



ORDINANCE NO. 853

AN ORDINANCE AMENDING THE VILLAGE OF MACKINAW  
MUNICIPAL CODE SAID MUNICIPAL CODE BEING  
ORDINANCE NO. 513 OF THE VILLAGE OF MACKINAW TO  
PROVIDE AMENDMENTS RELATING TO LIQUOR CONTROL.

Published in pamphlet form by authority of the Village President and  
Board of Trustees of the Village of Mackinaw

SEPTEMBER 25, 2012

ORDINANCE NO. 853

AN ORDINANCE AMENDING THE VILLAGE OF MACKINAW MUNICIPAL CODE  
SAID MUNICIPAL CODE BEING ORDINANCE NO. 513 OF THE VILLAGE OF  
MACKINAW TO PROVIDE AMENDMENTS RELATING TO LIQUOR CONTROL

BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE  
OF MACKINAW:

SECTION 1: The Village Code of the Village of Mackinaw is hereby amended by  
adding a new Chapter 113, which Chapter is attached hereto and incorporated herein by  
reference as Exhibit A.

SECTION 2: If any section or part of this Ordinance is held invalid, it shall not affect  
the validity of the remainder of this Ordinance.

SECTION 3: This Ordinance shall take effect 10 days after publication thereof as  
provided by law.

SECTION 4: Ordinance No. 513 of the Village of Mackinaw, as amended by this  
Ordinance, shall remain in full force and effect and all previous amendments to Ordinance No.  
513 shall remain in force and effect except as modified by this Ordinance.

PASSED in due form on a roll call vote by the Board of Trustees of the Village of Mackinaw at  
a duly held meeting on the 24<sup>th</sup> day of September, 2012.

APPROVED:



President of the Board of Trustees of  
The Village of Mackinaw

ATTEST:



Village Clerk

AYES: 6  
NAYS: 0  
ABSENT: 0

STATE OF ILLINOIS )  
COUNTY OF TAZEWELL ) SS  
VILLAGE OF MACKINAW )

**CERTIFICATE OF ORDINANCE**

I, the undersigned, do hereby certify that I am the duly appointed, qualified and acting Village Clerk of the Village of Mackinaw, Tazewell County, Illinois (the "Issuer"), and as such official I am the keeper of the records and files of its President and Board of Trustees (the "Corporate Authorities").

I do further certify the foregoing constitutes a full, true and complete excerpt from the proceedings of the regular meeting of the Corporate Authorities held on the *24th day of SEPT, 2012*, insofar as same relates to the adoption of *Ordinance No. 853*, entitled:

**AN ORDINANCE AMENDING THE VILLAGE OF MACKINAW MUNICIPAL CODE SAID MUNICIPAL CODE BEING ORDINANCE NO. 513 OF THE VILLAGE OF MACKINAW TO PROVIDE AMENDMENTS RELATING TO LIQUOR CONTROL.**

A true, correct and complete copy of which ordinance (the "Preliminary Ordinance" or "Ordinance") as adopted at such meeting appears in the transcript of the minutes of such meeting. The Preliminary Ordinance was adopted and approved by the vote and on the date therein set forth.

I do further certify the deliberations of the Corporate Authorities on the adoption of such Preliminary Ordinance were taken openly and was on the agenda at least 48 hours before the meeting at which it was adopted, that the adoption of such ordinance was duly moved and seconded, that the vote on the adoption of such ordinance was taken openly and was preceded by a public recital of the nature of the matter being considered and such other information as would inform the public of the business being conducted, that such meeting was held at a specified time and place convenient to the public, that notice of such meeting was duly given to all of the news media requesting such notice, that such meeting was called and held in strict compliance with the provisions of the Open Meetings Act of the State of Illinois, as amended, and the Illinois Municipal Code, as amended, and that the Corporate Authorities have complied with all of the applicable provisions of such Act and such Code and their procedural rules in the adoption of such ordinance.

The pamphlet form of *Ordinance No. 853*, including the ordinance and a cover sheet thereof, was prepared and a copy of such Ordinance was posted for public inspection in the municipal building, the Mackinaw United States Post Office, and the Mackinaw Library commencing on *SEPT 24, 2012* and continuing for at least ten days thereafter. The original ordinance was adopted by the Board of Trustees of the Village of Mackinaw at a regular meeting, attended by six members of the Board, and approved by the President, as said Ordinance appears on file in my office and as the same is recorded in the Book of Ordinances of said Village.

IN TESTIMONY WHEREOF, I have hereunto set my hand and the official seal of said Village of Mackinaw, Illinois, this 5<sup>TH</sup> DAY OF OCTOBER 2012.



[Redacted Signature]

Village Clerk

## Chapter 113

### ALCOHOLIC BEVERAGE AND LIQUOR CONTROL ORDINANCE

#### SECTIONS:

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**113.010 Definitions:** Unless the context otherwise requires, words and phrases used in this Chapter shall be construed as hereinafter set forth, or as used in the Illinois Liquor Control Act of 1934, as amended:

- A. "Alcohol" means the product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, and includes synthetic ethyl alcohol. It does not include denatured alcohol or wood alcohol.
- B. "Alcoholic Liquor" includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and capable of being consumed as a beverage by human being. The provisions of this Chapter shall not apply to alcohol used in the manufacture of denatured alcohol produced in accordance with Acts of Congress and regulations promulgated there under, nor to any liquid or solid containing one-half of one percent (0.5%), or less, of alcohol by volume.

- C. "Beer" means a beverage obtained by 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.
- D. "Club" means a corporation organized under the laws of the State of Illinois, not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquors, kept, used and maintained by its members through the payment of annual dues, and owning, hiring or leasing a building or a space in a building, of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and dining room space and equipment and maintaining a sufficient number of servants and employees for cooking, preparing and serving food and meals for its members and their guests; provided, that such club files with the Local Liquor Control Commissioner at the time of its application for a license under this Chapter two (2) copies of a list of names and residence of its members, and similarly files within ten (10) days of the election of any additional member his name and address; and, provided further, that its affairs and management are conducted by a board of directors, executive committee or similar body chosen by the members at their annual meeting and that no member or any officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation any profits from the distribution or sale of alcoholic liquor to the club or the members of the club or its guests introduced by members beyond the amount of such salary as may be fixed and voted at any annual meeting by the members or by its Board of Directors or other governing body out of the general revenue of the club.
- E. "Gasoline Station" means any establishment where motor fuel is sold or offered for sale from approved pumps, whether through an attendant or by self-service. Motor fuel includes all volatile and inflammable liquids which are produced, blended or compounded, or which are suitable or practicable for operating motor vehicles. An establishment that is a "Gasoline Station" is not a "Grocery Store".
- F. "Grocery Store" means any establishment that displays and offers for sale at retail any of the following products: dairy products; meat or poultry products; breads or baked goods; frozen foods; canned goods other than snacks or alcoholic liquor; or health and beauty aids. An establishment that is a "Gasoline Station" is not a "Grocery Store".
- G. "Incidental Sales" means alcohol sales not to exceed forty percent (40%) of the primary business.
- H. "Licensed Premise" means the premise described in a Retail Liquor Dealer's License as the place where alcoholic liquor is permitted to be sold at retail.
- I. "Licensee" means any person licensed in accordance with and under the provisions of this Chapter.

- J. "Original Package" means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container, whatsoever, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor.
- K. "Peddling" means selling any product door to door or at any location other than a location for which the sale of alcoholic liquor is permitted in accordance with this Chapter, within the corporate limits of the Village.
- L. "Person" means any person, firm, partnership, limited partnership, club, association, corporation, Limited Liability Company or other business entity.
- M. "Resident" means any person living in the Village of Mackinaw, Illinois, for a period of not less than ninety (90) days.
- N. "Restaurant" means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served, and where meals are actually and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. Not less than 51% of gross retail sales revenue must be from the sale of food and/or non-alcoholic beverages for an establishment to be a "Restaurant".
- O. "Retailer" means a person who sells, offers for sale, alcoholic liquor for use or consumption and not for resale in any form.
- P. "Retail Liquor Dealer's License" means a license to sell alcoholic liquor at retail, which has been issued under the provisions of this Chapter.
- Q. "Sale" means any transfer, exchange or barter in any manner, or by any means whatsoever, including the transfer of alcoholic liquors by and through the transfer or negotiation of warehouse receipts or certificates, and includes and means all sales made by any person, whether principal, proprietor, agent, servant or employee.
- R. "Sell at Retail" and "Sale at Retail" refer to and mean sales for use or consumption and not for resale in any form.
- S. "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.

- T. "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.

