

CITY OF MARION ALCOHOLIC LIQUOR ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARION, ILLINOIS:

SECTION 1. Unless the context otherwise requires, the following terms as used in this ordinance shall be construed according to the definitions given below.

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

“ALCOHOLIC LIQUOR” includes alcohol, spirits, wine and beer and every liquid or solid, patented or not, containing more than one-half of one percent (0.5%) of alcohol by volume, and intended to be consumed as a beverage by a human being.

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

“DELIVERY” means the act of transferring or giving in any manner or by any means alcoholic liquor to another by any person, whether as principal, proprietor, agent, servant or employee.

“HOTEL AND MOTEL” includes every building or other structure kept, used, maintained, advertised and held out to the public to be a place where sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which six (6) or more rooms are used for the sleeping accommodations of such guests.

“LICENSED PREMISES” means the area as described in the application where alcoholic liquor is allowed to be served, stored or sold and areas internally or externally connected thereto by doorways which areas are integrally related to the operation of the licensed establishment.

“LICENSEE” means any person, corporation, limited liability company, or partnership holding a license under the terms and provisions of this title.

“ORIGINAL PACKAGE” means a bottle, flask, jug, can, cask, barrel, keg, or any other receptacle or container, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor to contain and convey any alcoholic liquor.

“PACKAGE LIQUOR” means alcoholic liquor in original package for consumption off the premises where it is sold.

“PACKAGE LIQUOR STORE” means a place of business in which the premises are used primarily or exclusively for the retail sale of alcoholic liquor in original package for consumption off the premises where it is sold. It may also include a business that engages in the sale of beer and wine by the drink for consumption on the premises.

“PERSON” includes a corporation, firm, partnership, association, organization, limited liability company, or any other group acting as a unit, as well as individuals. It shall also include an executor, administrator, trustee, receiver or other representative appointed according to law. Whenever the word "person" appears in any section of this title prescribing a penalty or fine, as to partnerships or associations, the word shall include the partners or members thereof, and as to corporations or limited liability company, shall include the officers, agents or members thereof who are responsible for any violation of this title.

“RESTAURANT” means any public place kept, used, maintained, advertised and held out to the public as a place where meals are actually and regularly served, without sleeping accommodations; such space being provided with an adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for guests, and obtaining at least fifty percent (50%) of the annual gross revenue from the sale of nonalcoholic beverages and food.

“RETAIL SALE” means the sale for use or consumption and not for resale.

“SALE” means any transfer or exchange in any manner or by any means whatsoever for consideration, and includes and means sales made by any person, whether as principal, proprietor, agent, servant, or employee.

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

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

SECTION 2. It is unlawful to sell or offer for sale at retail in the city any alcoholic liquor without having retail liquor dealer's license, or in violation of the terms of such license.

SECTION 3. The number of licenses for the sale of alcoholic liquor at retail which may be issued by the local liquor commissioner (mayor) shall be limited to ten (10) *Class I* licenses, ten (10) *Class II* licenses, forty (40) *Class III(a)* licenses, five (5) *Class III(b)* licenses, ten (10) *Class IV* licenses, and ten (10) *Class V* licenses, all of which are hereinafter described, within the city limits; provided, however:

A. That this restriction shall not limit the right to issue a license to any established licensed business which may come within the limits of the city by reason of the incorporation of the territory wherein said business is located in the city of Marion;

B. That this restriction upon the number of licenses shall not limit the right to the renewal of any existing licenses nor the issuance of a license to the purchaser of, or the lessor of an established licensed business as a going concern, nor to the issuance of a license to the purchaser of, or the lessor of a business where the license has been revoked and not restored: However, if a license is revoked and not restored within thirty days, or the business not transferred by lease or sale within thirty days, then the total number of licenses shall be reduced until the total of all licenses shall not exceed the number authorized.

SECTION 4. Applications for such licenses shall be made to the mayor, in writing, signed by the applicant and verified by oath or affidavit. The application shall be accompanied by a check in the amount of the yearly fee for the license being applied for except as provided in Section 6 hereof.

The application for license shall require the following information and statements:

A. The name, age and address of the applicant in the case of an individual; in case of partnership, the persons entitled to share in the profits thereof; and in the case of a corporation for profit, or a club, the date of incorporation, the objects for which it was organized, names and addresses of the officers and directors, and if a majority in interest of the stock of such corporation is owned by one person or his nominee, the name and address of such persons;

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

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

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

E. The location and description of the premises or place of business which is to operate under the license;

F. A statement whether applicant has made similar application for a similar 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 the laws of this state, or the ordinances of this city;

H. Whether a previous license by any state, or unit of government thereof, or by the federal government, has been revoked, and the reason therefore;

I. A statement acknowledging that the license and applicant(s) are subject to all of the applicable laws of the State of Illinois, the United States, and/or any ordinance of the City in the conduct of his/her place of business.

