OF NONAGE.

Any person to whom sale, gift or delivery of alcoholic liquor is prohibited because of age shall not purchase or attempt to purchase or accept a gift of alcoholic liquor or have alcoholic liquor in his or her possession.

If a licensee or such licensee's agents or employees believe, have reason to believe or should have reason to believe that sale or delivery of alcoholic liquor is prohibited because of the nonage of the prospective recipient, such licensee, agent or employee shall, before making such sale or delivery, demand presentation of two (2) forms of positive identification (containing proof of age) including a valid photograph identification issued by a public officer in the performance of his official duties. No person shall transfer, alter or deface such an identification card, use the identification card of another, carry or

use a false or forged identification card, or obtain an identification card by means of false information. No person shall purchase, accept delivery or have possession of alcoholic liquor in violation of this section. The consumption of alcoholic liquor in violation by any person under the age of twenty-one (21) years is forbidden. The possession and dispensing, or consumption by a person under the age of twenty-one (21) of alcoholic liquor in the performance of a religious service or ceremony under the direct supervision of the parents or parent of such underage person is not prohibited.

(2005 Code)

3-44: - PROHIBITION OF ILLEGAL GAMBLING AND GAMBLING DEVICES.

(A) It shall be unlawful for any licensee hereunder:

1. To permit or allow any illegal gambling to occur or illegal gambling devices as defined by Article 28 of the Criminal Code of 2012 to be played or remain within the premises licensed hereunder; or,
2. To permit or allow any video gaming terminal as defined by the Video Gambling Act, 230 ILCS 30/ et seq. in violation of the Video Gambling Act or any provision of the DuPage County Code.

(B) The Commissioner shall revoke any license granted hereunder for a violation of this section.

(2005 Code; Ord. OCB-002-09, 8-11-2009; Ord. No. OJP-001-13, 6-11-2013)

3-45: - SALE OF LIQUOR DURING ELECTIONS.

A licensee may sell at retail any alcoholic liquor for which they have a valid DuPage County Liquor License, on the day of any national, state, County, township, or municipal election during hours the polls are open, within the political area in which such election is being held.

(2005 Code)

3-46: - SALE OF LIQUOR; SPECIFIC HOURS.

Alcoholic liquor shall not be sold or consumed on any licensed premises on weekdays, except Saturday, between the hours of 1:00 a.m. to 6:00 a.m., on Saturday between the hours of 2:00 a.m. to 6:00 a.m., or on Sunday between the hours of 2:00 a.m. and 9:00 a.m.

The hours mentioned herein shall be Central Standard Time except when daylight saving time is in effect, and then said hours shall be Central Daylight Saving Time.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-47: - DISPLAY OF LIQUOR LICENSE.

The DuPage County Certificate of License issued in conformity with the provisions of this act shall be displayed in a prominent place in the said licensed establishment viewable by the public.

(2005 Code)

3-48: - PROHIBITION OF LIQUOR PROMOTIONS.

A. No licensee shall engage in any of the following types of activities:

1. **"Happy hours"; "double drinks"; "two for ones."** The above referenced licensees are prohibited from selling, offering or delivering drinks during any period of time during the business days at prices less than those charged for such drinks during the entire business day; or selling, offering or delivering drinks with an increased volume of alcohol without increasing proportionately the price charged for such drink normally charged during the business day. This provision also prohibits selling, offering, or delivering two (2) or more drinks for the price of one (1) drink during a specified time period during the business day.
 2. **"All you can drink" specials.** The above specified licenses are prohibited from selling, offering or delivering to any person an unlimited number of drinks during any specified time period for a single fixed price, except at private functions not open to the public. For purposes of this section 3-48, private functions shall be those functions not open to the public held only in a room not accessible by patrons of the premises other than those individuals attending the private function.
 3. **Ladies night, men's night, etc.** The above specified licensees are prohibited from selling, offering or delivering drinks to any person or class of persons on any one (1) business day at prices less than those charged the general public on that entire business day, except at private functions held in private facilities not open to the public.
 4. **Games/contests.** The licensees enumerated in this section 3-48 are prohibited from encouraging or permitting, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes.
- B. No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited in subsection A of this section. Any license granted hereunder may be suspended or revoked and any licensee may be fined for a violation of this section.
- C. The prohibitions contained in this section shall not prohibit liquor licensees from:
1. Offering free food or entertainment at any time.
 2. Including an alcoholic beverage as part of a meal package.
 3. Offering room services to registered guests in hotels licensed for such services.
 4. Offering alcoholic beverages at a reduced "sale" price if the licensee holds a Class A license.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-49: - PROHIBITED CONDUCT.