**113.020 Local Liquor Control Commissioner; Powers**

The Village President is hereby designated as the Local Liquor Control Commissioner for the Village. The Local Liquor Control Commissioner shall have the duty to administer and enforce this Chapter and the applicable provisions of the Illinois Liquor Control Act of 1934, and to notify the Illinois Secretary of State of any convictions for a violation of Section 6-20 of the Illinois Liquor Control Act of 1934 of a similar provision of this Chapter. The Local Liquor Control Commissioner shall have the following powers, functions and duties to be exercised with the advice of the Local Liquor Commission with respect to liquor licenses, other than licenses to manufacturers, importing distributors, distributors, foreign importers, non-resident dealers, non-beverage users, brokers, railroads, airplanes and boats:

- A. To appoint two (2) members from the community to serve on the Local Liquor Control Commission.
- B. To grant, subject to approval by the Village Board of Trustees, and or suspend for not more than thirty (30) days or revoke for cause all Retail Liquor Dealer's Licenses issued to persons for premises within the Village;
- C. To enter or to authorize any law enforcement officer to enter at any time upon any premise licensed by the Local Liquor Control Commission or the Illinois Liquor Control Commission to determine whether any of the provisions of this Chapter or the Illinois Liquor Control Act of 1934 or any rules or regulations adopted by him or by the Illinois Liquor Control Commission have been or are being violated , and at such time to examine said premise or said licensee in connection therewith;
- D. To notify the Secretary of State where a club incorporated under the General Not for Profit Corporation Act of 1986 or a foreign corporation functioning as a club in the State of Illinois under a certificate of authority issued under that Act has violated this Chapter or the Illinois Liquor Control Act of 1934 by selling or offering for sale at retail alcoholic liquors without a license;
- E. To receive complaints from any citizen within the Village that any of the provisions of this Chapter or the Illinois Liquor Control Act of 1934, or any rules or regulations adopted pursuant hereto, have been or are being violated and to act upon such complaints in the manner hereinafter provided;
- F. To receive or authorize the Village Clerk to receive fees for a Retail Liquor Dealer's License and other fees required for the application process;



- G. To levy fines in accordance with Section 113.400 of this Chapter;
- H. To examine, or cause to be examined, under oath, any applicant for a Retail Liquor Dealer's License or for a renewal thereof, or any licensee upon whom notice of revocation or suspension has been served in the manner hereinafter provided, and to examine or cause to be examined, the books and records of any such applicant or licensee; to hear testimony and take proof for information in the performance of these duties, and for such purpose to issue subpoenas which shall be effective in any part of the State of Illinois.

#### **113.021 Local Liquor Commission**

- A. The Local Liquor Commission shall consist of the Local Liquor Control Commissioner and two members of the community chosen by the Commissioner pursuant to the power granted to him at Section 113.020(A) of this Chapter.
- B. The Local Liquor Commission shall have those duties and powers reserved to it hereunder.
- C. The Local Liquor Commission shall consider all applications for the award or renewal of a Retail Liquor Dealer's License. The Local Liquor Commission shall make a written recommendation to the Village Board of Trustees as to both the award of a license and as to the type of license to be awarded to the applicant. The Village Board of Trustees shall make the final determination as to the grant of a license and as to the type of license to be awarded. The Village Board of Trustees may reject the recommendation of the Local Liquor Control Commissioner by a 2/3rds vote of the Village Board of Trustees.
- D. Except as otherwise provided herein, the Local Liquor Commission shall serve in an advisory role to the Local Liquor Control Commissioner in the discharge of his or her powers and duties as the same are more particularly specified in Section 113.020 of this Chapter and in the Illinois Liquor Control Act of 1934.

#### **113.030 Compensation of Local Liquor Control Commissioner and Commission Members**

The Local Liquor Control Commissioner shall receive compensation from the Village in the amount of \$300.00 per year (\$25.00 per month). The members of the Local Liquor Commission shall receive compensation from the Village in an amount of \$100.00 per year. This compensation shall not be increased or decreased during any fiscal year in which the annual appropriation has already been made. Further, this compensation shall not be increased or decreased during the President's term of office, but may be increased or decreased for a future term of office of the Village President if done so at least 180 days prior to the beginning of said future term.

**113.040 License Required**

It shall be unlawful for any person to sell or offer for sale at retail in the Village of Mackinaw any alcoholic liquor without having a Retail Liquor Dealer’s License and a retailer’s license issued by the Illinois Liquor Control Commission, or in violation of the terms of such license.

**113.050 Separate License for Each Premise; Transfer of License to Other Premise**

Premise will be defined by the address of the premise on the application submitted by the Licensee. A Retail Liquor Dealer’s License shall permit the sale of alcoholic liquor only on the premise described in the application and license, and only one premise shall be so described in each license. After a license has been granted for a particular premise, such premise may be changed or enlarged only upon the written permission to make such change issued by the Local Liquor Control Commission and endorsed upon the license. No change of premise shall be permitted unless the proposed new premise is a proper premise for the retail sale of alcoholic liquor under the laws of this State and the provisions of this Code, and the person requesting the change files with the State Liquor Control Commission and the Local Liquor Control Commission a written request and a Statement under oath which shall show that the premise to which the change is to be made comply in all respects with the requirements of State law and the provisions of this Code.

**113.060 License Classifications: Fees**

Classification	Fee
<b>Class A:</b> A Class A license shall authorize the sale at retail of all alcoholic liquor for consumption on the premise described in the license and alcoholic liquor in original packages for consumption off the premise described in the license	\$500.00
<b>Class B:</b> A Class B license shall authorize the sale at retail of alcoholic liquor in original packages for consumption off the premise described in the license. The sale at retail of alcoholic liquor for consumption on the premise described in the license is strictly prohibited	\$500.00
<b>Class C (Club):</b> A Class C license shall authorize the sale at retail of alcoholic liquor by a Club for consumption on the Club premise described in the license. The sale at retail of alcoholic liquor for consumption off the premise described in the license is strictly prohibited	\$150.00

<p><b>Class D:</b> A Class D license shall authorize the sale at retail of alcoholic liquor in original packages on the premises of a grocery store for consumption off the premise described in the license. The sale at retail of alcoholic liquor for consumption on the premise described in the license is strictly prohibited</p>	<p><b>\$500.00</b></p>
<p><b>Class E:</b> A Class E license shall authorize the sale at retail of alcoholic liquor for consumption on the premise of a restaurant described in the license. The sale at retail of alcoholic liquor for the consumption off the premise described in the license is strictly prohibited. Not less than 51% of the restaurant's gross retail sales revenue must be from the sale of food and/or non-alcoholic beverages.</p>	<p><b>\$500.00</b></p>
<p><b>Class F:</b> A Class F license shall authorize the sale at retail of beer and wine only, for the consumption on the premise of a restaurant. The sale at retail of alcoholic liquor other than beer and wine or the sale of alcoholic liquor for consumption off the premise described in the license is strictly prohibited. Not less than 51% of the restaurant's gross retail sales revenue must be from the sale of food and/or non-alcoholic beverages.</p>	<p><b>\$400.00</b></p>
<p><b>Class G:</b> A Class G license shall authorize the sale of alcoholic liquor for consumption on the premise as a part of a public activity or special event approved by the Board of Trustees. The period of said license shall not exceed four (4) days and not more than one license in any twelve (12) month period may be issued for a single special event.</p>	<p><b>\$50.00</b></p>

**113.065 Restrictions on Issuance of Class D Licenses**

Class A, B, C, E, F and H license shall not be issued for the sale at retail of alcoholic liquor at a grocery store. The provisions of this Section shall not apply to a gasoline station. An applicant for a Class D license shall not be eligible for a Retail Liquor Dealer's License unless it has a separate area for the sale of alcoholic liquor which shall meet the following standards:

- A. The separate area for the sale of alcoholic liquor shall have its own entrance and exit, which shall provide and limit ingress and egress from the separate area to the exterior of the structure, for patrons purchasing said alcoholic goods.
- B. The separate area shall be physically separated from the premises selling other products by a permanent wall or walls, which shall extend from the floor of the structure to the ceiling of the structure, except that there may be provided an access, for ingress and egress through said wall to the other portion of the building.
- C. The separate area for the sale of alcoholic liquor shall have its own check-out counter within the separate area, which check-out counter shall be the sole check-out point for the separate area. All alcoholic liquor sales shall be made at the designated check-out counter in the separate area.
- D. All alcoholic liquor stored for sale shall be stored:
  - 1. Within the separate area; or
  - 2. Within other premises having its own entrance and exit, which entrance and exit shall be secured and monitored to prevent access to said other premises by persons under the age of twenty-one (21).