SECTION 5. No Such license shall be issued to:

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

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

C. A person who has been convicted of a felony under the laws of the state of Illinois;

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

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

F. A person whose license issued under this ordinance has been revoked for cause;

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

H. A partnership, unless all of the members of such partnership shall be qualified to obtain a license;

I. A corporation, if any officer, manager or director thereof; or any stockholder or stockholders owning in the aggregate more than five percent of the stock of such corporation, would not be eligible to receive a license hereunder' for any reason other than citizenship and residence within this political subdivision;

J. A person whose place of business is conducted by a manager or agent unless said manager or agent possess the same qualifications required by the licensee;

K. A person who was convicted on a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor, subsequent to the passage of this ordinance, or shall have forfeited his bond to appear in court to answer charges for any such violation;

L. A person who does not own the premises for which a license is sought, or does not have a lease thereon for the full period for which the license is to be issued;

M. Any law-enforcing public official, mayor, or member of the city council or commission; and no such official shall be interested in any way, either directly or indirectly, in the manufacture, sale or distribution of alcoholic liquor;

N. Any person, association, or corporation not eligible for a state retail liquor dealer's license.

SECTION 6. Each such license shall terminate on January 31 of the next year following its issuance. The fee to be paid by the holder of a valid license shall be reduced by one-half if such license is issued after July 31. The holder of a liquor license who applies for a higher classification license shall pay a fee amounting to the difference between the fee for the license then held and the fee for the higher classification license applied for.

SECTION 7. There shall be five classes of licenses.

A. *Class I-* licenses may be issued to any qualifying person, entity, organization, and/ or retail establishment as long as all qualifications for such license are met and complied with. *Class I-* licenses shall authorize the retail sale of beer only and shall be five hundred dollars, payable annually in advance.

B. *Class II-* licenses may be issued to any qualifying person, entity, organization, and/ or retail establishment as long as all qualifications for such license are met and complied with. *Class II-* licenses shall authorize the retail sale of beer and wine only, the fee for which shall be one thousand dollars, payable annually in advance.

C. *Class III(a)* –licenses may be issued to any qualifying person, entity, organization, and/ or retail establishment as long as all qualifications for such license are met and complied with. *Class III(a)* - licenses shall authorize the retail sale, use, and consumption of alcoholic liquor

of any kind on the premises, including a restaurant, tavern, or bar, the fee for which shall be one thousand five hundred dollars, payable annually in advance.

D. *Class III(b)* - licenses shall only be issued to charitable organizations, or other similarly determined organization which are created and operated for charitable purposes, employ all their resources to those charitable activities that are under its direct control, and does not distribute any part of the income generated for the benefit of any trustee, trustor, member, or other private individual. *Class III(b)* licenses shall authorize the retail sale and consumption of any alcoholic liquor on the premises, the fee for which shall be one thousand dollars, payable annually in advance.

E. *Class IV* –licenses shall only be issued to motels, hotels, and/or any other business or premises used, maintained, advertised, and held out to the public to be a place where sleeping accommodations are offered for pay to travelers and guests, whether transient, permanent or residential, in which six (6) or more rooms are used for the sleeping accommodations of such guests. *Class IV* licenses shall be one thousand five hundred dollars, payable annually in advance.

F. *Class V(a)* –licenses shall only be issued to package liquor stores in which the premises are used exclusively for the retail sale of alcoholic liquor in original package for consumption off the premises where it is sold, the fee for which shall be one thousand seven hundred fifty dollars, payable annually in advance. *Class V(b)* -licenses shall be issued to package liquor stores for the retail sale of alcoholic liquor in original package for consumption off the premises where it is sold, and also includes the sale of beer and wine by the drink for consumption on the premises, the fee for which shall be two thousand dollars, payable annually in advance.

SECTION 8. All fees shall be paid to the city clerk prior to a license being issued, and shall be forthwith deposited to the city clerk's account of the city. In the event that a license applied for is denied, the fee shall be returned to the applicant; if the license is granted, then the fee shall be deposited in the general corporate fund.

SECTION 9. It is unlawful for anyone not having a license to sell or offer for sale any alcoholic liquor for consumption on the premises where sold, or to permit the same to be consumed on the premises where sold. Any such person who fails to comply with this Section shall be subject to a fine of no more than seven hundred fifty dollars (\$750.00) for each violation and each day such violation occurs shall be considered a separate violation.

SECTION 10. The mayor shall keep or cause to be kept a complete record of all such licenses issued by him.