- A. The following conduct on premises licensed to sell alcoholic liquor is prohibited.
1. The performance of acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts.
 2. The actual or simulated touching, caressing or fondling of the breasts, buttocks, anus, or genitals.
 3. The displaying of the breasts, buttocks, pubic hair, anus, vulva, or genitals by a licensee, or the manager, employee, agent or representative of the licensee, or by any person, during, as part of, or in conjunction with, any public display, demonstration, performance, fashion show or exhibition.
 4. The displaying of moving pictures or, photographic slide presentations, video presentations, video projection presentations, or any other multimedia presentation depicting acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts.
- B. The licensee, his agent or his employees shall not permit any person to remain in or upon the licensed premises who:

1. Exposes to public view his or her entire breasts or buttocks, the nipple(s) of his or her breast(s), or any part of his or her genitals, vulva or anus while on the licensed premises.
 - a. This provision shall not prohibit the incidental exposure of a person's genitals, vulva or anus while in a washroom and engaged in a urinary or excretory function.
 2. Touches, fondles or caresses his or her breasts, buttocks, anus, or genitals, or touches fondles or caresses the breasts, buttocks, anus or genitals of another person, in a lewd manner while on the licensed premises.
 - a. "Lewd manner" means an act done with the intent to arouse or satisfy the sexual desire of a person.
 3. Performs an act, or attempts to perform an act, of prostitution, solicitation for a prostitute or juvenile prostitute or pandering, as defined and prohibited in the Illinois Criminal Code, 720 Illinois Compiled Statutes 5/11-14, 11-14.1, 11014.3, and 11-14.4, while on the licensed premises.
- C. The licensee shall not, nor permit any his or her agents or employees to, consume alcohol to the point of intoxication while on the licensed premises.
- D. The licensee, and any of his or her agents or employees, shall not possess nor permit the possession of any illegal drug or intoxicating substance upon the licensed premises.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013)

3-50: - LOCATION RESTRICTIONS.

No license shall be issued for the sale at retail of any alcoholic liquor within one hundred (100) feet of the property of any place of worship, primary or secondary school, hospital, home for the aged or indigent persons or for veterans, their spouses or children, or any military or naval station; provided that this prohibition shall not apply to hotels offering restaurant service, or to restaurants where the sale of alcoholic liquor is not the principal business so exempted shall have been established for such purpose prior to the effective date hereof. In the case of a place of worship, the distance of one hundred (100) feet shall be measured to the nearest part of any building used for worship services or educational programs and not to property boundaries.

Nothing in this section shall prohibit the issuance of a license to a place of worship or private school to sell at retail alcoholic liquor, if any such sales are limited to periods when groups are assembled on premises solely for the promotion of some common object other than sale or consumption of alcoholic liquor.

(2005 Code; Ord. No. OJP-001-13, 6-11-2013; Ord. No. JPS-O-0014-16, 5-24-2016)

3-51: - DUTY TO REPORT ILLEGAL ACTIVITY.

Any person or entity holding a liquor license shall promptly report any unlawful criminal activity he or she observes occurring on the licensed premises to the sheriff or other law enforcement agency with jurisdiction over the licensed premises.

(Ord. No. OJP-001-13, 6-11-2013)

Editor's note— Ord. No. OJP-001-13, adopted June 11, 2013, amended the Code by renumbering former § 3-51 as a new § 3-52 and adding a new § 3-51.

3-52: - ALCOHOL COMPLIANCE OPERATIONS.

- (A) The Sheriff or other law enforcement agency with jurisdiction over the licensed premises shall conduct alcohol compliance operations pursuant to the policy and standards as he or she may adopt in consultation with the Commissioner.
- (B) No licensee shall refuse to permit the Commissioner or his or her duly appointed agents from inspecting any portion of the licensed premises for compliance with the provisions of this Ordinance or of the Liquor Control Act of 1934.

(Res. IR-019-73; amd. Res. Exec-083-83, 10-26-1983; Ord. F-ORD-08-85, 8-13-1985; Ord. Exec-ORD-03-86, 10-15-1986; Ord. Exec-ORD-01-87, 2-10-1987; Ord. Exec-ORD-02-87, 3-24-1987; Ord. Exec-ORD-03-87, 4-14-1987; Ord. Exec-ORD-03-87, 3-22-1988; Ord. Exec-ORD-04-87, 3-22-1988; Ord. Exec-ORD-05-88, 6-28-1988; Ord. Exec-ORD-07-88, 11-8-1988; Ord. Exec-ORD-001-89, 2-14-1989; Ord. CB-0032-96, 3-26-1996; Ord. OCB-001-01, 3-27-2001; Ord. OCB-001-02, 4-23-2002; Ord. No. OJP-001-13, 6-11-2013)

Editor's note— Former § 3-51. See editor's note, § 3-51.