**113.070 Limitation on Number of Licenses**

In order to protect the health, safety and welfare of the citizens of the Village of Mackinaw, to prevent minors from purchasing alcoholic liquor, and to promote temperance in the consumption of alcoholic liquor, there shall be the following limitations on the number of Retail Liquor Dealer’s Licenses issued for each classification:

Class A	0
Class B	1
Class C	0
Class D	0
Class E	0
Class F	0
Class G	0
Class H	0

Applications for Retail Liquor Dealer’s Licenses shall be considered in the order in which they are received by the Village. A list shall be created to provide an orderly consideration of applicants desiring a Retail Liquor Dealer’s License. Once an application has been rejected by the Village Board of Trustees for any reason, excluding the lack of availability of license, the applicant shall be ineligible for further consideration unless until the applicant submits a new application in accordance with this Chapter.

### **113.080 Application for License**

Application for a Retail Liquor Dealer's License shall be made to the Village of Mackinaw in writing, signed by the applicant or by a duly authorized agent if the application is submitted on behalf of a club, corporation, or other business entity, and shall be verified by oath or affidavit. All applicants shall attach to the application proof of liquor liability insurance coverage for the premises of the applicant's business in which a license is sought, in such amount that is at least equal to the maximum liability amounts set out in Subsection (a) of Section 6-21 of the Illinois Liquor Control Act of 1934, as amended. All license and application fees shall be paid to the Village Clerk at the time of application. License fees, not including any fees for a criminal history records check, shall be refunded to the applicant if an application is denied. In addition to the above, any application for a Retail Liquor Dealer's License shall contain the following information and statements under oath:

- A. The applicant's name, sex, date of birth, mailing address, social security number, and position and percentage of ownership in the applicant's business;
- B. The name and address of the applicant's business which is to be operated under such license;
- C. If applicable, the date of the filing of the "assumed name" of the business with the County Clerk;
- D. The name, sex, date of birth, mailing address, social security number, position and percentage of ownership in the business of every owner or partner of the applicant's business;
- E. The name, sex, date of birth, mailing address, social security number, copy of their drivers license and or State ID with photo, position and percentage of ownership of every corporate officer, director, or manager of every owner of the applicant's business and any person who owns 5% or more shares of the applicant.
- F. In case of co-partnership, the date of the formation of the partnership; in the case of an Illinois corporation, the date of its incorporation; or in the case of a foreign corporation, the State where it was incorporated and the date of its becoming qualified under the Business Corporation Act of 1983 to transact business in the State of Illinois; in the case of an Illinois Limited Liability Company, the date of its formation.
- G. The number, date of issuance and the date of expiration of the applicant's current Retail Liquor Dealer's License, if any;
- H. The name and address of the landlord if the premise of the business are leased;
- I. The applicant's current State of Illinois liquor license number, if any;
- J. The date the applicant began (will begin) liquor sales at his place of business;
- K. The citizenship of the applicant;

- L. The address of the applicant's warehouse if he warehouses liquor;
- M. The applicant's Retailer's Occupation Tax (ROT) Registration Number;
- N. Whether the applicant has made a similar application for a State or local liquor license for the premises described in the application, and the disposition of such application;
- O. Whether the applicant has made a similar application for a State or local liquor license for premise other than described in the application, and the disposition of such application;
- P. Whether the applicant is delinquent in the payment of any taxes to the Village or State;
- Q. Whether the applicant has ever been convicted of a felony, gambling offense, pandering, or other offense opposed to decency or morality, or is otherwise disqualified to receive a license by reason of any provision contained in this Chapter, the laws of the State of Illinois or the Village Code of the Village of Mackinaw, other than minor traffic violations;
- R. Whether the applicant possesses a current Federal Wagering Stamp;
- S. Whether a previous liquor license issued by any State or political subdivision thereof or by the Federal government has been suspended or revoked, and the reasons therefore;
- T. Whether the applicant or manager of the applicant's business is a resident of the Village and the length of time the applicant or manager has resided within the Village;
- U. Whether the applicant, or any other person set forth in the application or otherwise directly involved in the business which is the subject of the application is a public official for any public or governmental body, and if so, the particulars thereof;
- V. Whether the proposed licensed premise is located within one hundred (100) feet of any church, school other than an institution of higher learning, hospital, or home for aged or indigent persons or for veterans, their spouses or children as defined in 235 ILCS 5/6-11.
- W. A Statement that the applicant will not violate any of the laws of the State of Illinois or the United States, or any provision of the Mackinaw Municipal Code in the conduct of the applicant's place of business.

**113.081 Special Restrictions and Guidelines for Class G License.**

If the applicant is approved for a Class G License to be issued, the Liquor Commissioner shall promptly notify the Chief of Police in writing of the issuance of the Class G License. Such notice shall include a copy of said license. The Chief shall give the licensee the restrictions and guidelines, if any, for a Class G License and shall notify the Liquor Commissioner when the licensee has agreed to the restrictions and guidelines for the license and then it can be issued. Those restrictions and guidelines shall be set by the

Chief of Police with the advice of the Liquor Control Commission. Those restrictions and guidelines shall be reasonably calculated to protect public order and safety in light of the particular circumstances of the special event.

**113.082 Separation from Service of an Applying Manager from a Licensed Corporation**

If a license is held by a corporation under this chapter and the representative who signed for and was examined under section 113.090 is a manager for the corporation, the separation from employment of said manager, either voluntarily or for cause, shall require the following action.

- A. Within 72 hours of said separation from service, a temporary manager who meets the qualifications of this chapter except for residence must be named by the corporate officials. The name, address, phone number, and other contact information for this person shall be provided in writing to the liquor commissioner and the Village Clerk. This temporary manager shall serve as manager for the corporation for up to 30 days. At the end of 30 days from the date of separation, the temporary manager may petition the liquor commissioner for an extension of up to 30 additional days. However, if said 30 day extension would extend beyond the term of the license, the extension shall end not later than the expiration date of the license.
- B. During the 30 days or any extension of thereof a new manager shall be named and complete the Application for License and provide the information required under section 113.090 of this chapter along with the current fee for such examination.
- C. If the current license shall expire during the original 30 days, no extension shall be granted and all sales of alcohol shall cease upon the expiration of the license. Any existing inventory may be stored out of sight of retail customers for up to 60 days pending the award of the new license. Any application by a new manager shall be considered a new license application.
- D. The Local Liquor Commission shall have the right to hold any hearings deemed necessary to enforce this section. Any hearings under this Section shall comply with the guidelines of the Illinois State Liquor Commission.

**113.090 Criminal History Records Check; Examination of Applicant**

- A. Upon the initial application for a Retail Liquor Dealer's License or any renewal thereof, each applicant for a Retail Liquor Dealer's License shall submit to a criminal history records check and shall submit his or her fingerprints to the Illinois Department of State Police in the form and manner prescribed by the Illinois State Police. These fingerprints shall be checked against the fingerprint records now and hereafter filed in the Illinois State Police and Federal Bureau of Investigation criminal history records databases. After receiving the criminal history for the applicant from the Illinois State Police and Federal Bureau of Investigation, the Local Liquor Control Commission may use such information to determine whether the applicant qualifies for

the issuance or renewal of a Retail Liquor Dealer's License. The applicant shall pay a fee to the Village Clerk for the criminal history records check and fingerprint records check.

- B. At any time during the pendency of an application for a Retail Liquor Dealer's License, the Local Liquor Control Commission shall have the right to compel the applicant to submit to any examination and to produce any books and records which, in the determination of the Local Liquor Control Commission, are material to the determination of whether the applicant is qualified to receive a license under the provisions of this Chapter, or whether the premise sought to be licensed is suitable for such purposes. The Local Liquor Control Commission shall also have the right to require the applicant to answer any charges made in any objection to the issuance of the license. The failure of any applicant to appear at the time and place fixed by the Local Liquor Control Commission for his examination or to produce books and records requested, unless for good cause shown, shall be deemed to be an admission that the applicant is not qualified to receive a license.

#### **113.100 Bond Required; Forfeiture**

Each person applying for a Retail Dealer's Liquor License under this Chapter, shall execute a penal bond in the sum of one thousand five hundred dollars (\$1,500.00) with at least two (2) personal securities or a solvent surety company licensed to do business in the State of Illinois, to be approved by the Village Board of Trustees. Said bond shall be filed with the Village Clerk at the same time the application is presented, and shall be conditioned upon the faithful observance by the licensee of the provisions of this Chapter and of the laws of the State of Illinois and of the United States of America, applying to the sale and possession of alcoholic liquor. Said bond shall be refunded to the applicant if the application for a licensee is denied. If a licensee shall be convicted of the violation of any of the provisions of this Chapter or the Illinois Liquor Control Act of 1934, or his license shall be revoked and no appeal is taken from said order of revocation or any appeal taken from said order of revocation or any appeal taken there from is decided adversely to the licensee, said bond shall thereupon be forfeited to the Village.

