

Chapter 6 - ALCOHOLIC BEVERAGES

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ARTICLE I. - IN GENERAL

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Sec. 6-1. - PURPOSE.

This chapter shall be construed to the end that the health, safety and welfare of the people of the city shall be protected and temperance in the consumption of alcoholic liquors shall be fostered and promoted. (Code 1996, § 5.15.010)

Sec. 6-2. - DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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.

Alcoholic liquor includes the four varieties of liquor defined herein: alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed by a person. 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 thereunder, nor to any liquid or solid containing one-half of one percent or less of alcohol, by volume. None of the provisions of this chapter shall apply to wine intended for use by any church or religious organization for sacramental purposes, provided that such wine shall be purchased from a licensed manufacturer or importing distributor under the Illinois Liquor Control Act, 235 ILCS 5/1-1 et seq.

Bar means a counter from which alcoholic beverages are served.

Bar area means the room or place in which a bar is located.

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.

Club means a corporation organized under the laws of the 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 the Illinois Liquor Control Act, 235 ILCS 5/1-1 et seq., two copies of a list of names and residences of its members, and similarly files within ten days of the election of any additional member his name and address; provided, that the affairs and management of such club are conducted by a board of directors, executive committee or similar body chosen by the members at their annual meeting; and provided further 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 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.

Consumption sales means the sale or offering for sale at retail of any alcoholic liquor for consumption on the premises where sold.

Distributor means any person, other than a manufacturer or nonresident dealer licensed under the Illinois Liquor Control Act, 235 ILCS 5/1-1 et seq., who is engaged in the purchasing, storing, possessing or warehousing any alcoholic liquors for resale or reselling at wholesale, within or without this city.

Gas station and *filling station* mean a place where gasoline, gasoline products, oil and oil products are sold at retail for motor vehicles.

Hotel means every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which 25 or more rooms are used for the sleeping accommodations of such guests and having one or more public dining rooms where meals are served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or buildings in connection therewith and such building or buildings, structure or structures being provided with adequate and sanitary kitchen and dining room equipment and capacity.

Illinois Liquor Control Act means an act passed by the 58th Illinois General Assembly entitled "An Act relating to alcoholic liquors," approved January 31, 1934, as amended, 235 ILCS 5/1-1 et seq.

Illinois Liquor Control Commission and *state commission* mean the commission created by the Illinois Liquor Control Act, 235 ILCS 5/1-1 et seq.

Importing distributor means any person other than a nonresident dealer licensed under the Illinois Liquor Control Act, 235 ILCS 5/1-1 et seq., who imports into this state, from any point in the United States outside this state, whether for himself or for another, any alcoholic liquors for sale or resale, or for use in the manufacture, preparation or compounding of products other than alcoholic liquors, or who imports into this state, from any point in the United States outside this state, for consumption in any one calendar year, more than one gallon of such liquors.

Initial application means any application that is not an application seeking renewal of a liquor license held by the applicant at the time such application is submitted.

Licensed premises means the premises described in the application for the license or in the license as the place where the business to be covered or covered by the license is to be or is carried on.

Manufacturer means every brewer, fermenter, distiller, rectifier, winemaker, blender, processor, bottler or person who fills or refills an original package, and any other person engaged in brewing, fermenting, distilling, rectifying or bottling alcoholic liquors as defined in this section.

Meals means salads, sandwiches, pizza and dinners containing pasta, fish, meat or poultry, together with similar foods prepared or cooked on the premises and ordered by the patrons from a full service menu for consumption on the premises. The term "meals" does not include popcorn, potato chips, pretzels, peanuts and other food considered as snacks.

Original package means any unopened 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.

Owner and *proprietor* 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 be individuals, partners, corporations, joint stock companies, fiduciaries or officers, directors, stockholders of corporations or otherwise.

Package retail sales means the sale or offering for sale at retail of alcoholic liquor, in the original package, and not to be consumed ~~or in fact consumed~~, in whole or in part, on the premises where sold; provided, however, that the terms "package sales" or "package retail sales" shall not include original packages containing less than one-half pint of alcoholic liquor.

~~"Restaurant means any public place kept, used, maintained, advertised, and held out to the public as a place where meals are served, having a complete menu service during the hours of 5:00 p.m. to 9:00 p.m. each day that the premises are open to the public. The dining area must be maintained separate and apart from the kitchen. Alcoholic beverages shall be served directly to the tables except when there is a banquet or reception not open to the general public when alcoholic beverages may be served from a service area. No bar can be located upon the premises. The restaurant and kitchen facilities must be licensed and inspected by the county health department as a commercial food service establishment." Ord. No. 12-4191, 6/11/2012;~~

Restaurant/recreation means:

(1) Any public place kept, used, maintained, advertised and held out to the public as a place where meals are served having a complete menu service at least during the hours of 5:00 to 9:00 p.m. each day the premises are open to the public. A dining area must be maintained as separate and apart from the kitchen and bar area. The kitchen shall contain at a minimum the following facilities:

- a. A utility service sink.
- b. A three-compartment sink or a mechanical dishwasher.
- c. Separate handwashing facilities in the kitchen for employees.
- d. Commercial cooking equipment including a grease duct, exhaust equipment, and a fire suppression system meeting the requirements of sections 506, 507 and 509 of the 1996 International Mechanical Code.

The restaurant must be licensed and inspected by the county health department as a commercial food service establishment.

(2) A facility which has all the facilities of a restaurant together with separate facilities such as bowling lanes, billiards, miniature golf, simulated or actual golfing and similar types of activities, and at least 51 percent of the gross revenues, as determined by the close of the licensee's most recent past fiscal or calendar year of operation, must be obtained from the sale of meals and recreation activities.