SECTION 11. Licenses are personal and are generally not alienable.

A. A license shall be purely a personal privilege good for not to exceed one year after issuance unless sooner revoked as in this ordinance provided, and shall not constitute property, nor shall it be subject to attachment, garnishment or execution, nor shall it be lien able or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such license shall not descend by the laws of testate or interstate devolution, but it shall cease upon the death of the deceased licensee, and the trustee of any solvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale of alcoholic liquor under order of the appropriate court, and may exercise the privileges of the deceased or insolvent or bankrupt licensee, but no longer than six months after the death, bankruptcy or insolvency of such licensee.

B. A license shall be non-assignable and/or nontransferable and upon the sale of any business holding such license shall terminate immediately and the new owners if desirous of obtaining a liquor license shall apply for said license in due course as provided in this chapter. The mere purchase of a business operating under a license duly issued under this chapter does not in any way guarantee the issuance of a new liquor license and in any case the old license must be terminated prior to issuance of a new license for the same business premises.

C. Any licensee may renew his license at the expiration thereof, provided he is then qualified to receive a license and the premises for which such renewal license is sought are suitable for such purposes; and, provided further, that the renewal privilege herein provided for shall not be construed as a vested right which shall in any case prevent the mayor from decreasing the number of licenses to be issued within his jurisdiction.

SECTION 12. A retail liquor dealer's license shall permit the sale of alcoholic liquor only on the premises described in the application and license. Such location may be changed only upon the written permit to make/such change issued by the mayor. No change in location shall be permitted unless the proposed new location is a proper one for the retail sale of alcoholic liquor under the laws of this state and the ordinances of this city.

SECTION 13. All premises used for the retail sale of alcoholic liquor, or for the storage of such liquor for such sale, shall be kept in a clean and sanitary condition, and shall be kept in full compliance with the ordinances regulating the condition of premises used for storage of or sale of food for human consumption.

SECTION 14. Restrictions shall apply on location or premises of licensee.

A. It is unlawful to sell or offer for sale at retail any alcoholic liquor and no license shall be issued for any premises, the location of which is along the frontage of any street or streets, seventy-five percent of the frontage feet of which for a distance of three hundred feet in each direction of such premises is used strictly for residential purposes; unless written consent of such owner or owners of at least two-thirds of the total frontage feet used for residential purposes within such distance shall first have been obtained by the applicant and such consent shall be filed with the application for a license.

B. No license shall be issued for the sale at retail of any alcoholic liquor within one hundred feet of any church, school, hospital, nursing home or home for the aged or indigent persons provided this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs or to restaurants, food shops, or other places where sale of alcoholic liquors is not the principal business carried on in the place of business.

SECTION 15. Dates and times of authorized licensed sale of alcoholic liquor.

A. It is unlawful to dispense, sell or offer for sale at retail any alcoholic liquor in the city between the hours of one o'clock in the morning (1:00 A.M.) through six o'clock in the morning (6:00 A.M.) during the week and from one o'clock in the morning (1:00 A.M.) on Sunday morning until six o'clock in the morning of the following Monday, except for licenses subject to the provisions of subsections B, C, & D of this Section. All alcoholic liquor sold for consumption on the premises shall be removed from bars, tables, counters, and otherwise disposed of within fifteen minutes after the closing of alcoholic liquor sales established above.

B. It is lawful for a restaurant licensed to sell alcoholic liquors that derives more than fifty percent of its gross annual revenue from the sale of prepared food may sell alcohol liquors to be consumed on the licensed premises on Sundays between the hours of one o'clock in the afternoon (1:00 P.M.) and ten o'clock in the evening (10:00 P.M.).

C. It is lawful for a non-restaurant business that has as an adjunct the sale of prepared food and has a license to sell alcoholic liquors, provided the sale of such food generates seventy percent (70%) of gross revenues on week days shall be allowed to sell alcoholic beverages to be consumed on the licensed premises on Sunday between the hours one o'clock in the afternoon (1:00 P.M.) and ten o'clock in the evening (10:00 P.M.).

D. It is lawful for a retail establishment determined to be a "package liquor store" that holds the proper license to sell package liquor in its original package to the general public on Sundays between the hours of one o'clock in the afternoon (1:00 P.M.) and ten o'clock in the evening (10:00 P.M.).

SECTION 16. All rooms where liquor is sold for consumption upon the premises shall be continuously lighted during business hours by, natural light or artificial light so that all parts of the interior of the premises shall be clearly visible.

SECTION 17. The local liquor control commissioner may appoint a person or persons to assist him in the exercise of the powers and the performance of the duties herein provided. He may revoke any retail liquor dealer's license for any violation of any provisions of this ordinance, or for any violation of any state law pertaining to the sale of alcoholic liquor.