#### **113.110 Issuance of Licenses to Certain Persons Prohibited**

Except as otherwise provided in this Section, no Retail Liquor Dealer's License shall be issued to:

- A. A person who has been convicted of a felony under any Federal or State Law.
- B. A person who is not of good character and reputation in the community in which he resides.
- C. A person who has been convicted of being the keeper or is the keeper of a house of ill-fame.
- D. A person who has been convicted of pandering or another crime or misdemeanor against decency and morality.
- E. A person who is not a resident of the Village.



- F. A person whose license issued under this Chapter 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 first application.
- H. A co-partnership, if any general partnership thereof or any limited partnership thereof, owning more than 5% of the aggregate partner interest in such co-partnership would not be eligible to receive a license hereunder for any reason other than residence within the Village.
- I. A corporation or limited liability company, if any member, officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than five percent (5%) of the stock of such corporation or limited liability company, would not be eligible to receive a license hereunder for any reason other than citizenship and residence within the Village.
- J. A person whose place of business is conducted by a manager or agent unless said manager or agent possesses the same qualifications required of the licensee.
- K. A person who has been convicted of a violation of any Federal or State law concerning the manufacture, possession or sale of alcoholic liquor, subsequent to the passage of the Illinois Liquor Control Act of 1934, or who has forfeited his bond to appear in court to answer charges for any such violation.
- L. A person who does not beneficially own the premise 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, including members of the Local Liquor Control Commission, the Village President, or any Trustee or member of the Village Board of Trustees; and no such official shall be interested directly in the manufacture, sale or distribution of alcoholic liquor, except that a Retail Liquor Dealer's License may be granted to any member of the Village Board of Trustees if (1) the sale of alcoholic liquor pursuant to the License is incidental to the selling of food, (2) the issuance of the license is approved by the State Liquor Control Commission and Local Liquor Control Commission, (3) the issuance of the license is in accordance with all applicable local ordinances, and (4) the official granted a License does not vote on alcoholic liquor issues pending before the Village Board of Trustees.
- N. Any person, association or corporation not eligible for a State retail liquor license.
- O. A person who intends to sell alcoholic liquors for use or consumption on his or her licensed retail premise who does not have liquor liability insurance coverage for that premises in an amount that is at least equal to the maximum liability amounts set out in Subsection (a) of Section 6-21 of the Illinois Liquor Control Act of 1934, as amended.
- P. A person who is not a citizen of the United States.

- Q. A corporation or limited liability company unless it is incorporated in Illinois, or unless it is a foreign corporation which is qualified under the Illinois Business Corporation Act of 1983 or the Limited Liability Company Act to transact business in Illinois.
- 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 any of Subsections (a) (3) through (a)(11) of Section 28-1 of, or as proscribed by Section 28-1.1 or 28-3 of, the Illinois Criminal Code of 1961, or as proscribed by a statute replaced by any of the aforesaid statutory provisions.
- T. A person or entity to whom a federal wagering stamp has been issued by the federal government, unless the person or entity is eligible to be issued a license under the Illinois Raffles Act or the Illinois Pull Tabs and Jar Games Act.

A criminal conviction of a corporation is not grounds for the denial, suspension, or revocation of a license applied for or held by the corporation if the criminal conviction was not the result of a violation of any federal or State law concerning the manufacture, possession or sale of alcoholic liquor, the offense that led to the conviction did not result in any financial gain to the corporation and the corporation has terminated its relationship with each director, officer, employee, or controlling shareholder whose actions directly contributed to the conviction of the corporation. The Local Liquor Control Commission shall determine if all provisions of this Section have been met before any action on the corporation's license is initiated.

#### **113.120 Sale Near Churches, Schools, Hospitals**

- A. No Retail Liquor Dealer's License shall be issued for the sale at retail of any alcoholic liquor within one hundred (100) feet of any church, school other than an institution of higher learning, hospital, or home for aged or indigent persons or veterans, their spouses or children.
- B. This prohibition shall not apply to the following:
  - 1. Hotels offering restaurant service;
  - 2. Regularly organized clubs;
  - 3. Restaurants;
  - 4. Food shops; or
  - 5. Other places where sale of alcoholic liquors is not the principal business carried on.

Further, this prohibition shall not apply to the renewal of a license for the sale at retail of alcoholic liquor on premises within one hundred (100) feet of any church or school where the

church or school has been established within such one hundred (100) feet since the issuance of the original license.

- C. The one hundred (100) feet for all mentioned locations other than churches is measured from property line to property line.
- D. In the case of a church, the distance of one hundred (100) feet shall be measured to the nearest part of any building to be used for worship services or religious instruction, and not to property boundaries.

#### **113.130 Stores Selling School Supplies, Lunches, Etc.**

No license shall be issued to any person for the sale at retail of any alcoholic liquor at any store or other place of business where the majority of customers are minors of school age or where the principal business transacted consists of the sale of schoolbooks, school supplies, food, lunches or drinks for such minors.

#### **113.140 Violation of Tax Acts; Refusal, Revocation or Suspension of License**

- A. In addition to other grounds specified in this Chapter, the Local Liquor Control Commission, on complaint of the Illinois Department of Revenue, shall refuse the issuance or renewal of a Retail Liquor Dealer's License, or suspend or revoke the license, of any person, for any of the following violations of any Tax Act administered by the Illinois Department of Revenue:
  - 1. Failure to make a tax return.
  - 2. The filing of a fraudulent return.
  - 3. Failure to pay all or part of any tax or penalty finally determined to be due.
  - 4. Failure to keep books and records.
  - 5. Failure to secure and display a certificate or sub-certificates of registration, if required.
  - 6. Willful violation of any rule or regulation of the Illinois Department of Revenue relating to the administration and enforcement of tax liability.
- B. Upon receiving notice from the Illinois Department of Revenue that a violation of any of items 1 through 6 of Subsection (A) have been corrected or otherwise resolved to the Department's satisfaction, the Local Liquor Control Commission may vacate an Order of Revocation.

#### **113.150 Duration of License; Prorating Fee**

All Retail Liquor Dealer's Licenses shall be valid from the date and time issued until one minute past twelve o'clock midnight (12:01 a.m.) on the following April 28<sup>th</sup>, unless suspended or revoked sooner as

provided for in this Chapter. No license shall be issued or valid for a term of longer than one (1) year. The fee paid for a license shall be prorated based on the number of calendar months remaining until expiration of the License.

**113.160 Privilege Granted by License; Nature as to Property; License Not Alienable or Transferable; Tax Delinquencies; Renewal**

- A. A license shall be purely a personal privilege, good for not to exceed one (1) year after issuance unless sooner revoked as in this Chapter provided, and shall not constitute property, nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, voluntary or involuntarily, or subject to be encumbered or hypothecated. Such license shall not descend by the laws of testate or intestate devolution, but it shall cease upon the death of the licensee, provided that executors or administrators of the estate of any deceased licensee, and the trustee of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale of alcoholic liquor under order of the appropriate court, and may exercise the privileges of the deceased or insolvent or bankrupt licensee after the death of such decedent, or such insolvency or bankruptcy until the expiration of such license but not longer than six months after the death, bankruptcy or insolvency of such licensee.
- B. Any licensee may renew his license at the expiration thereof, provided the licensee is then qualified at the time of renewal to receive a license and the premise for which such renewal license is sought are suitable for such purpose; 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 Village Board of Trustees from decreasing the number of licenses to be issued within the Village. No Retail Liquor Dealer's License shall be renewed unless the applicant provides documentation that any tax owed to the Village has been satisfied by payment.
- C. All applications for the renewal of a Retail Liquor Dealer's License shall be made in writing to the Local Liquor Control Commission at least fifteen (15) days prior to the date of expiration of said license. It shall not be necessary for the licensee to file a full license application in order to obtain a renewal of the license; provided, that the applicant shall submit an affidavit stating that the information and Statements contained in the original application have not changed, and such affidavit shall be accompanied by the required license fee.
- D. Any person who shall fail to make application for renewal and pay the fee as herein provided shall be deemed to have forfeited and abandoned such license, and no renewal thereof shall thereafter be permitted. Any such license so forfeited or abandoned shall not be reissued, and any such person seeking thereafter to procure a license shall be considered as a new applicant and shall be subject to all limitations as to the number of licenses to be issued, as heretofore provided.

- E. Nothing contained in this Section shall be construed to require the Local Liquor Control Commission to renew a license when the total number of licenses outstanding in a particular license classification exceeds those permitted by this Chapter.

