

ORDINANCE NUMBER 1624

AN ORDINANCE AMENDING SECTION 2.5
OF THE HARRISBURG MUNICIPAL CODE
AS AMENDED ON JULY 2, 2009

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HARRISBURG AS FOLLOWS:

SECTION ONE: That Section 2.5 of the Harrisburg Municipal Code, as Amended on July 2, 2009, shall hereafter read as follows:

Sec. 2.5-1. Purpose.

This chapter shall be construed to the end that the health, safety and welfare of the people of the City of Harrisburg shall be protected and temperance in the consumption of alcoholic liquors shall be fostered and promoted. (Ord. No. 808, 1, 5-6-75)

Sec. 2.5-2. Definitions.

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

Alcoholic liquor: Any spirits, wine, beer, ale or other liquid containing more than one-half of one percent of alcohol by volume, which is fit for beverage purposes.

Beer: The word "beer" shall mean a beverage obtained by alcoholic fermentation or an infusion or concoction of barley or other grain, malt and hops in water, includes, among other things, beer, ale, stout and the like.

Country Club: "Outdoor Recreational Facilities" shall be defined as an entity operating golf courses, tennis courts, swimming pools, and other outdoor recreational facilities. The Outdoor Recreational Facility may lease a portion of the premises for the sale of alcoholic beverages and the Lessee may be the licensee and sell alcoholic liquors as defined in the Liquor Control Ordinance. If the Outdoor Recreational Facility is a country club which is a not-for-profit corporation, it shall be required to maintain, through their bookkeeper, an accurate list of the names and residences of its members and the same shall be available upon request by the Liquor Control Commissioner.

Club: "Club" means a corporation organized under the laws of this state, not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquors, kept, used and maintained by its members through the payment of annual dues, and owning, hiring or leasing a building or space in a building, of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests, and provided with suitable and adequate kitchen and dining room space and equipment and maintaining a sufficient number of servants and employees for cooking, preparing and serving food and meals for its members and their guests; provided, that such club files with the local liquor control commissioner at the time of its application for a license under this chapter two (2) copies of a list of names and residences 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.

Local liquor control commissioner: "Local liquor control commissioner" shall be and mean the mayor of the City of Harrisburg who is charged with the administration within the jurisdiction of the city by state statute and who shall have such powers and perform such other and further duties in addition to the receipt of license fees as are provided by law.

Owner: The word "owner" or "proprietor" shall include all persons who are owners or are in control of any place where the sale or distribution of alcoholic liquor is carried on whether they are individuals, partnerships, corporations, joint stock companies fiduciaries or officers, directors or otherwise.

Package liquor store: "Package liquor store" shall mean any establishment catering to the general public whose principal business is the sale of alcoholic liquors, not for consumption on the premises.

Person: "Person" shall mean any person, firm, partnership, club, association or corporation.

Restaurant: Any public place kept, used, maintained, advertised and held out to the public as a place where meals are served, and where meals actually are

served 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, and whose gross income from the sale of food and non-alcoholic beverage shall equal over fifty (50) percent of the gross income from the business.

Retail sale: The sale for use or consumption and not for resale.

Wine: The word "wine" shall mean any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables, containing sugar, including such beverages when fortified by the addition of alcoholic liquor as above defined. (Ord. No. 808, 2, 5-6-75)

Sec. 2.5-3. License required.

It shall be unlawful to sell or offer for sale at retail in the city any alcoholic liquor without having a retail liquor dealer's license, or in violation of the terms of such license.(Ord. no. 808,3,5-6-75)

Sec. 2.5-4. Application for license.

