
THE CITY OF ROCHELLE
Ogle County, Illinois

ORDINANCE
NO. _____

**AN ORDINANCE AMENDING CHAPTER 6, ARTICLE I, SECTIONS 6-2 AND 6-3 OF
THE ROCHELLE MUNICIPAL CODE PERTAINING TO DEFINITIONS AND
LIQUOR LICENSE CLASSIFICATIONS**

CHET OLSON, Mayor
SUE MESSER, City Clerk

TOM MCDERMOTT
BIL HAYES
DON BURKE
KATE SHAW-DICKEY
DAN McDERMOTT
JOHN BEARROWS
City Council

Published in pamphlet form by authority of the Mayor and City Council of the City of Rochelle
Peterson, Johnson, and Murray Chicago, LLC, City Attorneys
200 W. Adams, Suite 2125 Chicago, IL 60606

CITY OF ROCHELLE
Ogle County, Illinois

ORDINANCE NO. ____

**AN ORDINANCE AMENDING CHAPTER 6, ARTICLE I, SECTIONS 6-2 AND 6-3 OF
THE ROCHELLE MUNICIPAL CODE PERTAINING TO DEFINITIONS AND
LIQUOR LICENSE CLASSIFICATIONS**

WHEREAS, Section 7 of Article VII of the 1970 Constitution of the State of Illinois provides that a municipality that is not a home rule unit shall only have the powers granted to them by law and as such the City of Rochelle, Ogle County, Illinois being a non-home rule unit pursuant to the provisions of said Section 7 of Article VII, and may exercise only the powers expressly granted by law; and

WHEREAS, the Illinois General Assembly granted non-home rule municipalities broad authority to “pass all ordinances and make all rules and regulations proper or necessary, to carry into effect the powers granted to municipalities.” 65 ILCS 5/1-2-1; and

WHEREAS, while “non-home rule municipalities have the authority to enact ordinances, such ordinances may in no event conflict with state law or prohibit what a state statute expressly permits . . . A local ordinance may impose more rigorous or definite regulations in addition to those enacted by the state legislature so long as they do not conflict with the statute.” (*Village of Wauconda v. Hutton*, 291 Ill. App. 3d 1058, 1060 (1997)); and

WHEREAS, the City of Rochelle (“City”) desires to amend its Alcoholic Beverages Ordinances to add a definition for Licensed Truck Stop Establishments; and

WHEREAS, the City desires to amend its Alcoholic Beverages Ordinances by adding an additional License Classification; and

WHEREAS, the City has determined that it would like to create a Class T license classification creating a license class for a Licensed Truck Stop Establishment; and

WHEREAS, it has been determined by the Corporate Authorities of the City of Rochelle that the establishment of the three above mentioned additional liquor License Classifications is in the best interest of the City and its residents.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHELLE, ILLINOIS:

SECTION ONE: That the City hereby incorporates all of the recitals above into this Ordinance as if fully set forth herein.

SECTION TWO: That Chapter 6, Article I, Section 6-2 “Definitions” is hereby amended by adding the following underlined language:

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. Alcoholic Beverages Chapter 6 63 Code of Ordinances 2013, Rochelle, IL

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 Chapter 6 Alcoholic Beverages 64 Code of Ordinances 2013, Rochelle, IL 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, 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: (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. Alcoholic Beverages Chapter 6 65 Code of Ordinances 2013, Rochelle, IL

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.

Licensed truck stop establishment means a facility (i) that is at least a 3-acre facility with a convenience store, (ii) with separate diesel islands for fueling commercial motor vehicles, (iii) that sells at retail more than 10,000 gallons of diesel or biodiesel fuel per month, and (iv) with parking spaces for commercial motor vehicles. "Commercial motor vehicles" has the same meaning as defined in Section 18b-101 of the Illinois Vehicle Code. The requirement of item (iii) of this paragraph may be met by showing that estimated future sales or past sales average at least 10,000 gallons per month.

SECTION THREE: That Chapter 6, Article I, Section 6-3 "License Classifications" is hereby amended by adding the following underlined language:

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.

d. *Class R-4 licenses.* Class R-4 licenses shall authorize the retail sale of alcoholic liquor by restaurants, with a bar, for consumption on the premises and on public golf course property commonly known as Fairways Golf Course. Further, the class R-4 license shall provide for and allow the retail sale of packaged alcoholic liquor for consumption on public golf course property commonly known as Fairways Golf Course. Only alcoholic

liquor purchased or obtained from the holder of a valid R-4 license may be possessed or consumed on public golf course property. The holder of a Class R-4 license shall be exempt from the provisions of Section 6-7 (Possession or Consumption in Public) and Article III (Outdoor Liquor Sales) of this Chapter. The annual license fee shall be due 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.

(7) *Class M licenses.* Class M licenses shall refer to Microbreweries, Distilleries and the manufacturing of wine.

- a. *Class M-1 license; Microbrewery.* A class M-1 license shall authorize the manufacture of beer products on the licensed premises and the sales at retail of alcoholic liquor, including the manufactured beer products, for consumption on the licensed premises. A class M-1 license shall authorize the retail sale for off premises consumption of the manufactured beer products only in packaged form. Class M-1 licensees may, during authorized hours of business, offer samples of the beer permitted to be produced and sold pursuant to this classification. Class M-1 licensees shall not provide more than three (3) free samples, each of which shall not exceed one-quarter (0.25) fluid ounce, to any person in a day. Class M-1 licensees may sell samples, but the volume of any sample sold shall not exceed one (1) fluid ounce and the total volume of all samples sold to a person in a day shall not exceed two and one-half (2.5) fluid ounces. Class M-1 licensees shall not provide and/or sell more than two and one-half (2.5) fluid ounces of samples to any person in a day. Class M-1 licensees offering samples, as specified herein, shall provide at least limited food service such as cheese, crackers, snack food or other similar deli-style items to customers who are sampling craft beer. Nothing in the issuance of a class M-1 license pursuant to this section shall be considered to relieve the licensee of any responsibility for complying with all applicable state and federal regulations relating to the manufacture and/or sale of beer products. Class M-1 licensees must have at least one (1) BASSET certified site manager on premises whenever offering tasting samples of beer. The annual license fee for the year commencing on June 1 of each year.