#### **113.170 Change in Stockholders**

No corporate licensee shall permit any transfer of its stock which would vest in aggregate more than five (5%) percent of the stock outstanding in said corporation in any stockholder unless said stockholder has been previously approved by the Local Liquor Control Commission. All requests for approval of stockholders shall be in writing and under oath stating substantially the same requisites as set forth in Section 113.080. The Local Liquor Control Commission shall approve such transfer of stock unless the proposed stockholder would be ineligible to receive a license for the retail sale of alcoholic liquor under this Chapter for any reason other than citizenship and residence within the Village.

#### **113.180 Sale of Licensed Business**

Upon application being filed as provided in Section 113.080 with the Village Clerk, and upon payment of all bonds, criminal history record check fees, and the applicable license fee, the Local Liquor Control Commission may issue a Retail Liquor Dealer's License to the purchaser of an established licensed business. Such application must be for exactly the same class of license as that held by the seller, and such application shall be only for the same location as the previously licensed business. The applicant shall attach to such application a Statement containing the facts in respect to his purchase of such business. Such application shall be approved or denied as in the case of applications for original licenses, and, if approved, a Retail Liquor Dealer's License shall be issued to such purchaser. No credit for any unused portion of the previous license, or rebate for any unused portion of any license, shall be given. No Retail Liquor Dealer's License shall be issued to the purchaser of such business until the seller of such business has surrendered his license to the Village Clerk for cancellation.

#### **113.190 Display of License**

Every licensee immediately shall post its license issued in accordance with the provisions of this Chapter in a conspicuous place on the licensed premise, and shall keep said license so posted during all times said license is in force.

#### **113.200 Display of Birth Defects Warning Signs**

Every licensee, whether selling or offering for sale alcoholic liquor for use or consumption on or off the licensed premise, shall cause a sign with the message " GOVERNMENT WARNING: ACCORDING TO THE SURGEON GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS" to be framed and hung in plain view on the licensed premise. The sign shall be no smaller the 8-1/2 inches by 11 inches. Licensees may obtain warning signs from the Illinois Liquor Control Commission. The licensee shall have thirty (30) days from receipt of the warning sign to post it on the licensed premise. A licensee who violates this Section is subject to a written

warning for a first violation, and a fine of one hundred dollars (\$100.00) for a second or subsequent violation. For the third and subsequent violations, each day the activity continues shall be deemed a separate violation.

### **113.210 Display of Sale to Minors Warning Signs**

Every licensee, whether selling or offering for sale alcoholic liquor for use or consumption on or off the licensed premise, shall cause a sign to be displayed in a prominent place on the licensed premise which shall read as follows:

WARNINGS TO MINORS – You are subject to a fine of up to SEVEN HUNDRED FIFTY DOLLARS (\$750.00) under the ordinances of the Village of Mackinaw if you purchase alcoholic liquor or misrepresent your age for the purpose of purchasing or obtaining alcoholic liquor or are in possession of alcoholic liquor. The first offense will be TWO HUNDRED AND FIFTY DOLLARS (\$250.00). The second offense will be FIVE HUNDRED DOLLARS (\$500.00). The third offense will be SEVEN HUNDRED AND FIFTY DOLLARS (\$750.00).

WARNINGS TO ADULT PATRONS – You are subject to a fine of SEVEN HUNDRED AND FIFTY DOLLARS (\$750.00) under the ordinance of the Village of Mackinaw if you purchase alcoholic liquor for delivery to or use by any minor person.

### **113.220 Hours of Operation**

- A. It shall be unlawful for any licensed premise to sell or offer for sale at retail any alcoholic beverage except for during the hours designated below.
  - 1. Monday through Thursday – from eight o'clock (8:00) A.M. to twelve o'clock (12:00) A.M. (midnight)
  - 2. Friday and Saturday – from eight o'clock (8:00) A.M. to two o'clock (2:00) A.M.
  - 3. Sunday – from eleven o'clock (11:00) A.M. to twelve o'clock (12:00) A.M. (midnight)
  
- B. Except as otherwise provided in this Section, it shall be unlawful for any person issued a Retail Liquor License to sell or offer for sale at retail any alcoholic liquor in the Village between the following hours:
  - 1. Twelve o'clock (12:00) A.M. (midnight) Monday and eight o'clock (8:00) A.M. Monday;
  - 2. Twelve o'clock (12:00) A.M. (midnight) Tuesday and eight o'clock (8:00) A.M. Tuesday;
  - 3. Twelve o'clock (12:00) A.M. (midnight) Wednesday and eight o'clock (8:00) A.M. Wednesday;

4. Twelve o'clock (12:00) A.M. (midnight) Thursday and eight o'clock (8:00) A.M. Thursday;
  5. Twelve o'clock (12:00) A.M. (midnight) Friday and eight o'clock (8:00) A.M. Friday;
  6. Two o'clock (2:00) A.M. Saturday and eight o'clock (8:00) A.M. Saturday;
  7. Two o'clock (2:00) A.M. Sunday and eleven o'clock (11:00) A.M. Sunday;
- C. On the first Sunday in November, or on any other date specified by the State of Illinois as a return to United States Central Standard Time, it shall be unlawful for any person to whom a Retail Liquor Dealer's License has been issued to sell or offer for sale at retail any alcoholic liquor in the Village during the hours of one o'clock (1:00) A.M. Central Standard Time and eleven o'clock (11:00) A.M.
- D. It shall be unlawful to keep open for business or to permit the public to patronize any premise where alcoholic liquor is sold at retail during the hours within which the sale of such liquor is prohibited
- E. The time for closing as set forth in this Section shall be marked by:
1. The ceasing of all service at the bar of any alcoholic liquor;
  2. The ceasing of all service at the tables of any alcoholic liquor;
  3. The extinguishing of all electrical signs and decorative outdoor lights;
  4. The locking of the whole of such premises with respect to which a Retail Liquor Dealer's License has been issued hereunder;
  5. The vacating of all patrons of said premise within fifteen (15) minutes thereafter, whether alcoholic liquor or food is being consumed, or not; provided, however, that this Subsection shall not apply to the owner, manager, bartender, employees or watchmen; provided, further, that such persons so remaining do not consume any alcoholic liquor whatsoever.
- F. The premise of duly licensed restaurants may be kept open during such hours; provided, that the following activities shall cease during the hours within which the sale of alcoholic liquor is prohibited:
1. All service at the bar of any alcoholic liquor;
  2. All service at tables of any alcoholic liquor;

3. All consumption by any person of any alcoholic liquor upon such licensed premise within fifteen (15) minutes thereafter.
- G. The Local Liquor Control Commission, with the consent of the Village Board of Trustees, is hereby authorized to extend until two o'clock (2:00) A.M. the closing hours on New Year's Day for premise licensed to sell alcoholic liquor for consumption on the premise. During such extended hours only the sale of alcoholic liquor for consumption on the premise shall be permitted. No patrons will be allowed admittance between one o'clock (1:00) A.M. and two o'clock (2:00) A.M.
- H. All locations in the Village that sell or offer for sale at retail any alcoholic liquor, having an appropriate Retail Liquor Dealer's License, in good standing with the State of Illinois and Local Liquor Control Commission, will be permitted to begin serving alcoholic beverages and selling package liquor at eleven o'clock (11:00) A.M. on Sundays and at eight o'clock (8:00) A.M. on other week days.
- I. This Section shall apply to all of the premises licensed. Hours specified herein shall mean either Central Standard Time or Central Daylight Savings Time, whichever is being observed within the Village.

### **113.230 Employees**

- A. It shall be unlawful to employ in any premise used for the retail sale of alcoholic liquor any person afflicted with, or who is a carrier of, any infectious or communicable disease, contained in the list of infectious and communicable diseases published annually by the U.S. Secretary of Health and Human Services, in a capacity in which such person may transmit the infectious or communicable disease through the handling, preparation or distribution of food or alcoholic liquor; and it shall be unlawful for any person who is afflicted with, or a carrier of, any such disease to work in a capacity where the disease may be transmitted through the handling, preparation or distribution of food or liquor.
- B. Except as provided in Subsection C, it shall be unlawful to permit any person under the age of twenty-one (21) to serve, mix, dispense or sell alcoholic liquor or to be otherwise involved in the handling of such alcoholic liquor.
- C. Holders of Class E or F Retail Liquor Dealer's License may employ eighteen (18), nineteen (19), and twenty (20) year old persons to sell or serve alcoholic liquor patrons if all of the following conditions are met:
  1. The primary duties of the eighteen (18), nineteen (19), and twenty (20) year old persons are the serving of food and the servicing of patrons seated at tables;
  2. The service of alcoholic liquor is incidental to the service of food to patrons;



3. Service is not at a counter primarily used for serving drinks (i.e., bar);
4. Eighteen (18), nineteen (19), and twenty (20) year old employees do not mix or prepare alcoholic drinks.
5. The licensed premise is, at all times, under the control of either the licensee or an adult agent or employee of the licensee. To be in control of the premise, an adult possessing those responsibilities and duties normally associated with a manager must be present on the premise.

