

CITY OF PEKIN

ORDINANCE NO. 2977-21/22

**AMENDING LIQUOR CODE
REGARDING OUTDOOR SALES AREAS AND PERMIT RENEWALS**

PASSED BY THE CITY COUNCIL
OF THE CITY OF PEKIN
THE 14TH DAY OF JUNE 2021

PUBLISHED IN PAMPHLET FORM BY AUTHORITY OF THE CITY
COUNCIL OF THE CITY OF PEKIN, TAZEWELL COUNTY, ILLINOIS,
THIS 14TH DAY OF JUNE 2021

ORDINANCE NO. 2977-21/22

**AN ORDINANCE AMENDING THE LIQUOR CODE TO ALLOW FOR
OUTDOOR SALES AREAS**

WHEREAS, the City of Pekin is a home rule municipality as described in Section 6(a), Article VII of the 1970 Constitution of the State of Illinois; and

WHEREAS, the City of Pekin, as a home rule municipality, may exercise power and perform any function pertaining to its government and affairs, including, but not limited to, the power to legislate for the protection of the public health, safety, and welfare; and

WHEREAS, the City Council desires to make certain amendments to the Liquor Code to facilitate the use of outdoor dining and sales areas for restaurants and taverns holding a Class A liquor license within the City; and

WHEREAS, the City Council finds it is in the best interests of the City, its residents and businesses to adopt the amendments set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEKIN, TAZEWELL COUNTY, ILLINOIS, THAT:

Section 1. The findings and recitations set forth above are adopted and found to be true and correct.

Section 2. Chapter 5, Article II, Section 1 of the Pekin City Code is hereby amended as follows:

Sec. 5-2-1. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this Section, or as used in the Illinois Liquor Control Act of 1934 (235 ILCS 5/1-1 et seq.), except where the context clearly indicates a different meaning:

Act means the Illinois Liquor Control Act of 1934 (235 ILCS 5/1-1 et seq.).

Additional license conditions mean conditions imposed by the Local Liquor Commissioner that extend or restrict the circumstances under which alcohol may be supplied or may require certain actions by the licensee. Failure to comply with such conditions will constitute an offense.

Alcoholic liquor means and includes any alcohol, spirits, wines, beer, and other vinous or malt products, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being containing more than one-half of one percent of alcohol by volume; provided, however, that this definition shall not be construed to apply to alcohol used in the manufacturing of denatured alcohol or alcohol produced solely for combination with petroleum products for motor fuel and produced in accordance with Acts of Congress and regulations promulgated thereunder.

Assembly hall or stadium means a building or structure having a minimum total occupancy as calculated by IFC formula, in which space is regularly rented or licensed for the viewing of or participation in conventions, exhibitions, sporting events, concerts or performances of plays, dances, circuses or similar presentations.

Basset training means a State-approved training program for all persons who sell or serve alcoholic beverages, all management personnel working on-premises, and anyone whose job description entails the checking or identification for the purchases of alcoholic beverages pursuant to that license, as required by 235 ILCS 5/3-12(11.1) and 77 Ill. Admin. Code pt. 3500.

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.

Brew pub means a person who manufactures no more than 155,000 gallons of beer per year only at a designated licensed premises to make sales to importing distributors, distributors, and to non-licensees for use and consumption only, who stores beer at the designated premises, and who is allowed to sell at retail from the licensed premises, provided that a brew pub licensee shall not sell for off-premises consumption more than 155,000 gallons per year.

Caterer retailer means a person who serves alcoholic liquors for consumption, whether on-site or off-site, whether the location is licensed or unlicensed, as an incidental part of food service. Prepared meals and alcoholic liquors are sold at a package price agreed upon under contract.

Club means any corporation, organized under the laws of this State, not for pecuniary profit, solely for the promotion of some common object, other than the sale or consumption of alcoholic liquors kept, used and maintained by its members through the payment of dues, and owning, hiring or leasing a building and 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 Commissioner at the time of its application for a license under the Act 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; and, provided further, that its affairs and management are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting and that no member or any officer, agent, or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation any profits from the distribution or sale of alcoholic liquor to the club or the members of the club or its guests introduced by members beyond the amount of such salary as may be fixed and voted at any annual meeting by the members or by its board of directors or other governing body out of the general revenue of the club.