Applications for such licenses shall be made to the local liquor control commissioner in writing under oath stating:

- (1) The applicant's name and mailing address;
- (2) The name and address of the applicant's business;
- (3) If applicable, the date of the filing of the "assumed name" of the business with the county clerk;
- (4) In case of a 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 Illinois Business Corporation Act to transact business in the State of Illinois;
- (5) The legal description and street number of the premises for which the license is sought; and a copy of the instruments evidencing that the applicant is either the beneficial owner of the premises for which the license is sought or is the lessee of said premises for the full period for which the license is to be issued;
- (6) The name and address of the landlord if the premises are leased;
- (7) The date of applicant's last application for state liquor license and whether

same was granted, denied or withdrawn;

(8) The date of applicant's last application for a local liquor license and the name of the municipality to which such application was made, and whether same was granted, denied or withdrawn;

(9) Whether applicant has ever made an application for a liquor license which has been denied, and if so, the reasons therefore;

(10) Whether applicant has ever had any previous liquor license suspended or revoked, and if so, the reasons therefore;

(11) Whether applicant has ever been convicted of a gambling offense or felony, and if so, the particulars thereof;

(12) Whether applicant possesses a current federal wagering or gaming device stamp, and if so, the reasons therefore;

(13) Whether the applicant or any other person directly or indirectly having an interest in said business or said premises is a public official, and if so, the particulars thereof;

(14) Whether, in the case of an application for the renewal of a license, the applicant has made any political contributions within the past two (2) years, and if so, the particulars thereof;

(15) The applicant's name, sex, date of birth, social security number, position and percentage of ownership in the business; and the name, sex, date of birth, social security number, position and percentage of ownership in the business of every sole owner, partner, corporate officer, manager and any person, who owns five (5) percent or more of the shares of the applicant's business entity or parent corporation of the applicant's business entity;

(16) That the applicant, or any officer, associate, member, representative or agent of the applicant, has not received or borrowed money or anything else of value and that he will not receive or borrow money or anything else of value (other than merchandising credit in the ordinary course of business as expressly permitted by Illinois Revised Statutes, Chapter 43, section 122) directly or indirectly from any manufacturer or distributor of alcoholic liquor, and has not been and will not be a party in any way, directly or indirectly, to any violation of a manufacturer or distributor of said statute above city.

(17) If an application is made in behalf of a partnership, it shall be signed and verified by at least two (2) partners; and if by a corporation, it shall be signed

by the president and secretary and verified by the president of said corporation. (Ord. No. 808, 4, 5-6-75; Ord. No. 895, 2, 6-19-79)

Sec. 2.5-5. Restrictions on license issuance.

No such license shall be issued to:

- (1) A person who is not a resident of the City of Harrisburg, unless approved by the Liquor Control Commissioner;
- (2) A person who is not of good character and reputation in the community in which he resides;
- (3) A person who is not a citizen of the United States;
- (4) A person who has been convicted of a felony under any federal or state law, if the local liquor control commissioner determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust;
- (5) A person who has been convicted of being the keeper or is keeping a house of ill-fame;
- (6) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality;
- (7) A person whose license under this chapter or the Illinois Liquor Control Act has been revoked for cause;
- (8) 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;
- (9) A co-partnership, unless all of the members of such co-partnership shall be qualified to obtain a license;
- (10) A corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than five (5) 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 the political subdivision;
- (10a) A corporation unless it is incorporated in Illinois, or unless it is a foreign corporation which is qualified under the Illinois Business Corporation Act to transact business in Illinois;

- (11) 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;
- (12) 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 passage of this chapter, or who has forfeited his bond to appear in court to answer charges for any such violation;
- (13) A person who does not beneficially 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;
- (14) Any law-enforcing public official, including the mayor and members of the city council, and no such official shall be interested in any way, directly or indirectly, in the manufacture, sale or distribution of alcoholic liquor;
- (15) A person who is not a beneficial owner of the business to be operated by the licensee;
- (16) A person who has been convicted of a gambling offense as prescribed by any of subsections (a) (3) through (a) (10) of section 28-1 of, or as prescribed by, section 28-3 of, the Criminal Code of 1961, approved July 28, 1961, as heretofore or hereafter amended, or as prescribed by a statute replaced by any of the aforesaid statutory provisions of the state;
- (17) A person to whom a federal gaming device stamp or a federal wagering stamp has been issued by the federal government for the current tax period;
- (18) A co-partnership to which a federal gaming device stamp or a federal wagering stamp has been issued by the federal government for the current tax period, or if any of the partners have been issued a federal gaming device stamp or federal wagering stamp by the federal government for the current tax period;
- (19) A corporation, if any officer, manager or director thereof or any stockholder owning in the aggregate more than twenty (20) percent of the stock of such corporation has been issued a federal gaming device stamp or a federal wagering stamp for the current tax period;
- (20) Any premises for which a federal gaming device stamp or a federal wagering stamp has been issued by the federal government for the current tax period.(Ord. No. 808, 5, 5-6-76; Ord. No. 895, 2, 6-19-79)