D. Nothing in this Section shall be interpreted as allowing any licensee issued a Class F Retail Liquor Dealer's License, or any officer, associate, member, representative, agent or employee of such licensee to serve alcoholic liquor other than beer or wine within the licensed premise.

#### **113.240 Books and Records Available for Inspection and Control; Maintenance**

It shall be the duty of every licensee to make books and records available upon reasonable notice for the purpose of investigation and control by the Illinois Liquor Control Commission or the Local Liquor Control Commission. Such books and records need not be maintained on the licensed premise, but must be maintained in the State of Illinois; however, if access is available electronically, the books and records may be maintained out of State. However, all original invoices or copies thereof covering purchases of alcoholic liquor must be retained on the licensed premise for a period of ninety (90) days after such purchase, unless the Illinois Liquor Control Commission has granted a waiver in response to a written request in cases where records are kept at a central business location within the State of Illinois or in cases where books and records that are available electronically are maintained out of State.

A. Report of food and liquor sales from restaurants.

1. Holders of a Class E and F Liquor License shall be required to show the License holder meets the food to liquor sales requirements of fifty-one percent (51%) food sales to alcohol sales.
2. Holders of a Class E and F Liquor License shall file with the Local Liquor Commission a schedule of their bookkeeping quarterly reporting period and the Local Liquor Commission will review the quarterly report of sales based on the time frame provided by the licensee. A report to the Liquor Commission shall be filed at the end of each of the months designated as the business bookkeeping quarterly reporting period. The report shall show by month the total sales, total alcohol sales, with percent of total sales. The report shall be due by the 15<sup>th</sup> of the month following the end of the quarterly reporting period.
3. The report and records produced shall be treated as proprietary, privileged and confidential records of the licensee. It is understood and acknowledged that the public

disclosure of the same would cause competitive harm to the licensee. These reports and records shall therefore be exempt from disclosure under the Freedom of Information Act pursuant to the exemption contained at 5 ILCS 140/7 (1)(g).

Failure by a Class E or F Liquor License holder to submit the required "Report of Food and Liquor Sales from Restaurants" will cause the suspension of the licensee's Liquor License until the required form has been submitted.

### **113.250 View from Street; Lighting; Posting Prices**

Except for restaurants, no screen, blind, curtain, partition, article or things shall be permitted in the windows or upon the doors of, nor inside of, a premise licensed under this Chapter for the consumption of alcoholic liquor on such premise, which shall prevent a clear view into the interior of such licensed premise from the street or sidewalk at all times. All rooms where liquor is sold for consumption upon the premise shall be continuously lighted during business hours by natural or artificial white light so that all parts of the interior of the premise shall be clearly visible. All licensees shall maintain a schedule of the prices charged for all drinks of alcoholic liquor to be served and consumed on the licensed premise or in any room or part thereof. Prices of alcoholic liquor shall not be posted or displayed in, upon or adjacent to windows or on the exterior of, or on any property adjacent to, any premise for which has been issued a license authorizing the consumption of alcoholic beverages on such premise.

### **113.260 Civil Rights in Licensed Premise**

No licensee shall deny or permit his agents and employees to deny any person the full and equal enjoyment of the accommodations, advantages, facilities and privileges of any premise in which alcoholic liquor is authorized to be sold subject only to the conditions and limitations established by law and applicable alike to all citizens.

### **113.270 Prohibited Entry to a Licensed Premise**

No licensee or any officer, associate, member, representative, agent or employee of a licensee shall permit any person under the age of twenty-one (21) years to enter and remain in that portion of a licensed premise that sells, gives or delivers alcoholic liquor for consumption on the premise. This Section does not apply to any licensed premise, such as a restaurant, club or grocery store where the selling, giving, or delivering alcoholic liquor is not the principal business of the licensee at those premise. Proof that a licensee, or his employee or agent, demanded, was shown, and reasonably relied upon adequate written evidence (as defined in Section 113.280(A) (2) for purposes of entering and remaining on the licensed premise is an affirmative defense in any criminal prosecution therefore or to any proceedings for the suspension or revocation of any license based thereon. It shall not, however, be an affirmative defense if the licensee, or his agent or employee, accepted the written evidence knowing it to be false or fraudulent. If a false or fraudulent driver's license or identification card is presented by a person less than twenty-one (21) years of age to a licensee or the licensee's agent or employee for the

purpose of obtaining entry and remaining on a licensed premises, the law enforcement officer or agency investigating the incident shall, upon the conviction of the person who presented the fraudulent license or identification, make a report of the matter to the Secretary of State on a form provided by the Secretary of State.

### **113.280 Prohibited Sales**

- A. Except as provided in Subsection B, it shall be unlawful for any licensee or any officer, associate, member, representative, agent or employee of such licensee to sell, give, or deliver alcoholic liquor to any person under the age of twenty-one (21) years or to any intoxicated person. No person, after purchasing or otherwise obtaining alcoholic liquor, shall sell, give or deliver such alcoholic liquor to another person under the age of twenty-one (21) years, except in the performance of a religious ceremony or service. If a licensee or officer, associate, agent, or employee of the licensee is prosecuted under this Subsection A, for selling, giving, or delivering alcoholic liquor to a person under twenty-one (21) years of age, the person under 21 years of age who attempted to buy or receive the alcoholic liquor may be prosecuted pursuant to Section 113.290 of this Chapter, unless the person under twenty-one (21) years of age was acting under the authority of a law enforcement agency, the Illinois Liquor Control Commission, or the Local Liquor Control Commission pursuant to a plan or action to investigate, patrol, or conduct any similar enforcement action.
1. For the purpose of preventing the violation of this Section, any licensee, or his agent or employee shall refuse to sell, deliver, or serve alcoholic beverages to any person who is unable to produce adequate written evidence of identity and of the fact that he or she is over the age of twenty-one (21) years , if requested by the licensee, agent, employee, or representative.
  2. However, no agent or employee of the licensee shall be disciplined or discharged for selling or furnishing liquor to a person under twenty-one (21) years of age if the agent or employee demanded and was shown, before furnishing liquor to a person under twenty-one (21) years of age, adequate written evidence of age and identity of the person issued by a Federal, State, County or municipal government, or subdivision or agency thereof, including but not limited to a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act, or an identification card issued to a member of the Armed Forces. This paragraph, however, shall not apply if the agent or employee accepted the written evidence knowing it to be false or fraudulent.
  3. Adequate written evidence of age and identity of the person is a document issued by a Federal, State, County, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act, or an identification card issued to a

member of the Armed Forces. Proof that the defendant-licensee, or his employee or agent demanded was shown and reasonably relied upon such written evidence in any transaction forbidden by this Section is an affirmative defense in any criminal prosecution therefore or to any proceedings for the suspension or revocation of any license based thereon. It shall not, however, be an affirmative defense if the agent or employee accepted the written evidence knowing it to be false or fraudulent. If a false or fraudulent driver's license or identification card is presented by a person less than twenty-one (21) years of age to a licensee or the licensee's agent or employee for the purpose of ordering, purchasing, attempting to purchase, or otherwise obtaining or attempting to obtain the serving of any alcoholic beverage, the law enforcement officer or agency investigating the incident shall, upon the conviction of the person who presented the fraudulent license or identification, make a report of the matter to the Secretary of State on a form provided by the Secretary of State.

4. A licensee or an officer, associate, member, representative, agent, or employee of a licensee may sell, give, or deliver alcoholic liquor to a person under the age of twenty-one (21) years or authorize the sale, gift, or delivery of alcoholic liquor to a person under the age of twenty-one (21) years pursuant to a plan or action to investigate, patrol, or otherwise conduct a "sting operation" or enforcement action against a person employed by the licensee or on any licensed premise if the licensee or officer, associate, member, representative, agent, or employee of the licensee provides written notice, at least 14 days before the "sting operation" or enforcement action to the Local Liquor Control Commissioner. Notice provided under this Section shall be valid for a "sting operation" or enforcement action conducted within sixty (60) days of the provision of that notice.
- B. The Local Liquor Control Commission shall review the model policy and guidelines for the operation of alcohol compliance checks developed by the Illinois Law Enforcement Training Standards Board and shall establish a policy and standards for alcohol compliance operation to investigate whether a licensee is furnishing alcoholic liquor to persons under twenty-one (21) years of age in violation of this Chapter. All supervising officers of such compliance checks shall have met the minimum training standards as determined by the Illinois Law Enforcement Training Standards Board.
  - C. A licensee who is the subject of an enforcement action or "sting operation" under this Section and who is found to be in compliance with this Chapter shall be notified by the law enforcement agency conducting the enforcement action or "sting operation" that no violation was found within thirty (30) days after such finding has been made.