Conditional grants mean that the Liquor Commission, after considering an application, may recommend that the Commissioner grant a liquor license on condition that certain pre-agreed undertakings are met by the applicant. The Commissioner may grant such a license. No license document will be issued at that stage and the license will not come into force until the Commissioner has received from the appropriate authority evidence that all the conditions

imposed have been fully met. When such evidence is received, the grant will become unconditional, a license will be issued and trading in liquor may commence. The conditional grant will specify a time frame during which the conditions are to be met. If, at the end of the prescribed period, the conditions have not been met, the applicant must apply to the Liquor Commission for an extension. The Liquor Commission will then send their recommendation to the Liquor Commissioner who will make a final determination on an extension. If no extension is granted, the conditional grant will lapse and a new application will be required. While conditional grants will usually be used to provide commercial certainty where there is a requirement to construct, refurbish or alter proposed licensed premises, they may be used for other purposes at the Commissioners discretion. For example, the grant may be conditional on the applicant obtaining appropriate finance.

Dinner theater means any licensed premises which is used exclusively for the presentation of live theatrical performances to patrons who have purchased tickets entitling them to be served a full meal, which excludes the serving of snacks as the primary meal, and where such meals are, in fact, served or offered to each patron, and where alcohol is not served more than two hours before or more than one-half hour after the presentation of the theatrical performance.

Event Meadow, Riverfront Park, means that area of the Riverfront Park designated to be used for public functions where alcohol may be served. The area is defined as the grassy area bounded on the east and west sides by, but not including, the straight sections of sidewalk that run south from the landscaped area south of the interactive water feature north to, but not including, the curved sidewalk north of St. Mary Street. These boundaries shall be clearly marked by the requestor in accordance with the guidelines established in conjunction with a special event application. Sale, provision or distribution of alcohol will be done in accordance with the same guidelines as described for the pier detailed later in this Section.

Gas station means any establishment which pumps motor fuel directly in motor vehicles.

Golf course means a terrain open to the public, in general consisting of at least nine holes, which is devoted exclusively to the game of golf and no other recreation or entertainment. The term "golf course" shall not include miniature or obstacle golf establishments.

Grandfather clause means an exception to the restrictions regarding licensed premises that allows businesses already holding a current liquor license to continue with existing conditions for a period of six months from the date of the adoption of this Code or until the renewal of such license, whichever is longer.

Hotel/motel, for purposes of this Article, means a structure or complex of structures kept, used, maintained and held out to the public to be a place where food may actually be served and consumed and sleeping accommodations are offered for adequate compensation 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 which may have one or more public dining rooms where meals are served to such guests.

IBC means the International Building Code most currently adopted by the City of Pekin.

IFC means the International Fire Code most currently adopted by the City of Pekin.

Licensed fraternal establishment means the location where a qualified fraternal organization that derives its charter from a national fraternal organization regularly meets.

Licensed premises means the place or location where alcoholic beverages are manufactured, stored, displayed, offered for sale or where drinks containing alcoholic beverages are mixed, concocted and served for consumption. Not included are sidewalks, street, parking areas and grounds adjacent to such place or location, except in the case of an Outdoor Sales Area as defined herein. Licensed premises, in respect to all liquor licenses except C Class Special Licenses where approved by the Local Liquor Commissioner, must be a permanently erected roofed structure or an Outdoor Sales Area as defined herein.

Licensed truck stop establishment means a facility that is at least a three-acre facility with a convenience store, with separate diesel islands for fueling commercial motor vehicles, that sells at retail more than 10,000 gallons of diesel or biodiesel fuel per month, and with parking spaces for commercial motor vehicles. The term "commercial motor vehicles" has the same meaning as defined in Section 18b-101 of the Illinois Vehicle Code.

Licensed veterans establishment means the location where a qualified veterans organization that derives its charter from a national veterans organization regularly meets.

Manager means one who has been chosen or appointed by the liquor licensee to manage and to have charge of the licensed premises, and who is vested with a certain amount of discretion and independent judgment with respect to the licensed premises. This designation of "manager" also implies general power and permits reasonable inferences that the employee so designated is invested with the general conduct and control of the licensee's liquor licensed premises.

Minors mean any persons under the age of 21 years.

NFPA 101 Life Safety Code means the National Fire Protection Association most currently adopted by the City.

Occupancy permit means the number of people allowed in a structure as per the IFC and NFPA 101.