Sec. 2.5-6. Term of license.

Each license issued hereunder shall be for the term of one (1) year, commencing on the first day of May and terminating on the thirtieth day of April next following such issuance, unless sooner revoked or suspended as in this chapter provided. (Ord. No. 808, 6, 5-6-75; Ord. No. 895, 2, 6-19-79)

Sec. 2.5-7. Examination of applicant for local license.

The local liquor control commissioner shall have the right to examine, or cause to be examined, under oath, any applicant for a local license or for a renewal thereof, or any licensee upon whom notice of revocation, or suspension has been served as provided by statute, and to examine or cause to be examined the books and records of any such applicant or licensee; to hear testimony and take proof of his information in the performance of his duties, and for such purpose to issue subpoenas which shall be effective in any part of this state. For the purpose of obtaining any of the information desired by the local liquor control commissioner under this section, he may authorize his agent to act on his behalf, as provided by statute. (Ord. No. 808, 7, 5-6-75)

Sec. 2.5-8. License classifications, fees; proration of fees; license designation; display of license.

(a) [For purposes of this chapter, license classifications, and the fees thereunder, are as follows:]

Class A, which shall permit the retail sale of alcoholic liquor in sealed containers for consumption off the premises where sold only, and not for resale in any form; the annual fee for such license shall be two thousand dollars (\$2,000.00).

Class B, which shall permit the retail sale of alcoholic liquor at a restaurant as defined herein, for consumption only on the premises where sold and not for resale in any form; the annual fee for such license shall be one thousand two hundred fifty dollars (\$1,250.00).

Class C, which shall permit the retail sale of alcoholic liquor for consumption only on the premises where sold and not for resale in any form; the annual fee for such license shall be one thousand two hundred fifty dollars (\$1,250.00).

Class D, which shall permit the retail sale of alcoholic liquor for consumption only on the premises where sold, to be issued to a regular organized club as hereinbefore defined, such sale to be made only to members of the club and their guests; the annual fee for such license shall be five hundred dollars (\$500.00).

Class E, which shall permit the retail sale of beer and wine as herein defined at a restaurant as defined herein for consumption only on the premises where

sold, and not for resale in any form; the annual fee for such license shall be seven hundred fifty dollars (\$750.00).

Class F, which shall permit the retail sale of alcoholic liquor for consumption only on the premises where sold, may be issued to a regularly organized country club as hereinbefore defined, such sale to be made only to the members of the club and their guests. It shall be lawful to sell alcoholic liquor by the drink for consumption on the premises or by the drink or by the package for consumption on the premises of the Outdoor Recreational facility. The annual fee for such license shall be \$1,200.00.

Class G liquor license: Caterer/Retailer License. A Class G license shall permit a licensee to serve alcoholic liquors for consumption, either on-site or off-site, within the corporate limits of the City of Harrisburg, Illinois, whether the location is licensed or unlicensed, as an incidental part of food service. Prepared meals and alcoholic liquors shall be sold at a package price agreed upon under contract. The annual fee for such license shall be two hundred dollars (\$200.00). (Ord. No. 1557, §1, 06-19-08)

Class H, which shall permit the retail sale of only one type of alcoholic liquor meaning beer, wine or liquor, in sealed containers for consumption off the premises where sold only, and not for resale in any form; the annual fee for such license shall be Seven Hundred Fifty dollars (\$750.00)

(b) License fees shall be prorated in the year in which the license is first issued.

(c) All licenses issued hereunder shall be designated by the classification letter herein provided.