**113.290 Purchase, Acceptance of Gift, Consumption or Possession of Alcoholic Liquor by Persons Under Twenty-One (21); Identification Cards; Other Prohibitions; Exceptions**

- A. It shall be unlawful for any person under the age of twenty-one (21) years to purchase or accept a gift of alcoholic liquor, or consume or have alcoholic liquor in his possession. If a licensee or his or her agents or employees believes or has reason to believe that a sale or delivery of any alcoholic liquor is prohibited because of the age of the prospective recipient, he or she shall, before making such sale or delivery demand presentation of adequate written evidence of age and identity.
- B. It shall be unlawful for any person to sell, give, or furnish to any person under the age of twenty-one (21) years any false or fraudulent written, printed, or photo static evidence of the age and identity of such person, or sell, give or furnish to any person under the age of twenty-one (21) years evidence of age and identification of any other person.
- C. It shall be unlawful to transfer, alter, or deface an identification card or obtain an identification card by means of false information. It shall be unlawful for any person under the age of twenty-one (21) years to possess any written, printed or photo static evidence of age and identity that is false, fraudulent, or not actually his or her own. It shall be unlawful for any person under the age of twenty-one (21) years to present or offer to any licensee, his agent or employee, any written, printed or photo static evidence of age and identity that is false, fraudulent, or not actually his or her own for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any alcoholic beverage.
- D. It shall be unlawful for any parent or guardian to permit his or her residence to be used by an invitee of the parent's child or the guardian's ward, if the invitee is under the age of twenty-one (21), in a manner that constitutes a violation of this Section. A parent or guardian is deemed to have permitted his or her residence to be used in violation of this Subsection if he or she knowingly authorizes, enables, or permits such use to occur by failing to control access to either the residence or the alcoholic liquor maintained in the residence.
- E. It shall be unlawful for any person to rent a hotel or motel room from the proprietor or agent thereof for the purpose of or with the knowledge that such room shall be used for the consumption of alcoholic liquor by persons under the age of twenty-one (21) years.
- F. It shall be unlawful for any person to have alcoholic liquor in his or her possession on public school district property on school days or at events on public school district property when children are present, unless the alcoholic liquor:
  - 1. Is in the original container with the seal unbroken and is in the possession of a person who is not otherwise legally prohibited from possessing the alcoholic liquor or;

2. Is in the possession of a person in or for the performance of a religious service or ceremony authorized by the school board.
- G. The possession and dispensing, or consumption by a person under twenty-one (21) years of age of alcoholic liquor in the performance of a religious service or ceremony, or the consumption by a person under twenty-one (21) years of age under the direct supervision and approval of the parents or parent or those persons standing in loco parents of such person under twenty-one (21) years of age in the privacy of a home, is not prohibited by this Section.
- H. Any person violating any of the provisions of this Section shall be subject to the general penalty provision, Section 10.99.

### **113.300 PEDDLING**

Selling any alcoholic liquor door to door or at any location other than a location for which the sale of alcoholic liquor is permitted in accordance with this Chapter, within the corporate limits of the Village is prohibited.

### **113.310 Happy Hours Prohibited**

- A. No licensee or employee or agent of such licensee shall:
1. Serve two (2) or more drinks of alcoholic liquor at one time to one person for consumption by that one person, except for product sampling pursuant to Section 113.320 or the selling or delivering wine by the bottle or carafe;
  2. Sell, offer to sell or serve to any person an unlimited number of drinks of alcoholic liquor during any set period of time for a fixed price, except at private functions not open to the general public;
  3. Sell, offer to sell or serve any drink of alcoholic liquor to any person on any one date at a reduced price other than that charged other purchasers of drinks on that day where such reduced price is a promotion to encourage consumption of alcoholic liquor, except as authorized in paragraph 7 of Subsection B of this Section;
  4. Increase the volume of alcoholic liquor contained in a drink, or the size of a drink of alcoholic liquor, without increasing proportionately the price regularly charged for the drink on that day;
  5. Encourage or permit, on the licensed premise, any game or contest which involves drinking alcoholic liquor or the awarding of drinks of alcoholic liquor as prizes for such game or contest on the licensed premise; or

6. Advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under paragraphs 1 through 5.
- B. Nothing in subsection A shall be construed to prohibit a licensee from:
1. Offering free food or entertainment at any time;
  2. Including drinks of alcoholic liquor as part of a meal package;
  3. Including drinks of alcoholic liquor as part of a hotel package;
  4. Negotiating drinks of alcoholic liquor as part of a contract between a hotel or multi-use establishment and another group for the holding of any function, meeting, convention or trade show;
  5. Providing room service to persons renting rooms at a hotel;
  6. Selling pitchers (or the equivalent, including but not limited to buckets), carafes, or bottles of alcoholic liquor which are customarily sold in such manner and delivered to two (2) or more persons at one time; or
  7. Increasing prices of drinks of alcoholic liquor in lieu of, in whole or in part, a cover charge to offset the cost of special entertainment not regularly scheduled.
- C. A violation of this Section shall be grounds for suspension or revocation of a Retail Liquor Dealer's License as provided by this Section.

**113.320 Product Sampling**

- A. Licensees may conduct product sampling for consumption at a licensed premise. Up to three (3) samples may be served to a consumer in one (1) day, consisting of no more than:
1. Quarter ( $\frac{1}{4}$ ) ounce of distilled spirits,
  2. One (1) ounce of wine, or
  3. Two (2) ounces of beer.
- B. Notwithstanding the provisions of subsection A, an on-premise retail licensee may offer for sale and serve more than one drink per person for sampling purposes without violating paragraph (1) subsection A of Section 113.310 or paragraph (6) of subsection B of Section 113.310 of this Act, provided the total quantity of the sampling package, regardless of the number of containers in which the alcoholic liquor is being served, does not exceed one (1) ounce of distilled spirits, four (4) ounces of wine, or sixteen (16) ounces of beer. In any event, all provisions of Section 113.310 shall apply to an on premise retail licensee that conducts product sampling.

### **113.330 Nudity on the Premise Where Alcoholic Liquor is Offered for Sale**

It shall be unlawful for any licensee or person acting as agent, servant, or employee of such licensee to provide, suffer, or permit any act, conduct, or entertainment on the premise in such a manner as to expose to public view.

- A. Male or female genitals, pubic hair, buttocks, perineum, anal region, or pubic hair region;
- B. Any portion of the female breast at or below the areola thereof;
- C. Any devise, film, costume, or covering which gives the appearance of or simulates the above listed body parts;
- D. The use of tassels, pasties, stars, or transparent material for coverage of the listed body parts;
- E. Sexual intercourse, any penetration of the female sex organ by the male sex organ, masturbation, sodomy, bestiality, cunnilingus, anilingus, fellatio, flagellation, sadomasochism, or any other sexual acts prohibited by law;
- F. The touching, caressing, or fondling of the breast, buttock, anus, genitals, perineum or pubic hair region;
- G. Excretory functions as part of or in connection with any activities set for above;
- H. The displaying of films or pictures, or similar reproductions or technology depicting acts set forth in paragraphs A-G above.

### **113.340 Disorderly Conduct**

No riotous, disorderly, indecent, or offensive conduct of any kind shall be allowed in or about said premise.

### **113.350 Loitering Prohibited**

It shall be unlawful for any person to frequent or loiter within any premise licensed under this Chapter with the purpose of soliciting any patron or customer therein to purchase any alcoholic or nonalcoholic beverages.

### **113.360 Curb Service Prohibited**

No curb service for the sale of alcoholic liquor shall be carried on with respect to premises for which a Class A, C, E or F Retail Liquor Dealer's License has been issued, either upon the public street or private property contiguous to such licensed premises.



### **113.370 Safety Provisions**

- A. A licensee issued a Class A, C, E, F, G or H license under the provisions of this Chapter may not permit the use of any pyrotechnic device within its licensed premise without the prior authorization of the Illinois State Fire Marshal. Nor may such licensee, or any agent or employee of such licensee, use mace, pepper spray, or any other toxic air-released compound within its licensed premise.
- B. No person may impede any person who is attempting to exit the premise of a licensee due to an emergency that constitutes a threat to the health or safety of persons within the licensed premise. For the purpose of this Section, the term "impede a person who is attempting to exit" includes physically restraining the person or blocking or locking an exit while the licensed premise is open to the public.
- C. All persons issued a Class A, C, E, F, or G license under the provisions of this Chapter with an authorized capacity:
  - 1. Of at least 250 persons,
  - 2. Set by the State Fire Marshal,

Whichever is lowest; must place a panic bar on each exit of the licensed premise. All persons issued a Class A, C, E, F, or G license under the provisions of this Chapter with an authorized capacity of at least 500 persons that conducts live entertainment within its licensed premise must, before the commencement of the live entertainment, make an announcement to the patrons of the licensed premise that generally informs those patrons of the locations of exits and fire escapes at the licensed premise.