Retailer means a person who sells, or offers for sale, alcoholic liquor for use or consumption and not for resale in any form.

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 all sales, whether direct or indirect, made by any person, whether principal, proprietor, agent, servant or employee. The term "sale" includes any transfer of alcoholic liquor from a foreign importer's license to an importing distributor's license even if both licenses are held by the same person.

Sell at retail and *sale at retail* refer to and mean sales for use or consumption and not for resale in any form.

Snacks means popcorn, potato chips, peanuts, pretzels, breadsticks, relishes, hors d'oeuvres and similar foods not ordinarily consumed as a meal.

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.

To sell includes to keep or expose for sale, and to keep with intent to sell.

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 in this section.

(Code 1996, § 5.15.020; Ord. No. 12-4131, § 1(Exh. A), 1-9-2012); Ord. No. 12-4169, 4-23-12; Ord. No. 12-4191 (6-11-2012)

Sec. 6-3. - LICENSE CLASSIFICATIONS.

It is unlawful to sell, distribute or give away alcoholic liquor, beer or wine to the general public without first having obtained a license from the city. It is also unlawful to allow the consumption of alcoholic liquor, beer or wine at an unlicensed business when the business is open to the general public. The license classifications are as follows:

(1) Class B licenses. Class B licenses shall authorize the retail sale on the premises specified of alcoholic liquor for consumption on the premises as well as other packaged retail sale of such liquor, providing, however, that the other packaged retail sales of such liquor shall not exceed ten percent of the total sales of alcoholic beverages. The annual license fee for the year commencing June 1 of each year.

(2) Class P licenses. Class P licenses shall authorize package retail sales as follows:

a. Class P-1 licenses. Class P-1 licenses shall authorize the retail sale of packaged beer and wine but not for consumption on the premises where sold. The annual license fee for the year commencing June 1 of each year. The holder of a class P-1 license may arrange for beer and wine taste testing and consumption within the area of the licensed premises used for display of package beer and wine. The numbers and size of such samples distributed shall not exceed the maximums set forth in 235 ILCS 5/6-31, as amended from time to time.

b. Class P-2 licenses. Class P-2 licenses shall authorize the retail sale of packaged alcoholic liquor but not for consumption on the premises where sold. The annual license fee for the year commencing June 1 of each year. The holder of a class P-2 license may arrange for alcoholic liquor taste testing and consumption within the area of the licensed premises used for display of package alcoholic liquor. The numbers and size of such samples distributed shall not exceed the maximums set forth in 235 ILCS 5/6-31, as amended from time to time.

(3) Class C licenses. Class C licenses shall authorize the retail sale on the premises specified of alcoholic liquor for consumption on or off the premises by duly authorized clubs as defined in Section 6-2. The annual license fee for the year commencing June 1 of each year.

(4) Class R licenses. Class R licenses shall authorize retail sales as follows:

a. Class R-1 licenses. Class R-1 licenses shall authorize the retail sale of beer and wine by restaurants for consumption on the premises in connection with the sale of meals. No bar is permitted on the premises. The annual license fee for the year commencing June 1 of each year.

b. Class R-2 licenses. Class R-2 licenses shall authorize the retail sale of alcoholic liquor for consumption on the premises by restaurants with no bar. Further, the class R-2 license shall provide for the retail sale of packaged alcoholic liquor providing that said retail sales of such liquor shall not exceed ten percent of the total sales of all alcoholic beverages. The annual license fee for the year commencing June 1 of each year.

c. Class R-3 licenses. Class R-3 licenses shall authorize the retail sale of alcoholic liquor by restaurants, with a bar, for consumption on the premises. Further, the class R-3 license shall provide for the retail sale of packaged alcoholic liquor providing that said retail sales of such liquor shall not exceed ten percent of the total sales of all alcoholic beverages. The annual license fee for the year commencing June 1 of each year

(5) Class S licenses. Class S licenses shall authorize the retail sale of packaged beer and wine only, not for consumption on the premises where sold, for businesses known as fueling/gas stations/convenience stores. The annual license fee for the year commencing June 1 of each year.

(6) Class E temporary licenses. Class E temporary licenses shall authorize the retail sale of alcoholic liquor on a one-day basis, renewable upon approval of the local liquor commissioner, and not to exceed four days per event. An applicant for such temporary license, or renewal, shall comply with all state and city ordinances. Fees for said licenses shall be \$25.00 per day for not-for-profit organizations and/or other groups. Applicants shall supply the City of Rochelle with a certificate of liquor liability for said event and shall add the City of Rochelle as certificate holder. Applicants shall also supply the city, as required, proof of the not-for-profit status of the applicant's

organization. Hours for the daily or temporary license shall be set by the local liquor commissioner or city council. Requests for such license shall be made to the local liquor commissioner. Final approval can be made by the mayor as local liquor commissioner or city council.

~~(1) *Tavern.* A tavern license shall entitle the licensee to sell at retail alcoholic liquor in the original package for consumption either on or off the premises; except that such classification shall not be construed so as to permit sales in the original package without also making sales for consumption on the premises.~~

~~(2) *Package.* A package license shall entitle the licensee to sell at retail alcoholic liquor in the original package only for consumption off the premises. In the event a package license is issued to a licensee who is open on days or at times prohibited by section 6-4, then at all such times or days the licensee shall place the alcoholic liquor or beverages in such a way as to prevent the public any access to the alcoholic liquor or beverages.~~

~~(3) *Package beer and wine.* A package beer and wine license shall entitle the licensee to sell beer and wine in the original package only for consumption off the premises. In the event a package beer and wine license is issued to a licensee who is open on days or at times prohibited by section 6-4, then at all such times or days the licensee shall place the beer and wine in such a way as to prevent the public any access to the beer and wine.~~