(d) All licenses issued hereunder, together with any and all required licenses and permits of federal and state issuance, shall be plainly displayed at all times on the licensed premises. (Ord. No. 808, 8, 5-6-75; Ord. No. 809, 1, 5-20-75; Ord. No. 895, 2, 6-19-79; Ord No. 1212, 2-15-94)

(e) Any additional expenses required by state, federal or local regulations incurred for the processing of liquor licenses by the City will be charged to the licensee. These expenses must be paid at the time of application and are not refundable to the licensee. (Ord. No. 1454, § 1, 11-01-01)

Sec. 2.5-9. Number of licenses. (deleted by Ord. No. 1164, 11-17-92)

Sec. 2.5-10 Renewal of license.

(a) Any Class A, C, D, and F licensee may renew his license at the expiration thereof, provided that he is then qualified to receive a license and the premises for which such

renewal license is sought are suitable for such purpose; provided, further, that the renewal privilege herein provided for shall not be construed as a vested right which shall in any case prevent the city council from decreasing the number of licenses to be issued within the city.

(b) Any Class B and E licensee may renew his license at the expiration thereof, provided that the applicant, upon request submits to the Liquor Control Commissioner sufficient documentation to establish that at least fifty one (51) percent of the gross retail sales at that location in the license period immediately preceding that year were collected from the sales of non-alcoholic beverages and food; provided, further, that the renewal privilege herein provided for shall not be construed as a vested right which shall in any case prevent the city council from decreasing the number of licenses to be issued within the city. Any Class G licensee may renew his/their/its license at the expiration thereof, provided that the applicant, upon request, submits to the Liquor Control Commissioner sufficient documentation to establish that at least fifty-one (51) percent of the package contract sales for the preceding license year were collected from the sales of non-alcoholic beverages and food; provided further, that the renewal privilege herein provided for shall not be construed as a vested right which shall in any case prevent the city council from decreasing the number of licenses to be issued within the city.

(Ord. No. 1212, 2-15-94; Ord. No. 1557, 2, 06-19-08)

Sec. 2.5-11. Hours of operation.

(a) It shall be unlawful to sell or offer for sale at retail any alcoholic liquor at a Class A, B, C, D, E and F establishment in the city other than as set forth herein below:

Sunday 12:00 p.m. [noon] to 7:00 p.m.
Monday 9:00 a.m. to 12:00 a.m. [midnight];
Tuesday 9:00 a.m. to 12:00 a.m. [midnight];
Wednesday 9:00 a.m. to 12:00 a.m. [midnight];
Thursday 9:00 a.m. to 12:00 a.m. [midnight];
Friday 9:00 a.m. to 1:00 a.m. Saturday;
Saturday 9:00 a.m. to 1:00 a.m. Sunday.
(Ord. No. 1399, 4-1-98)

(b) Class A, B, C, D, E and F establishments as defined in section 2.5-8 of this Code shall be permitted to remain open and sell alcoholic liquor on New Year's Eve from 9:00 a.m. to 2:00 a.m. on New Year's Day, upon written approval of the Liquor Control Commissioner.

(c) This [section] shall not prevent restaurants from being kept open for business during other hours, but no alcoholic liquor may be sold or consumed by the public during such hours.

(d) The premises of licensed establishments shall be closed 30 minutes after the aforesaid time for sale of alcohol with no person in or upon said premises and parking lot with the exception of owners, management, employees, and cleaning personnel strictly engaged in furtherance of the business of the license establishment. (Ord. No. 1438, 4-19-01; Ord. No. 1515, 03-17-05)

(e) Class A, B, C, D, E, F, and H establishments as defined in section 2.5-8 of this Code shall be permitted to remain open during the term of the license, upon proper and timely written notice to the Liquor Control Commissioner and upon written approval of the Liquor Control Commissioner, for additional hours past those listed in (a) above. The administrative assistant to the mayor shall maintain a record of each request to remain open. No A, B, C, D, E, F and H establishments shall be permitted to sell alcoholic liquor past 1:00 a.m. (Ord. No. 1212, 2-15-94; Ord. No. 1304, § 2, 9-5-96; Ord. No. 1332, § 2, 7-3-97)

(f) Class G licensees shall not serve alcoholic beverages on-site or off-site other than at those times permitted for Class A through F licensees, as set forth in paragraph (a) (b) and (e), above. The same terms for permission to remain open that apply to Class A through F licensees under paragraph (e) shall apply to Class G licensees. (Ord. No. 1557,3, 06-19-08)

Sec. 2.5-12. Entry powers.

