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**THE CITY OF ROCHELLE**  
**Ogle County, Illinois**

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**ORDINANCE**  
**NO. \_\_\_\_\_**

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**AN ORDINANCE AMENDING CHAPTER 6, ARTICLE I, SECTION 6-3 OF THE  
ROCHELLE MUNICIPAL CODE PERTAINING TO LIQUOR LICENSE  
CLASSIFICATIONS AND ARTICLE 2, SECTION 6-51 PERTAINING TO SALE OF  
LICENSED BUSINESS.**

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CITY OF ROCHELLE  
Ogle County, Illinois

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 6, ARTICLE I, SECTION 6-3 OF THE  
ROCHELLE MUNICIPAL CODE PERTAINING TO LIQUOR LICENSE  
CLASSIFICATIONS AND ARTICLE 2, SECTION 6-51 PERTAINING TO SALE OF  
LICENSED BUSINESS.**

**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 Ordinance to establish three additional License Classifications; and

**WHEREAS**, the City has determined that it would like to create a Class M license classification which will encompass a Class M-1 license for Microbreweries, a Class M-2 license for Distilleries, and a Class M-3 license for the Manufacture of Wine; and

**WHEREAS**, it has been determined by the Corporate Authorities of the City of Rochelle that the establishment of the two 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 6-3 “License Classifications” is hereby amended by removing the following 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 a 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.

**SECTION THREE:** That Chapter 6, Article II, Section 6-51 “Sale of Licensed Business” is hereby amended by deleting the following language:

**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 as 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.~~

**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 9th day of September, 2019.

AYES:

NAYS:

ABSENT:

APPROVED THIS 13th day of August, 2018..

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MAYOR

ATTEST:

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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, SECTION 6-3 OF THE ROCHELLE MUNICIPAL CODE PERTAINING TO LIQUOR LICENSE CLASSIFICATIONS AND ARTICLE 2, SECTION 6-51 PERTAINING TO SALE OF LICENSED BUSINESS” which was adopted by the Mayor and City Council of the City of Rochelle on September 13, 2019.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of Rochelle this 9th day of September, 2019.

\_\_\_\_\_  
CITY CLERK