~~(4) *Restaurant/recreation.* A restaurant/recreation license shall be available only to a facility that meets the definition contained in section 6-2 and shall entitle the licensee to all the privileges granted under a tavern license. (Ord. No. 12-4131)~~

~~(5) *Restaurant beer and wine.* A restaurant beer and wine license shall entitle the licensee to sell only beer and wine at retail only for consumption on the premises in connection with the sale of meals. No bar is permitted on the premises.~~

~~(6) *Restaurant.* A restaurant license shall entitle the licensee to sell alcoholic beverages at retail only for consumption on the premises in connection with the sale and consumption of meals. No bar sales or package sales are allowed.~~

~~(7) *Club.* A club license shall be a license for the sale of alcoholic liquor by a club, as defined in section 6-2. A club license shall entitle the licensee to sell alcoholic liquor for consumption on or off the club premises in the original package. (Ord. No. 12-4131)~~

~~(8) *One day not for profit.*~~

~~a. A one day not for profit license shall be a license for the sale of alcoholic beverages by a not for profit, charitable, civic organization, having its principal place of operation within the city. This license shall be issued for a one day period, and shall be for the sale of beer and wine for consumption on the premises. Any one not for profit, charitable or civic organization shall be limited to six such licenses per year. The licensee shall make application not less than 14 days prior to the date of which the license is sought and, in addition to the other information required in the application, shall state the following:~~

~~1. Date for which license sought;~~

~~2. Name or purpose of group to be served;~~

~~3. Nature of gathering;~~

~~4. Hours of proposed sale.~~

~~b. The licensee shall comply with all requirements of this chapter.~~

~~c. The fee for this license shall be \$25.00 per day. Nothing in this subsection shall prohibit the issuance of a license to a church or private school to sell at retail alcoholic liquor, if any such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors.~~

~~{Code 1996, § 5.15.030; Ord. No. 12-4131, § 1(Exh. A), 1-9-2012}~~

Sec. 6-4. - HOURS OF SALE.

(a) No person licensed to sell alcoholic liquor under this chapter shall permit his establishment to be open for the serving, sale or giving away of such liquors ~~between the following hours~~ except during the following periods of time on the following days:

(1) On the days of Monday through Thursday from 6:00 a.m. to 1:00 a.m. of the following day.

(2) On the days of Friday and Saturday from 6:00 a.m. to 2:00 a.m. of the following day.

(3) On Sundays from 6:00 a.m. to 11:00 p.m.

~~Tavern, package, and package beer and wine:~~

Sunday	2:00 a.m. to 11:00 a.m. and 11:00 p.m. to 12:00 midnight
Monday	12:01 a.m. to 6:00 a.m.
Tuesday	1:00 a.m. to 6:00 a.m.
Wednesday	1:00 a.m. to 6:00 a.m.
Thursday	1:00 a.m. to 6:00 a.m.
Friday	2:00 a.m. to 6:00 a.m.
Saturday	2:00 a.m. to 6:00 a.m.

~~(2) Club license:~~

Sunday	2:00 a.m. to 11:00 a.m. and 11:00 p.m. to midnight
Monday	12:01 a.m. to 6:00 a.m.
Tuesday	1:00 a.m. to 6:00 a.m.
Wednesday	1:00 a.m. to 6:00 a.m.
Thursday	1:00 a.m. to 6:00 a.m.
Friday	2:00 a.m. to 6:00 a.m.
Saturday	2:00 a.m. to 6:00 a.m.

~~(3) Restaurant, restaurant/recreation, restaurant beer and wine licenses:~~

Sunday	2:00 a.m. to 11:00 a.m. and 11:00 p.m. to midnight
Tuesday	1:00 a.m. to 6:00 a.m.
Wednesday & Thursday	1:00 a.m. to 6:00 a.m.
Friday & Saturday	2:00 a.m. to 6:00 a.m.

~~(Ord. No. 12-4131, 1/9/2013)~~

(4) ~~Nonprofit beer and wine: Nonprofit beer and wine Class E temporary~~ licenses shall be valid from 12:00 noon for the day they are issued until 10:00 p.m. that day unless otherwise authorized by the local liquor commissioner or city council. ~~All other provisions as to hours and days of sale applicable to tavern, package licenses shall apply to nonprofit beer and wine licenses as well.~~

(b) The following rules shall apply during certain holiday periods:

(1) All establishments having a liquor license shall be closed from 7:00 p.m. on Christmas Eve and shall be closed from 7:00 p.m. on Christmas Eve and shall be closed through Christmas Day and evening. Regular hours shall resume on the day following Christmas Day.

(2) All establishments having a liquor license shall be permitted to remain open for the sale of liquor until 2:00 a.m. on every January 1 (New Year's Day). Regular hours shall then resume on January 1 (New Year's Day), following the 2:00 a.m. closing.

(c) No patron shall remain or be permitted to remain in the bar area of any premises licensed for the sale of alcoholic liquor regardless of license classification during the time that the business of selling alcoholic liquors is not permitted to be transacted on such premises, and the door shall be locked promptly at the time of closing and shall remain locked during this closing period. In the case of any C, R-1, R-2, or R-3 license ~~restaurant, recreation, or club~~, each as defined in section 6-2, meals may be served to patrons and the doors need not be locked during the hours that liquor is not permitted to be served, but all bar areas must be closed to the public, and no wine or liquor lists shall be displayed or placed on any table or counter, and alcoholic liquor shall not be consumed or served on the premises during such hours.

(d) The time referred to hereunder shall be either central standard time or central daylight saving time, whichever is in effect in the city. On those days that a time change occurs, the closing time shall be 2:00 a.m. daylight saving time or 1:00 a.m. central standard time.

