

ORDINANCE MCO – 05 – 2024

An Ordinance Amending Chapter 36 Entitled “Liquor” of The Elmhurst Municipal Code

WHEREAS, the City of Elmhurst (the “City”) currently has numerous liquor license classifications, and many are designed for specific types of businesses; and

WHEREAS, the Public Affairs and Safety Committee (the “Committee”) has recommended proposed changes to the liquor classifications and fees that will simplify the liquor licensure process and will better align fees based on the type of service; and

WHEREAS, the City deems it is necessary, desirable, and in the best interest of the public to amend Chapter 36 entitled “Liquor” of the Elmhurst Municipal Code.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Elmhurst, DuPage and Cook Counties, Illinois as follows:

Section 1. The facts and statements contained in the preamble clauses to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. That Chapter 36 entitled “Liquor” of the Elmhurst Municipal Code is amended to read as below.

Section 3. That all ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 4. That this Ordinance shall be in full force and effect immediately, after its passage, approval, and publication in pamphlet form in the manner provided by law.

ADOPTED this 3rd day of June 2024, pursuant to a roll call vote as follows:

AYES: _____

NAYS: _____

ABSENT: _____

ABSTENTION: _____

APPROVED by me this 3rd day of June 2024.

Scott M. Levin, Mayor of the City of Elmhurst
DuPage and Cook Counties, Illinois

ATTESTED and filed in my office,
this 3rd day of June 2024.

Jackie Haddad-Tamer, Clerk of the City of Elmhurst,
DuPage and Cook Counties, Illinois

Exhibit A

Chapter 36

LIQUOR

Article I. In General

36.01 Definitions.

All terms used in this Chapter 36, and not otherwise defined in this Chapter, including definitions set forth in Section 36.35 hereof, shall be construed according to the definitions given in 235 ILCS 5/1-3.01 to 5/1-3.31. The following terms shall be construed according to the definitions given below:

- (a) Convenience Store. A building in which the primary business is the sale of food, beverages, household products, cosmetic items, reading materials and other goods for the convenience of the public.
- (b) Drug Store. A building in which the primary business is the sale of drugs or the sale of foods and foodstuffs.
- (b) Growler/Crowler. A glass, ceramic, plastic or steel bottle that holds up to one hundred twenty-eight (128) fluid ounces of beer and is designed to be sealed, including a one-time use tamper-proof seal, for off-premises consumption.
- (c) Hotel. A building or group of buildings used in conjunction with one another, kept, used, maintained, advertised and held out to the public to be a place where the 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 twenty-five (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 buildings or buildings being provided with adequate and sanitary kitchen and dining room equipment and capacity. Such building or groups of buildings may also include a cocktail lounge, room service facilities, or rooms providing dancing or live entertainment.
- (d) Restaurant. Any public place kept, used, maintained, advertised or held out to the public as a place where the primary business is the service of meals, and where meals are actually and regularly served, without sleeping accommodations, and where adequate provision is made for sanitary kitchen and dining room equipment and capacity and a sufficient number of employees to prepare, cook and serve a reasonable variety of meals for its customers. The mere availability and service at any premises of cold sandwiches, hors d'oeuvres or other similar foods will not, standing alone, be deemed sufficient to constitute such premises a restaurant with the meaning of this paragraph, it being the intent of this paragraph that the primary business conducted on premises to be licensed as restaurants hereunder shall be the service of meals.

- (e) Sale. Any transfer, exchange or barter, in any manner or by any means whatsoever, including all sales made by any person, except a person acting in the privacy of his home, or as part of a religious ceremony, whether as principal, proprietor, agent, servant or employee, and including, but not limited to, all of the following acts
 - (1) The selling of liquor.
 - (2) The delivery of liquor, without additional charge, with a meal or with entertainment or the providing of samples of liquor as a part of promotion or sales device of any kind.
 - (3) The serving or dispensing of liquor.
 - (4) The providing of mix, ice, water or glasses for the purposes of mixing drinks containing alcoholic liquor for consumption on the same premises.