- b. *Class M-2 license; Distillery.* A class M-2 license shall authorize the on-site production and storage of alcoholic liquor, specifically including spirits. Nothing in the issuance of a class M-2 license pursuant to this section shall be considered to relieve the licensee of any responsibility for complying with all applicable state and federal regulations relating to the manufacture, production and/or sale of alcoholic liquor or spirits, as well as alcoholic liquor or spirits related products. Sale by the bottle for off premises consumption or by the glass for consumption in an accessory tasting room or retail outlet is permitted. A tasting room or retail outlet allows patrons to taste samples of products manufactured on-site, and to purchase products by the glass or bottle for either on-site or off premises consumption, and to purchase related sales items. Class M-2 licensees shall not provide more than three (3) free samples, each of which shall not exceed one-quarter (0.25) fluid ounce, to any person in a day. Class M-2 licensees may sell samples, but the volume of any sample sold shall not exceed one (1) fluid ounce and the total volume of all samples sold to a person in a day shall not exceed two and one-half (2.5) fluid ounces. Class M-2 licensees shall not provide and/or sell more than two and one-half (2.5) fluid ounces of samples to any person in a day. Sales of alcohol manufactured outside the site are prohibited. Class M-2 licensees must have at least one (1) BASSET certified site manager on premises whenever offering tasting samples of alcoholic liquor, including spirits. Every class M-2 licensee must have a valid distiller license from the State of Illinois. Sales of food and nonalcoholic beverages are permitted. The annual license fee for the year commencing June 1 of each year.
- c. *Class M-3 license; Manufacture of Wine:* A class M-3 license shall authorize the manufacturing and sale of wine and wine products on the licensed premises, as well as the sale of retail alcoholic liquor, including the manufactured wine products, for consumption on the licensed premises. No more than fifty thousand (50,000) gallons of wine per year can be produced. Class M-3 licensees may sell wine they manufacture to wholesalers, licensed retailers and directly to consumers for off premises consumption. Class M-3 licensees may also purchase bulk wine for blending purposes from licensed out of state wine sellers. Wine must be manufactured and labeled in accordance with federal wine regulations from TTB (formally BATF). Class M-3 licensees must obtain a wine producers permit from TTB, all federal permits as required, and an Ogle County health department license when applicable. Further, class M-3 licensees shall be permitted to offer samples of wine products that are manufactured and sold under this license, from the licensed premises to consumers. M-3 licensees shall not provide more than three (3) free samples, each of which shall not exceed one (1) fluid ounce, to any person in a day. However, no person under the age of twenty-one (21) shall be allowed on the premises during samplings, unless a parent or guardian is present. Nothing in the issuance of a class M-3 license, pursuant to this section, shall be considered to relieve the licensee of any responsibility for complying with all applicable state and federal regulations relating to the manufacture and/or sale of wine or wine products. Class M-3 licensees must have at least one (1) BASSET certified site manager on premises whenever offering tasting samples of wine. The annual license fee for the year commencing on June 1 of each year.

(8) Class T licenses. A Class T licenses shall authorize the following for Licensed Truck Stop Establishments:

a. A “ Licensed Truck Stop Establishment” means a Licensed Truck Stop Establishment as defined by Illinois Video Gaming Act (ILCS Ch. 230, Act 40 § 5). Alcoholic liquor sold at licensed Truck Stop Establishments must be sold in the original package as defined in 235 Illinois Compiled Statutes 5/1-3.06, and such alcoholic liquor shall at the time it leaves the premises be sealed in its original container. No alcoholic liquor, except in the original package, shall be sold upon any premises licensed as a Licensed Truck Stop Establishment. There shall be no consumption whatsoever of alcoholic liquor on the premises of a Licensed Truck Stop Establishment.

SECTION FOUR: If any provision of this Ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

SECTION FIVE: Where the conditions imposed by any provisions of this Ordinance are more restrictive than comparable provisions imposed elsewhere in any other local law, ordinance, resolution, rule or regulation, the regulations of this Ordinance will govern.

SECTION SIX: The City Clerk shall publish this Ordinance in pamphlet form.

SECTION SEVEN: This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED THIS 10th day of September, 2018.

AYES:

NAYS:

ABSENT:

APPROVED THIS 10th day of September, 2018.

MAYOR

ATTEST:

CITY CLERK

STATE OF ILLINOIS)
)
COUNTY OF OGLE) SS.

CERTIFICATE

I, _____, City Clerk of the City of Rochelle, County of Ogle and State of Illinois, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. _____, “AN ORDINANCE AMENDING CHAPTER 6, ARTICLE I, SECTIONS 6-2 AND 6-3 OF THE ROCHELLE MUNICIPAL CODE PERTAINING TO DEFINITIONS AND LIQUOR LICENSE CLASSIFICATIONS” which was adopted by the Mayor and City Council of the City of Rochelle on September 10th, 2018.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of Rochelle this 10th day of September, 2018.

CITY CLERK