(Code 1996, § 5.15.040; Ord. No. 12-4131, § 1(Exh. A), 1-9-2012)

Sec. 6-5. - PROHIBITED SALES; OFFENSES RELATING TO PERSONS OF NONLEGAL AGE.

(a) *Sale to person of nonlegal age; sale to intoxicated person.* No licensee, his agent or employee shall sell, give, deliver or permit the delivery of alcoholic liquor to any minor or to any person who because of nonlegal age is prohibited by state law from consuming alcoholic liquor, or to any intoxicated person.

(b) *Misrepresentation of age.* It is unlawful for any person who because of nonlegal age is prohibited by state law from consuming alcoholic liquor to represent that he is of age for the purpose of buying, accepting or receiving alcoholic liquor from a licensee.

(c) *Presence of persons of nonlegal age in bar area.* It is unlawful for any licensee or his agent or employee to permit any person who because of nonlegal age is prohibited by state law from consuming alcoholic liquor to be or remain in any area of the premises where a bar is located, and it is unlawful for any person who because of nonlegal age is prohibited by state law from

consuming alcoholic liquor to be in any area of the premises where a bar is located; provided, that this subsection shall not apply:

(1) To any such person who is accompanied by his parent or legal guardian on a licensed premises holding a restaurant/recreation, club, or restaurant beer and wine license;

(2) If prior notice has been given to the liquor commissioner of a wedding reception or a similar event where minors will be present without a parent or guardian.

(d) *Permitting consumption during times when sale is prohibited.* It is unlawful for a licensee to permit the consumption of alcoholic beverages on the licensed premises during the days and times the sale of alcoholic beverages is prohibited.

(e) *Permitting consumption by minor on licensed premises.* It is unlawful for a licensee to permit a minor to consume alcoholic beverages on the licensed premises.

(f) *Sale or delivery to minor.* It is unlawful for any person to sell or deliver alcohol to a minor, except a parent or legal guardian within the minor's residence, or in connection with a bona fide religious ceremony.

(Code 1996, § 5.15.050; Ord. No. 12-4131, § 1(Exh. A), 1-9-2012)

Sec. 6-6. - EMPLOYMENT OF PERSONS UNDER 21 YEARS OF AGE ON LICENSED PREMISES.

No licensee, his agent or employee shall permit any person under the age of 21 years to work behind the bar or to pour or mix any alcoholic liquor as an employee of such license. No licensee, his agent or employee shall permit any person under the age of 21 years to tend bar, to serve or dispense or in any other way to handle alcoholic liquor upon his licensed premises, provided that persons of the ages of 19 years and 20 years may serve alcoholic liquor in such establishments as waiters, stockpersons or waitresses and serve as sale clerks in establishments selling liquor for consumption off the premises. Notwithstanding anything set forth above, no holder of a ~~Class B tavern~~ liquor license may employ any person who would be present in the licensed premises during its operating hours who is under the age of 21 years.

(Code 1996, § 5.15.060; Ord. No. 12-4131, § 1(Exh. A), 1-9-2012)

Sec. 6-7. - POSSESSION OR CONSUMPTION IN PUBLIC.

It is unlawful for any person to consume alcoholic liquor or to possess alcoholic liquor, other than in the original package and with the seal unbroken, in the public parks, streets, municipal buildings, alleys or highways, or other public buildings in the city; provided, however, that a ~~one-day not-for-profit license~~ Class E temporary license, as provided in subsection 6-3(69), may be issued for a special event on city-owned property upon approval of the city council. ~~Upon the issuance of such a license, alcoholic liquor may be sold, delivered and consumed in the following buildings owned or under the control of the city: Rochelle Municipal Airport buildings and grounds.~~

(Code 1996, § 5.15.070; Ord. No. 09-3822, 6-8-2009)

Sec. 6-8. - SALE OR CONSUMPTION OF ALCOHOLIC BEVERAGES; EXCEPTIONS.

It is unlawful to dispense, serve or allow alcoholic beverages to be brought into or consumed in

any business or building open to the general public unless a license has been obtained pursuant to the requirements of this chapter. The use of wine for religious ceremonies by a bona fide religious organization is excluded from the requirements under this section.

(Code 1996, § 5.15.075)

Sec. 6-9. - SALES TO PERSONS IN MOTOR VEHICLES.

No licensee, agent or employee shall sell or serve any alcoholic liquor to any person occupying a motor vehicle, whether such vehicle is moving or parked either in a public place or on the licensed premises. A licensee may deliver alcoholic beverages in the sealed original container which are purchased in person, inside the licensed premises, to the purchaser's vehicle.

(Code 1996, § 5.15.080)

Sec. 6-10. - PROHIBITED ENTERTAINMENT ON LICENSED PREMISES.

(a) It is unlawful for any person, partnership, firm, corporation or other legal entity, holding a liquor license issued by the city, to:

(1) Provide any service or performance to patrons, by means of live entertainment, video or film, or by any other means, in such a manner as to expose to public view, with less than a fully opaque covering:

- a. Part or all of male or female genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;
- b. Any device, costume or covering which gives the appearance of or simulates part or all of the male or female genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;
- c. Any portion of the female breast at or below the areola thereof.

(2) Promote the commission of any of the unlawful acts listed in subsection (a)(1) of this section whether or not such acts take place on the licensed premises.

(b) A violation of this section will constitute an unlawful act pursuant to the provisions of section 6-15(4)c and subject the offender to the penalties as provided in section 6-15

(Code 1996, § 5.15.090)

Sec. 6-11. - SANITARY FACILITIES IN LICENSED PREMISES.