Outdoor sales area means a designated area on a public sidewalk or other outdoor area attached or directly adjacent to a licensed premises holding a Class A liquor license located in any district of the corporate City limits, in which alcoholic liquor is sold and consumed on said licensed premises. For purposes of this Article, an area separated from the licensed premises operating the outdoor sales area by any street or public way is not "directly adjacent" to the licensed premises.

Package liquor store means any person who sells or offers for sale any alcoholic liquor for use or consumption not upon the licensed premises, and not for resale in any form.

Person means any person, firm partnership, club, association or corporation.

Pier area means West of the Westerly right-of-way of Tazewell and Peoria Railroad tracks to the Illinois River, south of the southerly right-of-way of Caroline Street and north of the northerly side of McNaughton Bridge, now City of Pekin, Tazewell County, Illinois. Sale, provision or distribution of alcohol shall be for consumption only within an approved, enclosed

site within the above-defined pier area between the hours of 12:00 noon and 11:00 p.m., every day except Sunday. There will be a maximum of four licenses issued per applicant per year, with no more than one license per month per applicant. Sound amplification may be used, but all speakers must be placed so that the amplified sounds and/or music are directed out over the river, not towards the City. Applicants must submit a site plan for the proposed event to the Local Liquor Commissioner, designating the enclosures and schedule of events for approval. Applicants must also submit a special events application, to the Chief of Police, who shall promulgate rules, regulations and other restrictions, including, but not limited to, safety and health issues, litter removal, additional security to monitor underage drinking and ensure that the beer and/or wine are not carried outside of the approved site.

Place of amusement means every bowling alley, pool or billiard facility or facility whose primary income is from amusements.

Premises means that area defined by the license applicant as containing the sale and consumption area of the licenses premises. Said premises shall not include vehicular parking areas (except in the case of an outdoor sales area as provided herein), cloak or coat rooms, restrooms, storage rooms (except for storage areas that contain alcoholic liquors for automated or manual dispensing and are connected to outside dispensers) or other areas in violation of Tazewell County, Illinois, Health Department regulations. Premises may be defined, in the case of a hotel/motel, to include resident rooms serviced by room service or in room automated or manual dispensing devices.

Private party means an assembly of persons at a licensed retail establishment at a time when that area of the establishment is not open to the public, and is limited to invited guests of the individual or entity sponsoring the party.

Resident means any person, corporation, partnership, estate or trust that inhabits or occupies a dwelling or place of business within the City of Pekin.

Restaurant means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served, and where meals are actually and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity, and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests, where the sale or consumption of alcoholic liquors is only incidental to the serving of meals and which possesses a Level 1 or Level 2 Tazewell County Health Department Retail Food Service Permit, (whose regulations are currently in force or hereafter adopted) and who has a Tazewell County Health Department licensee meeting the qualifications to operate a Level 1 or Level 2 food service facility present as required by the Tazewell County Health Department.

Retail liquor establishment means any recognized business establishment where alcoholic liquor is sold in small quantities or directly to consumers, excluding restaurants.

Sell at retail or sale at retail means and includes all sales for use or consumption and not for resale in any form.

Tavern means every building or structure, licensed under this Article which is kept, used, maintained, advertised, or held out to the public, as a place where alcoholic liquor is sold and consumed on the licensed premises as the primary monetary function of the business.

Unobstructed view means a view whereby face, body and hands of the patrons are in full view from a distance of ten feet with minimal hindrances.

Variations means changes of conditions attached to a liquor license. Such variations should include the insertion of new conditions, the removal of existing conditions and changes to existing conditions. Such variations may be made in response to an application for a variation by the licensee or at the discretion of the Commissioner. This will enable licensees to be kept up to date during the current year. For example, an applicant may apply to have conditions removed should the high risk behavior that led to the conditions cease to exist. Similarly, the Commissioner may impose conditions during the life of the license should the licensee commence activities at the licensed premises that increase risks. It also allows the Commissioner to respond to licensees that are coming to the notice of the enforcement authorities because of unwelcome behavior by imposing conditions rather than, or in addition to, having license suspended or revoked. If the Commissioner determines to vary the conditions of a license, the licensee shall be informed in writing, and will be given the right to be heard by the Commission or Commissioner.