The local liquor control commissioner hereby is given the power to enter or to authorize any law enforcement official to enter at any time upon any premises licensed hereunder to determine whether any of the provisions of the Dram Shop Act, the Illinois Liquor Control Act, Illinois Criminal Code, or Harrisburg Municipal Code, or any rules or regulations adopted by him or by the state liquor commission have been or are being violated, and at such time to examine the premises of said licensee in connection therewith. (Ord. No. 808, 12, 5-6-75)

Sec. 2.5-13. Transfer of license.

A license shall be a purely personal privilege, good for not to exceed one year after issuance unless sooner revoked as is provided in this chapter and shall not constitute property, nor shall it be subject to being encumbered or hypothecated. Such licenses shall not descend by the laws of testate or intestate devolution, it shall cease upon the death of the licensee; provided, that executors or administrators of the estate of any deceased licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale or manufacture 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 (6) months, after the death, bankruptcy or insolvency of such license fees paid for any period in which the licensee shall be prevented from operating under such license in accordance with the provisions of this section. (Ord. No. 808, 13, 5-6-76)

Sec. 2.5-14. Change of location.

A license issued hereunder shall permit the sale of alcoholic liquor only in the premises described in the application and license. Such location may be changed only when and upon the written permit to make such change shall be issued by the local liquor control commissioner. No change of location shall be permitted unless the proposed new location is in compliance with the provisions and regulations of this chapter and of the laws of the State of Illinois. (Ord. No. 808, 14, 5-6-75)

Sec. 2.5-15. Reserved.

(Ord. No. 808, 15, 5-6-75, Ord. No. 1365, § 2, 2-5-98)

Sec. 2.5-16. Dram shop liability insurance required.

Each and every applicant for a license shall simultaneously, with the application therefore, and prior to the issuance thereof, submit proof satisfactory to the local liquor control commissioner that the applicant will provide dram shop liability insurance in the maximum limits as set forth in 235 ILCS 5/6-21, as amended.

(Ord. No. 1291, § 1, 6-6-96)

Sec 2.5-17. Reserved.

Editor's note - Ord. No. 895, 1, adopted June 19, 1979, repealed former 2.5-16, 2.5-17. Former 2.5-16 required the filing of a certificate of insurance with an application for license under this chapter and was derived from Ord. No. 808, 16, adopted May 6, 1975. Former 2.5-17 required a clear view from the street into the interior of alcoholic beverage establishments selling for on-premises consumption; said former section was derived from Ord. No. 808, 17 adopted May 6, 1975.

Sec. 2.5-18. Forbidden names.

The word "saloon" is forbidden in the use of any sign or advertisement by any licensee. (Ord. No. 808, 18, 5-6-75; Ord. No. 1322, § 2, 5-15-97)

Sec. 2.5-19. Disposition of fees.

All such fees shall be paid to the liquor control commissioner, at the time application is made, and shall be forthwith turned over to the treasurer. In the event the 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 a special account or in such other fund as shall have been designated by the council by proper action. (Ord. No. 808, 19, 5-6-75)

Sec. 2.5-20. Record of licenses issued; notice of revocation or suspension.

The city clerk shall keep a complete record of all such licenses issued and shall furnish the chief of police with a copy thereof; upon revocation or suspension of any license, the city clerk shall immediately give written notice thereof to the chief of police. (Ord. No. 808, 20, 5-6-75)

Sec. 2.5-21. Sanitary conditions.