Every holder of a ~~tavern, restaurant/recreation, restaurant beer and wine, or club license~~ Class B, C, R-1, R-2, or R-3 license shall provide separate washroom facilities for male and female patrons, and shall maintain the same in a clean and sanitary condition in accordance with the health ordinances of the city.

(Code 1996, § 5.15.100; Ord. No. 12-4131, § 1(Exh. A), 1-9-2012)

Sec. 6-12. - FURNISHING LIQUOR ON CREDIT.

No licensee, his agent or employee shall sell or furnish alcoholic liquor at retail to any person on personal credit or in exchange for any goods, wares or merchandise, or in payment for any services rendered; provided that nothing contained in this section shall be construed to prevent

any club, or restaurant from permitting checks or statements for alcoholic liquor combined with meals to be signed by patrons and members; provided further that nothing contained in this section shall be construed to prevent any hotel from permitting checks or statements for liquor to be signed by regular guests residing at the hotel and charged to the accounts of the guests. The use of a charge card such as VISA, MasterCard, American Express, and similar charge cards to purchase alcoholic liquor shall not be prohibited.

(Code 1996, § 5.15.110; Ord. No. 12-4131, § 1(Exh. A), 1-9-2012)

Sec. 6-13. - LOCAL LIQUOR CONTROL COMMISSIONER DESIGNATED.

The mayor shall be the local liquor control commissioner and shall be charged with the administration of the appropriate provisions of the Illinois Liquor Control Act, of this chapter, and of such ordinances, resolutions, rules and regulations relating to alcoholic liquor as hereafter may be adopted. Whenever in this chapter the local liquor control commissioner shall be referred to, such reference shall also include any committee or other agency appointed by the local liquor control commissioner.

(Code 1996, § 5.15.120; Ord. No. 08-3765, Exh. A, 12-8-2008)

Sec. 6-14. - HEARINGS BY LOCAL LIQUOR CONTROL COMMISSIONER.

For the purpose of administering and enforcing the provisions of this chapter, the local liquor control commissioner may, in his discretion, hold public hearings at any time within the city concerning any matters embraced within this chapter.

(Code 1996, § 5.15.130)

Sec. 6-15. - Powers AND DUTIES OF LOCAL LIQUOR CONTROL COMMISSIONER.

(a) *Generally.* The local liquor control commissioner shall have the following powers and duties:

- (1) *Licenses.* To grant, to suspend and to revoke for cause all licenses issued under this chapter to persons for premises within his jurisdiction;
- (2) *Right of entry.* To enter into and to authorize any law enforcement officer to enter at any time upon any premises licensed hereunder to determine whether any of the provisions of the Illinois Liquor Control Act, of this chapter, or of any rules and regulations adopted by him or by the state commission have been or are being violated;
- (3) *Powers granted under state and local law.* To exercise all the powers, functions and duties which now or hereafter may be granted to him by the Illinois Liquor Control Act or by this chapter;
- (4) *Suspension and revocation of licenses.* To suspend or revoke any license issued under this chapter for any of the following reasons:
 - a. The licensee has violated any of the laws of the United States relating to the sale of alcoholic liquor, or any of the provisions of the Illinois Liquor Control Act, or any ordinance enacted by the city council including this chapter, or any applicable rules and regulations adopted by the local liquor commissioner or by the state commission;

- b. The willful making of any false statement as to a material fact in the application for such license;
- c. The permitting of an unlawful, disorderly or immoral practice upon the licensed premises;
- d. The refusal of any licensee to testify under oath to all relevant and material questions propounded to him at any hearing conducted by the local liquor control commissioner;
- e. The state commission has suspended or revoked the license of the licensee;

(5) *Examination of applicants for license.* 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 hearing has been served, to hear testimony and take proof for his information in the performance of his duties, and for such purposes to issue subpoenas which shall be effective in any part of the state;

(6) *Investigation of complaints.* To receive the complaint of any resident of the city and to investigate upon such complaint, or to investigate upon his own initiative, any alleged violation of any law of the United States relating to the sale of alcoholic liquor, or any of the provisions of the Illinois Liquor Control Act, or any ordinance of the city, including this chapter, or any applicable rules and regulations adopted by the local liquor control commissioner, or by the state commission. The local liquor commissioner may issue subpoenas requiring persons to appear and offer testimony at hearings in connection with such complaints;

(7) *Rules and regulations.* To make, promulgate, alter, amend, repeal and enforce such reasonable rules and regulations relating to the administration and enforcement of the provisions of this chapter as may be deemed by him to be desirable;

(b) *Appeals to state liquor commission.* Appeals to the state liquor commission shall be on the basis of the record of the local liquor commissioner's hearing and shall not be de novo.

(Code 1996, § 5.15.140)

Sec. 6-16. - DUTIES OF CITY CLERK.

The city clerk shall receive all license applications and issue all licenses when directed to do so by the local liquor commissioner and perform such other duties and functions as are assigned to him by this chapter.

(Code 1996, § 5.15.150)

Sec. 6-17. - VIOLATIONS; PENALTY.

In addition to any penalty imposed by the liquor commissioner, whoever violates any of the provisions of this chapter shall, upon conviction, be punished as provided in section 1-15. Every act or omission of whatsoever nature constituting a violation of any of the provisions of this chapter, by any officer, director, manager or other agent or employee of any licensee, shall be deemed and held to be the act of such employer or licensee, and the employer or licensee shall be punishable in the same manner as if the act or omission had been done or omitted by him personally.

(Code 1996, § 5.15.160)

Secs. 6-18—6-40. - RESERVED.