SECTION 18. Limitations on who may serve and consume alcoholic liquors.

A It is unlawful for any person under twenty-one years of age (21) to draw, pour, mix or serve any alcoholic liquor as an employee

B. It is unlawful for an employee to attend any bar and draw, pour, mix, or serve any alcoholic liquors to any person less than twenty-one years of age (21) in any licensed premises.

C. No person under the age of twenty-one years of age (21) shall, for the purpose of buying, accepting or receiving alcoholic liquor, represent that he is twenty-one years of age or over.

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

E. If a licensee or his agents and/or employees believe or have reason to believe that a sale or delivery of any alcoholic liquor is prohibited because of the non-age of the prospective recipient, they shall, before making such sale or delivery, demand presentation of some form of positive identification, containing proof of age, issued by a public officer in the performance of his official duties. No delivery shall be made unless it is placed in the hands of a person of an age to legally purchase the delivered alcoholic liquor.

F. No person shall transfer, alter or deface such any 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. Alcoholic liquor shall not be consumed by any person less than twenty-one years of age.

G. The possession and dispensing, or consumption by anyone less than twenty-one years of age, of alcoholic liquor in the performance of a religious service or ceremony, or the consumption by such person under the direct supervision and approval of the parents or parent of such person in the privacy of a home is not prohibited by this section.

SECTION 19. Any individual, partnership, corporation or other entity found to be in violation of employing or otherwise allowing any person under the age of twenty-one (21) to sell, serve or otherwise purvey any alcoholic liquors in or upon the premises within the City shall be subject to a fine of not more than seven hundred fifty dollars (\$750.00) and in addition may have the City license to sell alcoholic liquors suspended for a period of ten (10) days; for a second or subsequent violation of this Section, the City license to sell alcoholic liquors may be revoked.

SECTION 20. No person under the age of twenty-one (21) shall sell, serve or otherwise purvey any alcoholic liquors in or upon any premises for which a license to sell alcoholic liquors is issued by the City. Any such person who fails to comply with this Section shall be subject to a fine of no more than seven hundred fifty dollars (\$750.00) for each violation and each day such violation occurs shall be considered a separate violation.

SECTION 21. No licensee nor any officer, associate, member, representative, agent or employee of such licensee shall sell, give or deliver alcoholic liquor to any person under the age of twenty-one years, or to any intoxicated person or to any person known by him to be a habitual drunkard, spendthrift, insane, mentally ill, mentally deficient or in need of mental treatment. No person, after purchasing or otherwise obtaining alcoholic liquor, shall sell, give or deliver such alcoholic liquor to another person under the age of twenty-one years except in the performance of religious ceremony or service.

SECTION 22. No person licensed to keep a place where alcoholic liquors are sold or given away, shall suffer any disorder, drunkenness, quarreling, fighting, unlawful games or riotous or disorderly conduct whatsoever, in any premises by him kept or occupied for such purposes.

SECTION 23. Every licensee shall cause his license or licenses to be framed and hung in plain view in a conspicuous place on the licensed premises.

SECTION 24. All Alcoholic liquor license heretofore issued shall continue in effect for the term for which issued provided the holders of such licenses comply with the provisions of this ordinance

SECTION 25. All ordinances heretofore enacted pertaining to the sale, consumption or use of alcoholic liquor are hereby repealed.

Passed by the Council on the 9th day of April, 2012.

Signed and approved by the Mayor on the 9th day of April, 2012.

Published in pamphlet form _____ day of _____, 2012.

Robert L. Butler
ROBERT L. BUTLER, Mayor

ATTEST:

Alice F. Rix
ALICE F. RIX, City Clerk



STATE OF ILLINOIS)
) SS
COUNTY OF WILLIAMSON)

Certification of Publication in Pamphlet Form

I, the undersigned, do hereby certify that I am the duly qualified and acting City Clerk of the City of Marion, Williamson County, Illinois (the "City") and as such official I am the keeper of the official journal of proceedings, books, records, minutes and files of the City and of the Council thereof (the "corporate authorities:").

I do further certify that on the 11th day of April 2012, there was published in pamphlet form by the authority of the "corporate authorities", a true, correct and complete copy of

Ordinance # 3042 of the City of Marion providing

City of Marion Alcoholic Liquor Ordinance

and that said ordinance was so published on said date readily available for public inspection and distribution, in sufficient number, at my office as City Clerk located in the City Hall of the City of Marion.

IN WITNESS WHEREOF, I hereto affix my official signature and the seal of the

City of Marion, this 11thTH day of, April , 2012



ALICE F. RIX, CITY CLERK