Video gaming terminal means any electronic video game machine that, upon insertion of cash, electronic cards or vouchers, or any combination thereof, is available to play or simulate the play of a video game, including, but not limited to, video poker, line up, and blackjack, as authorized by the Board utilizing a video display and microprocessors in which the player may receive free games or credits that can be redeemed for cash. The term "video gaming terminal" does not include a machine that directly dispenses coins, cash, or tokens or is for amusement purposes only.

Wine means any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables containing sugar, including such beverages when fortified by the addition of alcohol or spirits as defined herein.

Section 3. Chapter 5, Article II, Section 5 of the Pekin City Code is hereby amended as follows:

Sec. 5-2-5. Initial license application fee.

Any applicant shall pay an application fee of \$150.00 upon application for his first and initial license which shall be non-refundable and not allocated towards any license fees as herein provided. These fees are to defray the costs of investigation of applicant and the processing of the initial application.

Section 4. Chapter 5, Article II, Section 7 of the Pekin City Code is hereby amended as follows:

Sec. 5-2-7. Classifications and license fees.

There shall be the following classes of licenses subject to the fees indicated:

- (1) *Class A.* Class A licenses shall authorize the retail sale of alcoholic liquors for consumption on the licensed premises in accordance with the Illinois Liquor Control Act, this Division and any conditions specified on the license by the City Liquor Commissioner.

Class A License Fees

No Restriction on Range of Alcohol	\$1,200.00 per annum
Restricted to Beer and Wine Only	\$800.00 per annum
Issued to a Club, No Restriction on Range of Alcohol	\$500.00 per annum
Issued to a Club, Restricted to Beer and Wine Only	\$200.00 per annum

- (2) *Class B.* Class B licenses shall authorize the retail sale of alcoholic liquors in sealed containers for consumption off the licensed premises in accordance with the Illinois Liquor Control Act, this Article and any conditions specified on the license by the City Liquor Commissioner.

Class B License Fees

No Restriction on Range of Alcohol	\$1,200.00 per annum
Restricted to Beer and Wine Only	\$800.00 per annum

- (3) *Class C.* Class C licenses shall authorize the short-term or limited supply of alcohol or temporarily extends the conditions of existing licenses in accordance with the Illinois Liquor Control Act, this Division and any conditions specified on the license by the Local Liquor Commissioner. Class C licenses shall not be issued when, in the opinion of the Local Liquor Commissioner, a Class A or a Class B license is more appropriate.

Class C License Fees

License	Fee
Beer and Wine Only (Max. 20 per year)	\$25.00 per day
No Restriction on Range of Alcohol (Max. 20 per year)	\$50.00 per day
Nonprofit or Charitable Applications for the Pier** or Riverfront Event Meadow	Residents \$50.00 per hour,* Others \$100.00 per hour*
All Other Applications for the Pier or Riverfront Event Meadow	Residents \$100.00 per hour,* Others \$200.00 per hour*
All Other Fees for C Class Licenses	To Be Determined By Liquor Commissioner*

*Additional Fees to be Determined by Liquor Commissioner to Reflect Expenses for Security, Safety and Health.

**Nonprofit or Charitable Applications only may also apply for a Class C License for the area on Court Street from the westerly Right-Of-Way of 5th Street to the easterly Right-Of-Way of 4th Street; Court Street from the westerly Right-Of-Way of 4th Street to the westerly Right-Of-Way of Capitol Street and Capitol Street from the northerly Right-Of-Way of Court Street to the northerly Right-Of-Way of Elizabeth Street. Only one event at a time will be allowed.

- (4) Deleted.

(5) *Class VG.*

- a. A Class VG Rider shall authorize the licensee to operate video gaming terminals on the licensed premises. No Class VG license shall be issued unless the licensee already holds a Class A license issued under this Article; provided, however, that licensed fraternal organizations, licensed veterans organizations, and licensed truck stops may apply for and obtain a Class VG license without first obtaining a Class A license. No video gaming terminal may be located in any outdoor sales area. The operation of video gaming terminals shall not be permitted during the hours sales of alcohol are prohibited pursuant to Sections 5-2-13 through 5-2-17. Licensees holding a Class VG license shall comply with the provisions of the Illinois Gaming Act (230 ILCS 40/1 et seq.), as amended from time to time, which is adopted by reference and made a part of this Article.
- b. Class VG license fees. The fee for a Class VG license shall be \$250.00 per license per annum.

Section 5. Chapter 5, Article II, Section 11 of the Pekin City Code is hereby amended as follows:

Sec. 5-2-11. Renewal of licenses.