ARTICLE II. - LICENSE

Sec. 6-41. - Required.
Sec. 6-42. - Application; term.
Sec. 6-43. - Payment of fees.
Sec. 6-44. - Serving liquor in unlicensed premises.
Sec. 6-45. - License to be for single location; change of location.
Sec. 6-46. - Number limitations.
Sec. 6-47. - Ineligibility for license.
Sec. 6-48. - Transfer.
Sec. 6-49. - Renewal.
Sec. 6-50. - Privilege limited.
Sec. 6-51. - Sale of licensed business.
Sec. 6-52. - Change of local manager of corporate licensee.
Sec. 6-53. - Posting.
Sec. 6-54. - Termination for nonuse.

Sec. 6-41. - REQUIRED.

No person within the corporate limits of the city shall offer for sale at retail or sell at retail alcoholic liquor without first having obtained a license or permit to do so, as provided in this chapter.

(Code 1996, § 5.20.010)

Sec. 6-42. - APPLICATION; TERM.

Annual licenses shall expire at 11:59 p.m. on May 31 of each year. Any person desiring a license authorized by this chapter shall make application therefor to the local liquor control commissioner. A separate application shall be made for each license desired by the applicant. Such application shall be in writing upon forms prepared and furnished by the city. Each application for a license shall be signed by the applicant and verified by him by oath or affidavit, and shall be filed with the city clerk. In case the applicant is a partnership, all partners must sign and verify the application. In case the applicant is a corporation or club, all officers must sign and verify the application and indicate their official positions. The information requested in the application form must be furnished as to each person signing the application. Each application shall contain the following information and statements:

- (1) *Name, age and address.* The name, age and address of the applicant in the case of an individual; in the case of a partnership, the persons entitled to a share in the profits thereof; and in the case of a corporation or club, the objects for which organized, the names and addresses of the officers and directors and, if a majority interest of the stock of such corporation is owned by one person or his nominee, the name and address of such person;
- (2) *Location.* The location where the applicant proposes shall conform to the requirements of the state liquor code to engage in the business for which the application was submitted, and whether or not the proposed location is within 100 feet of any church,

school, hospital, home for the aged or indigent persons or for war veterans, their wives or children, or of any military or naval station;

(3) *Citizenship.* The citizenship of the applicant, and if a naturalized citizen, the time and place of his naturalization; or his status as a legal resident;

(4) *Sale of food.* Whether food for human consumption is to be sold in such place of business if the application is allowed;

(5) *Ownership of premises; name of landlord.* Whether the applicant owns the premises for which a license is sought and, if he does not, the name of his landlord and the term of his lease;

(6) *Disposition of other applications.* Whether the applicant has made application for a similar or other license on premises other than those described in the application, and the disposition of such other license;

(7) *Suspension or revocation of previous licenses.* Whether or not any license issued to him under this chapter or previous ordinances relating to alcoholic liquor has ever been suspended or revoked;

(8) *Former convictions relative to decency or morality.* Whether or not the applicant has ever been convicted of being the keeper, occupant, or ~~or an inmate or frequenter of~~ a house of ill fame, of pandering, or of any other crime or misdemeanor opposed to decency or morality;

(9) *Former conviction of felony.* Whether or not the applicant has ever been convicted of a felony, and whether or not he is disqualified to receive the license sought by reason of any manner or thing contained in the laws of the state or this chapter conforming to state law;

(10) *Agreement not to violate ordinances.* A statement that the applicant agrees not to violate any provision of this Code or other ordinance of the city, or any law of the United States or of the state in the conduct of his business, and that, in the event such promise is broken or if any statement contained in the application is not true, the license applied for may be immediately suspended or revoked;

(11) *Agreement to testify under oath.* A statement that the applicant will testify under oath to all relevant and material questions propounded to him, in any hearing conducted by the local liquor control commissioner, either before or after the issuance of a license to him, and that his failure to so testify shall be sufficient reason for the refusal to issue any such license to him, or the renewal thereof, or for the suspension or revocation of any license which has been issued to him;

(12) *Agreement to employ only persons of good moral character.* A statement that the applicant will employ managers, agents and employees of good moral character, and he will not employ persons who have been convicted of a felony or of any crime or misdemeanor opposed to decency or morality;

(13) *Insurance.* Furnish proof of liability and dram shop insurance issued by a reputable insurance company.

(Code 1996, § 5.20.020)

Sec. 6-43. - PAYMENT OF FEES.

Fees for all licenses shall be due and payable in full at the time the application is submitted. A schedule of license fees is set forth in Section 26-44 of the Municipal Code of the City of Rochelle.

(Code 1996, § 5.20.030)

Sec. 6-44. - SERVING LIQUOR IN UNLICENSED PREMISES.

No alcoholic liquor shall be served in a building open to the general public, or club or other business establishment which does not have a liquor license. The owner of any such establishment shall not permit the carrying of alcoholic beverages by persons who may be customers, guests, invitees or patrons of their business.

(Code 1996, § 5.20.050)

Sec. 6-45. - LICENSE TO BE FOR SINGLE LOCATION; CHANGE OF LOCATION.

Any license issued under this chapter shall be for a single and particular location, and no license shall be issued nor shall any person hold a license for more than one location at the same time. Upon application being filed with the city clerk for a change of location and upon payment of an investigation fee in the amount of \$50.00, the local liquor control commissioner may allow the location authorized by the particular license to be changed. In case the applicant has not personally operated his business at the particular location for at least 90 days prior to the application for change of location, such application shall be rejected. The application blank shall be similar to that required of an original applicant for license under section 6-42. After investigation, the change of location may be approved or rejected, as in the case of original license applications, and, if approved, the authorized change of location shall be shown by endorsement upon the face of the existing license.

(Code 1996, § 5.20.060)

Sec. 6-46. - NUMBER LIMITATIONS.