All premises used for the retail sale of alcoholic liquor, or for the storage of such liquor for sale, shall be kept in full compliance with the ordinances regulating the condition of premises used for the storage or sale of food for human consumption. (Ord. No. 808, 21,5-6-75)

Sec. 2.5-22. Employees.

It shall be unlawful to employ in any premises used for the retail sale of alcoholic liquor any person who is afflicted with or who is a carrier of any contagious, infectious or venereal disease; and it shall be unlawful for any person who is afflicted with or is a carrier of any such disease to work in or about any premises or to engage in any way in the handling, preparation or distribution of such liquor. (Ord. No. 808, 22, 5-6-75)

Sec. 2.5-23. Location restrictions.

No license shall be issued under this chapter to any person for any premises which are:

(a) Predominantly residence districts as ascertained and determined by the city council, provided that in any place within a residence district so determined, the local liquor control commissioner may issue a license if the owner or owners of at least two-thirds of the frontage, two hundred (200) feet in each direction along the street and streets adjacent to the place of business for which a license is sought, file with the local liquor control commissioner, his or their written consent to the use of such place for the sale of alcoholic liquors.

(b) Within one hundred (100) feet of any church, school, hospital, home for the aged or indigent persons or for veterans, their wives or children. The 100-foot measurement is from lot line to lot line. The restriction is not applicable to restaurants or other places where the sale of alcoholic liquors is not the primary business and such businesses were established prior to the effective date of the chapter. In addition, the restriction does not apply for churches established after the issuance of the license.

(c) Stores or other places of business where the majority of customers are minors, of school age, or where the principal business transacted consists of school books, school supplies, food, lunches or drinks for such minors. (Ord. No. 808, 23, 5-6-75; Ord. No. 895, 2, 06-19-79, Ord. No. 1573, 1, 07-02-09)

(d) (Repealed) (Ord. No. 1573, 1, 07-02-09)

Sec. 2.5-24. Sale to minors.

It shall be unlawful for any person under the age from time to time provided by the

laws of the State of Illinois to purchase or obtain any alcoholic liquor in any place in the city where alcoholic liquor is sold.

It shall be unlawful for any person under the age from time to time provided by the laws of the State of Illinois to misrepresent his or her age for the purpose of purchasing or obtaining alcoholic liquor in any place in the city where alcoholic liquor is sold.

In every place in the city where alcoholic liquor is sold there shall be displayed at all times in a prominent place a printed card which shall be supplied by the city clerk and which shall read substantially as follows:

WARNING

If you are under age, you are subject to a fine up to \$500 under the Ordinances of the City of Harrisburg if you purchase alcoholic liquor, or misrepresent your age for the purpose of purchasing or obtaining alcoholic liquor.

It shall be unlawful for any holder of a Class A or Class C license, or his or her agent or employee, to suffer or permit any person under the age from time to time provided by the laws of the State of Illinois from purchasing alcoholic liquors, to be or remains on the licensed premises or in any room or compartment adjoining or adjacent to such licensed premises. This prohibition shall also apply to the holder of a Class B license, his or her agents or employees, if the establishment does not qualify as a restaurant as herein defined.

In addition to all other fines and penalties, the local liquor control commissioner may suspend or revoke the retail liquor dealer's license for any violation of the above paragraph.

It shall be unlawful for any parent or guardian to permit any minor child of which he or she may be the parent or guardian to violate any of the provisions of this section.

It shall be unlawful to sell, give or deliver alcoholic liquor to any person under the age from time to time provided by the laws of the State of Illinois.

It shall be unlawful for any person under the age, from time to time provided by the laws of the State of Illinois, to draw, pour or mix any alcoholic liquor as an employee of any retail licensee. (Ord. No. 808, 24,5-6-75; Ord. No. 809, 2, 5-20-75)
Cross reference-Contributing to delinquency of a child, 12-33.

Sec. 2.5-25. Sale to intoxicated persons, habitual drunkards, spendthrifts, etc.

It shall be unlawful for any holder of a retail liquor dealer's license to sell, deliver or give any alcoholic liquor to any intoxicated person or to any person known to him to

be a habitual drunkard, spendthrift or insane, feebleminded or distracted person. (Ord. No. 808, 25,5-6-75)

Sec. 2.5-26. Illegal, disorderly activities on or about.