Any licensee may renew his license at the expiration thereof, provided that he is then qualified to receive a license and the licensed premises for which such renewal license is sought are suitable for such purpose. The renewal privilege herein provided shall not be construed as a vested right. Renewal applications and fees are due on or before April 30 of each year. Renewal applications submitted after April 30 of any year shall be assessed a late penalty of \$500.00.

Section 6. Chapter 5, Article II of the Pekin City Code is hereby amended by the addition of a new Section 14-1 as follows:

Sec. 5-2-14-1. Restrictions on Outdoor Sales Areas.

- (a) An outdoor sales area must be bounded by a clear delineated barrier, except for specifically designated places of ingress and egress, to restrict the removal by patrons of alcoholic liquor from the outdoor sales area. Such barriers may be temporary and moveable. The licensee is responsible for ensuring that no patrons, employees, or other persons remove alcoholic liquor from the licensed premises. All means of ingress and egress for the outdoor sales area must comply with life safety provisions of the City's building codes and any directives of the City's Fire Department.
- (b) No additional liquor license shall be required to operate an outdoor sales area pursuant to this Article, provided, however, that licensees operating an outdoor sales area on a public sidewalk must first obtain a sidewalk use permit pursuant to Section 5-4-5-1 and must comply with all requirements of Division 5 of Article IV of this Chapter; provided further that licensees seeking to operate an outdoor sales area in any public street, road, or right-of-way, including

on any parking lane or space thereon, must first obtain a Special Event Permit pursuant to Article V of this Chapter.

- (c) The outdoor sales area must be located on property owned or leased by the licensed premises operating such outdoor sales area, except for outdoor sales areas located on a public sidewalk or right-of-way pursuant to subsection (b) above.
- (d) No tables, benches, seating areas, or barriers may be located in such a manner as to block sidewalks or interfere with pedestrian traffic thereon. Tables, chairs, benches, umbrellas and other equipment on a public sidewalk or right-of-way shall be located so there remains open, at all times, a pedestrian walkway of a minimum of four feet in width.
- (e) All outdoor sales areas shall comply with all directives of the City's Fire Department, which shall include any directives addressing fire lanes, property and outdoor service area ingress and egress points, fire extinguishers, and use of external heating sources. No open flame heating source shall be used unless approved by the Fire Chief or his or her designee.
- (f) Tents may not be used for outdoor sales during periods of very inclement weather, which shall specifically include thunderstorms, hail storms, high winds, and other severe weather events, or when such an event is reasonably forecast to occur, including, but not limited to, when a severe weather warning affecting the City of Pekin has been issued by the National Weather Service.
- (g) No live music or other live entertainment shall be permitted in an outdoor sales area except on Friday and Saturday evenings between the hours of 6:00pm and 11:00pm, or as otherwise permitted by a Special Event Permit issued pursuant to Article V of this Chapter.

Section 7. This Ordinance is in addition to all other ordinances on the subject and shall be construed therewith excepting as to that part in direct conflict with any other ordinance, and in the event of such conflict, the provisions hereof shall govern.

Section 8. This Ordinance shall be in full force and effect from and after its passage and approval in the manner provided by law.

PASSED AND APPROVED at the regular meeting of the City Council of the City of Pekin, this 14th day of June, 2021; and upon roll call the vote was as follows:

AYES: Abel, Orrick, Hohimer, Hilst, Cloyd, Nutter, and Luft

NAYS: None

ABSENT: None

ABSTAINING: None

APPROVED this 14th day of June, 2021

ATTEST:

Sue V. McMillan
City Clerk

Frank A. Left
Mayor

CERTIFICATE

THE UNDERSIGNED CERTIFIES THAT SHE IS THE CITY CLERK FOR THE CITY OF PEKIN, ILLINOIS, AND THAT THE CITY COUNCIL AT A REGULARLY CONSTITUTED MEETING OF SAID CITY COUNCIL OF THE CITY OF PEKIN ON THE 14th DAY OF June, 2021 ADOPTED ORDINANCE NO. _____ A TRUE AND CORRECT COPY OF WHICH IS CONTAINED IN THIS PAMPHLET

GIVEN UNDER MY HAND AND SEAL THIS 14th DAY OF June, 2021

(SEAL)

Sueⁿ. McMillan
CITY CLERK