There shall be issued in the city not more than the following number of licenses for each license classification:

<u>Classification</u>	<u>Number of Licenses</u>
<u>Class B</u>	<u>6</u>
<u>Class P-1</u>	<u>3</u>
<u>Class P-2</u>	<u>3</u>
<u>Class C</u>	<u>2</u>
<u>Class R-1</u>	<u>2</u>
<u>Class R-2</u>	<u>3</u>
<u>Class R-3</u>	<u>6</u>
<u>Class S</u>	<u>2</u>
<u>Class E</u>	<u>6</u>

~~six tavern licenses, not more than one restaurant licenses, not more than four restaurant/recreation licenses, not more than four package licenses, not more than four package beer and wine licenses, not more than one restaurant beer and wine licenses, not~~

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~~more than two club licenses, and not more than six one-day nonprofit beer and wine licensee, per year. Not more than one one-day nonprofit beer and wine license shall be issued for the same date."~~

~~(Code 1996, § 5-20-070; Ord. No. 03-3149, 4-14-2003; Ord. No. 03-3188, 10-14-2003; Ord. No. 04-3275, 10-25-2004; Ord. No. 04-3289, 12-27-2004; Ord. No. 05-3314, 4-25-2005; Ord. No. 05-3329, 5-23-2005; Ord. No. 07-3552, 5-14-2007; Ord. No. 07-3568, 6-11-2007; Ord. No. 07-3603, 9-10-2007; Ord. No. 08-3699, 7-14-2008; Ord. No. 08-3724, 8-11-2008; Ord. No. 08-3760, 11-24-2008; Ord. No. 11-4084, 8-22-2011; Ord. No. 12-4131, 1-9-2012; Ord. No. 12-4142, 1-23-2012; Ord. No. 12-4176, 5/14/2012; Ord. 12-4191, 6/11/2012; Ord. No. 12-4260, 11/26/2012); Ord. No. 15-4451, 4/27/15;~~

Sec. 6-47. - INELIGIBILITY FOR LICENSE.

No license authorized by this chapter shall be issued to:

- (1) *Nonresidents of city.* A person or, in the case of a partnership, a partner who is not a resident of the city.
- (2) *Persons not of good character.* A person who is not of good character and reputation in the community in which he resides.
- (3) *U.S. citizenship or residency.* A person who is not a citizen of the United States or a legal resident alien.
- (4) *Persons convicted of felony.* A person who has been convicted of a felony under the laws of the state or of the United States, unless the local liquor control commissioner determines that such person has been sufficiently rehabilitated to warrant the public trust after considering matters set forth in such person's application and the commissioner's investigation. The burden of proof of sufficient rehabilitation shall be on the applicant.
- (5) *Persons convicted of keeping house of ill fame.* A person who has been convicted of being the keeper or is keeping a house of ill fame.
- (6) *Persons convicted of certain crimes.* A person who has been convicted of any other crime or misdemeanor opposed to decency and morality.
- (7) *Revocation of former license.* A person whose license issued under this chapter has been revoked for any cause.
- (8) *Ineligibility for renewal.* A person who at the time of application for renewal of any license issued under this chapter would not be eligible for such license upon a first application.
- (9) *Copartnerships.* A copartnership, unless all of the members of such copartnership shall be qualified to obtain a license.
- (10) *Corporations generally.* A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than five percent of the stock of such corporation, would not be eligible to receive a license under this chapter for any reason other than citizenship and residence within the city.
- (11) *Foreign corporations.* A corporation unless it is incorporated in the state, or unless it is a foreign corporation which is qualified under the Business Corporation Act of 1983, 805

ILCS 5/1.01 et seq., to transact business in the state.

(12) *Business conducted by ~~manager or agent~~ manager, agent, or bartender.* A person whose place of business is conducted by a manager or agent or bartender unless the ~~manager or agent~~ manager, agent, or bartender possesses the same qualifications required by the licensee.

(13) *Former conviction of federal or state law relative to alcoholic liquor.* 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 July 12, 1937, or has forfeited his bond to appear in court to answer charges for any such violation.

(14) *Ownership or lease of premises.* A person who does not own the premises for which a license is sought, or does not have a lease thereon for the full period for which the license is to be issued.

(15) *City officials.* Any law enforcing public official, the local liquor control commissioner, the city manager or members of the city council and any other such ~~official~~ official except as permitted under 235 ILCS 5/6-2(a)(14).

~~Editor's note — Officials are now permitted, per 235 ILCS 5/6-2(a)(14), to hold licenses, under certain circumstances, within their city.~~

(16) *Ineligibility for state license.* Any person not eligible for a state retail liquor license.

(17) *Failure to furnish information.* A person who fails to furnish the information or to make the statements required in the application for license as set forth in section 6-42

~~(18) *Business conducted by manager, agent or bartender.* A person whose place of business is conducted by a manager or agent or bartender, unless such manager, agent or bartender possesses the same qualifications required of the licensee.~~

(Code 1996, § 5.20.080)

Sec. 6-48. - TRANSFER.

All licenses issued under this chapter shall be considered personal and no license may be transferred to any other person.

(Code 1996, § 5.20.090)

Sec. 6-49. - RENEWAL.

Any 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 the purpose; provided further that the renewal privilege herein contained 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. The requirements for, and the procedure for obtaining, a renewal of a license shall be the same as that provided for in section 6-42. All applications for renewal shall be submitted on or before May 15. Any application submitted after the deadline must be accompanied by a \$20.00 late filing fee.

(Code 1996, § 5.20.100)

Sec. 6-50. - PRIVILEGE LIMITED.