No licensee under this chapter nor any officer, associate, member, representative, agent or employee of such licensee shall engage in any activity or conduct or suffer or permit any other person to engage in any activity or conduct in, on or about the licensed premises which is prohibited by any ordinance of the City of Harrisburg, or law of the State of Illinois or the United States. Every license hereunder shall at all times keep a good and orderly house. (Ord. No. 1444, 6-21-01)

Sec. 2.5-27. Revocation, suspension, hearing.

- (e) The local liquor control commissioner may suspend for not more than thirty (30) days or revoke for cause any liquor dealer's license for any violation of any provisions of this chapter, or for any violation of any state law pertaining to sale of alcoholic liquor, as provided by law (Ord. No. 808, 27, 5-6-75)
- (f) The licensee may appeal the local liquor control commissioner hearing and request a formal hearing with the local liquor control commissioner, within a twenty (20) day time period of receiving notice of the hearing. (Ord. No 1444, 6-21-01)
- (g) The cost of the local formal hearing will be at the expense of the licensee, which includes attorney fees, court reporting fees, and cost of witness expense provided by the city employees. (Ord. No. 1444, 6-21-01)

Sec. 2.5-28. Salary of liquor control commissioner.

The salary of the liquor control commissioner is hereby fixed at one hundred fifty dollars (\$150.00) per month. (Ord. No. 808, 28, 5-6-75)

Sec. 2.5-29. Penalty.

Any person, firm or corporation violating any provision of this chapter shall be fined not more than one thousand dollars (\$1,000.00) for each offense. A separate offense shall be deemed committed on each day during which a violation occurs or continues. (Ord. No. 808, 29, 5-6-75; Ord. No. 1444, 6-21-01)

Sec. 2.5-30. Prohibited entertainment in licensed establishments.

(a) It shall be unlawful for any licensee, or any manager, agent or employee of the licensee, to permit or allow any employee, agent or patron to engage in any topless or bottomless act, demonstration, dance or exhibition upon or within the licensed premises.

(b) It shall be unlawful for any agent, employee, representative or patron of any licensed premise to be topless or bottomless or perform any topless or bottomless act, demonstration, dance or exhibition upon or within the licensed premises.

(c) For the purpose of this section, bottomless means being naked or substantially

without clothing or covering on an area of the body from the waist downward to an area on the body which area would cover the buttocks or the genital area of the body; and topless means being naked or without clothing or covering of the breast area at or below the areola.

(d) It shall be unlawful for any person to participate as a performer, stage hand, producer, director, agent or ticket seller in any show, production or performance within the city when in such show, production or performance, lewdness, lasciviousness or obscenity is an integral part thereof. For the purposes of this section, lewdness, lasciviousness and obscenity shall be defined as that conduct, whether by word or deed, that is vulgar in nature, immoral in purpose, or arouses, stimulates or gratifies the sexual appetite.

(e) Should any provision of subsections (a) through (d) of this section be deemed to be unconstitutional, such finding shall have no effect on the remaining provisions of such section. (Ord. No.1019, 2-4, 8-20-85)

Editor's note-Ord. No. 1019, 1, adopted Aug. 20, 1985, provided that 2-4 or such ordinance be added to the end of Chapter 2.5; therefore, such provisions have been designated herein as 2.5-30. Cross reference-Obscenity as an offense generally, 12-18.

Sec. 2.5-31. Responsibility for Violations:

(a) **Responsibility of Licensee for Acts of Employees:** Every act or omission of whatsoever nature constituting a violation of any provision of this title or the Illinois liquor control act by any officer, director, manager, member, or other agent or employee of the licensee, shall be deemed to be the act of the licensee or employer. The licensee or employer shall be punishable in the same manner as if the act or omission has been done or omitted by the licensee personally.