### **113.380 Reporting Incidents to Police**

- A. It shall be unlawful for any licensee, or his agents or employees, to fail to immediately notify the Mackinaw Police Department of any incident occurring on or about the licensed premise, including the parking lot for such licensed premise, which in his knowledge or view relates to the commission of any crime including any violation of this Chapter. It shall also be unlawful to fail to immediately notify the Mackinaw Police Department of any disturbance, argument, fight, or other tumultuous conduct occurring on or about the licensed premise.
- B. Each licensee and each of his agents or employees shall truthfully and fully answer all questions and investigations of any identified police officer who makes inquiry concerning any persons in or about the licensed premise and any events taking place in or about the licensed premise, and cooperate fully in any investigation including the giving of any oral or written statements at such reasonable times and in such reasonable locations to any police officer engaged in said investigation.

### **113.390 Access from Licensed premises to Dwelling Quarters**

Except in the case of hotels and clubs, no alcoholic liquor shall be sold at retail upon any premise which has any access that leads from the premise to any other portion of the same building or structure used for dwelling or lodging and which is permitted to be used or kept accessible for use by the public. This provision shall not prevent any connection between the premise and such other portion of the building or structure which is used only by the licensee, his family and personal guests.

### **113.400 Revocation; Suspension; Fines; Notice; Hearing**

- A. The Local Liquor Control Commissioner may revoke or suspend any Retail Liquor Dealer's License if the licensee or any of his agents or employees:
1. Commit any violation of Federal law, this Chapter, the Illinois Liquor Control Act of 1934, or any rules or regulations established by the Local Liquor Control Commission or the Illinois Liquor Control Commission ;
  2. Willfully makes any false statement as to a material fact in the application for a Retail Liquor Dealer's License or a renewal thereof;
  3. Permits any disorderly conduct or immoral practices upon the licensed premise; (113.330 and 113.340)
  4. Permits any person other than the named licensee to operate an alcoholic liquor business under such license; or
  5. Fails to comply with the Zoning Code of this Village.
- B. In addition to the suspension, the Local Liquor Control Commission may levy a fine on the licensee for such violations not to exceed one thousand dollars (\$1,000.00) for a first violation within a twelve (12) month period, one thousand five hundred dollars (\$1,500.00) for a second violation within a twelve (12) month period, and two thousand five hundred dollars (\$2,500.00) for a third or subsequent violation within a twelve (12) month period. Each day on which a violation continues shall constitute a separate violation. Not more than fifteen thousand dollars (\$15,000.00) in fines under this Section may be imposed against any licensee during the period of his license. Proceeds from such fines shall be paid into the general corporate fund of the Village treasury.
- C. No Retail Liquor Dealer's License shall be revoked or suspended and no licensee shall be fined except after a public hearing by the Local Liquor Control Commission after three (3) days written notice to the licensee affording the licensee an opportunity to appear and defend the charges against him. All hearings shall be open to the public, and the Local Liquor Control Commission shall reduce all evidence to writing and shall maintain a certified official record of the

proceedings to be taken and prepared by a certified court reporter or certified shorthand reporter. If the Local Liquor Control Commission has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the community, they may, upon the issuance of a written order stating the reason for such conclusion and without notice or hearing, order the licensed premise closed for not more than seven (7) days, giving the licensee an opportunity to be heard during that period, except that if the licensee is also engaged in the conduct of another business or businesses on the licensed premise such order shall not be applicable to the other business or businesses. If the Local Liquor Control Commission determines after the hearing that the license should be revoked or suspended or that the licensee should be fined, he shall within five (5) days after the hearing state the reason or reasons for such determination in a written order, and either the amount of the fine, the period of suspension, or that the license has been revoked, and shall serve a copy of such order within the five (5) days upon the licensee.

- D. The Local Liquor Control Commissioner may appoint a Deputy Commissioner to serve in his absence with all the powers afforded the Liquor Commissioner.

#### **113.410 Complaint of Violation; Hearing**

Any five (5) residents of the Village shall have the right to file a complaint with the Local Liquor Control Commissioner stating that any person licensed under the provisions of this Chapter has been or is violating the provisions of this Chapter, the Illinois Liquor Control Act of 1934, or any rules or regulations of the Local Liquor Control Commission or the Illinois Liquor Control Commission. Such complaint shall be in writing in the form prescribed by the Local Liquor Control Commission and shall be signed and sworn to by the parties complaining. The complaint shall state the particular provision, rule or regulation believed to have been violated and the facts in detail upon which belief is based. If the Local Liquor Control Commissioner is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for such belief, he shall set the matter for hearing before the Local Liquor Control Commissioner and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint.

#### **113.420 Appeals from Order of Local Liquor Control Commission**

- A. Except as provided in this section, any order or action of the Local Liquor Control Commission in levying a fine or refusing to levy a fine on a licensee, granting or refusing to grant a license, revoking or suspending or refusing to revoke or suspend a license or refusing for more than thirty (30) days to grant a hearing upon a complaint to revoke or suspend a license may, within twenty (20) days after notice of such order or action, be appealed by any resident of the Village or any person interested, to the Illinois Liquor Control Commission in accordance with Illinois law and the Commission's rules and regulations.

- B. In any case where a licensee appeals to the Illinois Liquor Control Commission from an order or action having the effect of suspending or revoking a license, denying a renewal application, or refusing to grant a license, the licensee may resume the operation of the licensed business pending the decision of the Illinois Liquor Control Commission and the expiration of the time allowed for an application for rehearing. If an application for rehearing is filed, the licensee shall continue the operation of the licensed business until the denial of the application or, if the rehearing is granted, until the decision on the rehearing. In any case in which a licensee appeals to the Illinois Liquor Control Commission a suspension or revocation that is the second or subsequent suspension or revocation imposed on the licensee within the preceding twelve (12) month period, the licensee shall consider the suspension or revocation to be in effect until a reversal of the Local Liquor Control Commission's action has been issued by the Illinois Liquor Control Commission and shall cease all activity otherwise authorized by the license.
- C. The appeal authorized by this section shall be limited to a review of the official record of the proceedings of the Local Liquor Control Commission. A certified official record of the proceedings taken and prepared by a certified court reporter or certified shorthand reporter shall be filed by the Local Liquor Control Commission within five (5) days after notice of the filing of such appeal, if the appellant licensee pays for the cost of the transcript.

**113.430 Granting Licenses after Revocation; Waiting Period; Discretion**

- A. When any Retail Liquor Dealer's License has been revoked for any cause, no license shall be granted to any person for the period of one year thereafter for the conduct of the business of selling alcoholic liquor in the premise described in the revoked license unless the revocation order has been vacated or unless the revocation order was entered as to the licensee only.
- B. Nothing in this section shall prohibit the issuance of a Retail Liquor Dealer's License authorizing the sale of alcoholic liquor incidental to a restaurant if:
1. The primary business of the restaurants consists of the sale of food where the sale of liquor is incidental to the sale of food and the applicant is a completely new owner of the restaurant.
  2. The immediately prior owner or operator of the premise where the restaurant is located operated the premise as a restaurant and held a valid Retail Liquor Dealer's License authorizing the sale of alcoholic liquor at the restaurant for at least part of the twenty-four (24) months before the change of ownership, and;
  3. The restaurant is located one hundred feet (100) or more feet from a school.

#### **113.440 Sale to Intoxicated Persons**

It shall be unlawful for any licensee, officer, associate, member, representative, agent or employee of such licensee to sell, give or deliver alcoholic liquor to any intoxicated person or to any person known by him or her to be under legal disability or in the need of mental treatment.

#### **113.450 Rest Rooms**

No license shall be issued unless the premises wherein such business is to be conducted has available in the building for which the license is to be issued, for the use of patrons of such business, two separate rest rooms, one for men and one for women, which both shall at all times have operable toilets, wash basins or lavatories with hot and cold running water and sanitary conditions.

#### **113.460 Operation of Beer Garden**

- A. "Beer Garden" means an additional designated area adjoining the licensed premise, having access from the main premises only, and enclosed by a permanent barrier with a minimum height of four (4') feet with an emergency means of egress, the enclosure to be located where and with such restrictions and design as the Local Liquor Control Commission shall direct.
- B. Applicants applying for or holding a Class A, E, or F license may file a request with the Local Liquor Control Commission for the issuance of a license to operate a "Beer Garden" as herein defined, to be constructed and operated upon such terms and conditions as may be approved or imposed by the Local Liquor Control Commission.