A license shall be purely a personal privilege, good for not to exceed one year after issuance, unless sooner revoked as provided in this chapter. It shall not constitute property, nor shall it be subject to attachment, garnishment or execution, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such license shall not descend by the laws of testate or intestate devolution, but shall cease upon the death of the licensee, provided that the executor of the will or administrator 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, under order of the appropriate court may exercise the privileges of the deceased or insolvent or bankrupt licensee until the expiration of such license or until six months after the death, insolvency or bankruptcy of such licensee, whichever is the shorter period of time.

(Code 1996, § 5.20.110)

Sec. 6-51. - SALE OF LICENSED BUSINESS.

When a business holding a liquor license is sold, the purchaser of that business shall have the first opportunity to make application for the license previously held by the prior business, provided that the previous license has not been surrendered or revoked, and not more than 30 days has past from the time the prior license holder has discontinued its business operations. Upon application being filed with the city clerk, and upon payment of an investigation fee in the amount required by section 6-45, the local liquor control commissioner may issue a license to the purchaser of an established, licensed business as a going concern. In case the business sold, or proposed to be sold, has in fact no good will or other value as a going concern, in addition to the value of its physical assets, such application shall be rejected. Any such sale shall include all furniture, fixtures and equipment used in such business or on such premises or place of business for sale, offering for sale or dispensing of alcoholic liquor. 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. Any such purchaser shall make application for the issuance of a new license to him, and in such application he shall state the actual facts in respect to his purchase of such business. He shall also fill out an application blank and furnish the information and make the statements similar to that required of any other licensee under section 6-42. Such application shall be investigated and approved or rejected, as in the case of applications for original licenses, and, if approved, a license shall be issued to such purchaser upon payment to the city clerk of the license fee then due, without any credit for any unused portion of the previous license, and there shall be no rebate to any person for any unused portion of any license. No license shall be issued to the purchaser of such business until the seller of such business has surrendered his license to the city clerk for cancellation. Notwithstanding the foregoing, the city council shall in no event be obligated to renew any license or create any new license upon the sale of any business. No license shall be issued for any convenience store; provided, however, that any license for a convenience store which was in effect as of January 9, 2012, may be renewed on the same terms as provided in this chapter, and must be surrendered upon the sale of the convenience store, and no purchaser of a licensed convenience store shall be entitled to the surrendered license or granted a new license for such convenience store.

(Code 1996, § 5.20.120; Ord. No. 12-4131, § 1(Exh. A), 1-9-2012)

Sec. 6-52. - CHANGE OF LOCAL MANAGER OF CORPORATE LICENSEE.

If a corporation holding a liquor license modifies the license by naming a new local manager, a

fee of \$50.00 shall be assessed to offset the additional cost of investigating the manager's qualifications. The manager of the holder of a corporate liquor license must reside within a ten-mile radius of the city limits. (Code 1996, § 5.20.125)

Sec. 6-53. - POSTING.

Every licensee under the provisions of this chapter shall cause his license to be framed and hung in plain view in a conspicuous place on the licensed premises. (Code 1996, § 5.20.130)

Sec. 6-54. - TERMINATION FOR NONUSE.

Any license issued under this chapter shall terminate if for 60 continuous days the licensee is not open for business to the public. The licensee shall immediately return the license to the city clerk after the 60-day period. (Code 1996, § 5.20.140)

SEC. 6-55—ISSUANCE OF LICENSE TO CITY

The City may issue a liquor license to itself, upon compliance with the application requirements of this Chapter. Alcoholic liquors may be sold or delivered pursuant to any such license in any building belonging to or under the control of the City. Applications for City and State liquor licenses, and ancillary documents relating thereto, may be signed by the City Manager or his designee.

ARTICLE III. OUTDOOR LIQUOR SALES.

Sec. 6-70. OUTDOOR SALES OF LIQUOR PERMITTED.

Subject to approval of the Liquor Commissioner and the conditions contained in this Article, the sale, service and consumption of alcoholic liquors in an outdoor seating area shall be permitted adjacent to premises licensed to sell alcoholic liquor for consumption on the premises.

Sec. 6-71. OUTDOOR AREA REQUIREMENTS.

(a) Any outdoor area in which a liquor licensee seeks permission to serve alcoholic liquors must conform to the following standards:

- (1) The outdoor area must be owned by the licensee, or leased by the licensee and the owner must consent to the sale of alcoholic liquors in the outdoor area;
- (2) Access to the outdoor area must be only through the indoor licensed premises;
- (3) The outdoor area must be enclosed by a decorative fence, not less than 36" in height nor more than 72" in height, which fence must allow viewing of the outdoor area from the outside, and the fence must create a complete enclosure around the outdoor area with an emergency gate;
- (4) The outdoor area must be situated on a hard surface, such as concrete, asphalt, or wood decking; and
- (5) No bar as defined in this Chapter may be constructed or maintained in the outdoor area.

(b) In order to ensure compliance with the provisions of this Article, the licensee seeking approval for liquor sales in an outdoor area shall submit a site plan for review to the Community Development Department which shall make its recommendation to the Liquor Commissioner. The fee for this review shall be \$150.00.

Sec. 6-72. HOURS OF OPERATION LIMITED.

A licensee who has obtained permission to serve alcoholic liquors in an outdoor area may serve alcoholic liquors from the beginning hour of operation permitted by the licensee's liquor license until one hour prior to the ending hour of operation permitted by the licensee's liquor license.

Sec. 6-73. ENTERTAINMENT IN AN OUTDOOR AREA.

A licensee is permitted to provide any lawful entertainment in the outdoor area provided the licensee complies with applicable Federal, State and City ordinances regulating entertainment, including without limitation any noise and nuisance ordinances.

Sec. 6-74. SMOKING PROHIBITED.

Smoking shall be prohibited in outdoor areas where alcoholic liquors are permitted to be served. rd. No. 12-4190, 6/11/2012;