(b) **Responsibility Of Owner Of Property Permitting Violation:** If the owner of the licensed premises or any person from whom the licensee derives the right to possession of such premises, or the agent of such owner or person, shall knowingly permit the licensee to use said licensed premises in violation of the terms of this title or the Illinois liquor control act, said owner, agent, or other person shall be deemed guilty of a violation of this title or the Illinois liquor control act to the same extent as said licensee and be subject to the same penalty.

(c) **Responsibility Of Persons In Control Of Premises:** It shall be unlawful for any person in control of a premises located within the city to knowingly allow any person under the age of twenty one (21) years to possess or consume alcoholic liquor on the premises or to knowingly allow any person under the age of twenty one (21) years to remain on such premises while possessing or consuming alcoholic liquor in violation of this title or state law.

1. **Obligation to Verify Age:** The person in control of a premise has the

affirmative obligation to verify that all persons on the premises in possession of or consuming alcoholic liquor are above the age of twenty one (21) years or otherwise doing so legally.

2. Validity of License: It shall be unlawful for any person in control of a premise to sell alcoholic liquor on the premises without a valid liquor license or to knowingly allow any other person to sell alcoholic liquor on the premises without a valid liquor license.

3. Persons in Control of a Premise: "Persons in control of a premise" for the purpose of this section includes, but is not limited to, the following persons:

a. In the case of an owner occupied premises, the person in control is the owner(s). In the event the owner is not a natural person, but a corporation, limited liability company, partnership, trust, or similar entity, the person in charge shall be that natural person(s) who is authorized to control and occupy the premises.

b. In the case of a leased or rented premises, the person in control is that person or those persons who have a lease, a rental agreement, or other form of control of the premises which has been conveyed by the owner or owner's agent. In the event the lessee or renter is not a natural person, but a corporation, Limited Liability Company, partnership, trust, or similar entity, the person in charge shall be that natural person who is in the day to day control of the premises, such as a manager.

c. In the case of property such as a licensed fraternal establishment or licensed veteran's establishment, the person in control shall be the person who has been designated in charge of the day to day operation of the local organization. In the absence of a designation of another responsible person, the president of the local chapter shall be considered to be the person in control of the premises.

4. Exceptions: The provisions of this subsection do not apply to the following circumstances:

a. Possessing, dispensing, or consuming small quantities of alcoholic liquor by persons under the age of twenty one (21) years in the performance of a religious service or ceremony by a religious group.

b. The consumption of small quantities of alcoholic liquor by persons under the age of twenty one (21) years under the direct supervision and approval of the parent(s) or guardian(s) of such under twenty one (21) year person in the privacy of the parent's or guardian's home.

c. Subsection C1 of this section shall not apply to premises which are

owned or otherwise controlled by a governmental or private entity when said premises is usually open to use by the general public such as rights of way, parks, and nature preserves or to situations of trespass or unauthorized entry onto a premises.

(d) Responsibility of Licensee for Acts on Control Premises: It shall be unlawful for any licensee to allow or permit upon the licensed premises or control premises any activity that is prohibited by the ordinances of the city.

(e) Penalties: Any person who violates this section shall be subject to a fine of not less than two hundred fifty dollars (\$250.00) and not more than seven hundred fifty dollars (\$750.00).

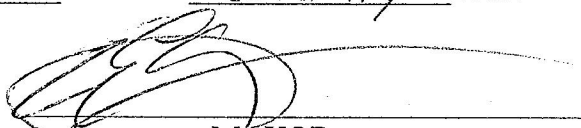
(f) Should any provision of subsections (a) through (e) of this section be deemed to be unconstitutional, such finding shall have no effect on the remaining provisions of such section.

SECTION TWO: That this Ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

| | <u>Aye</u> | <u>Nay</u> | <u>Abstain</u> | <u>Absent</u> |
|-------------------------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|
| Mayor Gregg | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Commissioner Crank | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Commissioner McPeck | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Commissioner Schiff | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Commissioner Fearheiley | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

PASSED BY THE COUNCIL THE 25th DAY OF February, 2013.

SIGNED BY THE MAYOR THE 25th DAY OF February 2013.



MAYOR

ATTEST:


City Clerk