The term "sale" shall further include allowing a patron or patrons to consume liquor in, on or at the premises of a food establishment, whether such liquor is provided by a patron, by the food establishment (including any principal, proprietor, agent, servant or employee) or otherwise, and whether for a fee or otherwise.

- (f) Banquet Facility. Any place kept, used, maintained, advertised or held out as a place where a prearranged private party, function, or event for a specific social or business occasion may be held, either by invitation or reservation and not open to the general public, where the guests in attendance are served in a room designated and used exclusively for a private party, function or event, and where prepared meals and alcoholic liquors are sold as agreed pursuant to a contract.
- (g) Tasting. A supervised presentation of alcoholic products to the public for the purpose of disseminating product information and education, with consumption of alcoholic products being an incidental part thereof.
- (h) Limited Service. The retail sale of alcoholic liquor or beer, wine and malted beverages only in restaurants and recreational facilities for consumption only on the premises, only from a service bar, without bar stools, and only at the table/counter where food service is provided.
- (i) Internet Sales. The retail sale of wine and spirits only and only in its original package and not for consumption on the premises where sold. Sales shall be made only electronically via the internet or via telephone. Wine or spirits purchased via the internet, or the phone may be transferred to the customer at the licensed premises or shall be delivered via Federal Express, UPS or a similar overnight courier service, to be delivered to the customer at their residence or place of business.
- (j) Club. The retail sale of alcoholic liquor by a club, to its members only and their guests, only by individual drink, and only for consumption within the premises maintained by the club.

- (k) Catering. Authorizes the holder to serve alcoholic liquors for consumption, as an incidental part of a food service, The event shall be a private, prearranged party, function, or event for a specific social or business occasion, either by invitation or reservation, and not open to the public. Guests in attendance at the private prearranged party, function or event shall be served in a room, rooms or tents, designated and used exclusively for the private party, function or event.
- (l) Complimentary Service/BYOB/Corkage. authorizes an on-premises consumption licensed facility to allow a patron to bring their own bottle, provide free alcohol with a service rendered or charge a fee for serving a bottle that has been brought in by the customer. This endorsement is designated for specialty licenses (C) and events at the discretion of the Liquor Commissioner.
- (m) Brew Pub. An establishment selling beer brewed on the premises and often including a restaurant.
- (n) Bar/Tavern. An establishment whose primary function is the sale of beer, wine, and alcoholic spirits to be consumed on the premise typically from a counter with stools.
- (o) Liquor Store. A retail establishment selling alcoholic beverages for consumption off premise.

36.02 Local liquor commissioner.

- (a) The Mayor of the City of Elmhurst shall serve as the local liquor commissioner and shall be charged with the administration of the Elmhurst Liquor Control Ordinance and of such other ordinances relating to alcoholic liquor as may be, from time to time, enacted by the City Council. From and after the date of inauguration of the mayor elected at the prior Consolidated Election; the salary of the Local Liquor Commissioner shall be three hundred dollars (\$300.00) per year.
- (b) The local liquor commissioner shall have the following powers and duties with respect to local liquor licenses:
 - (1) To grant or to suspend for not more than thirty days or to revoke for cause, all local licenses issued to persons or entities for premises within the City, or to levy a fine for any violation of laws or ordinances on licensed premises and to enter orders pertaining thereto.
 - (2) To enter or to authorize any law enforcing officer or other City employee designated by the City Manager to enter, at any time, upon the premises licensed hereunder to determine whether any of the provisions of the State law or City ordinance or any rules or regulations adopted by the City or by the Illinois State Liquor Control Commission have been or are being violated, and at such time to examine the premises of the licensee in connection therewith.
 - (3) To receive complaints from any citizen within the City that any provision of the state law or of this Chapter has been or is being violated and to act upon any such complaints in the manner provided by law.

- (4) To examine, or cause to be examined, under oath, any applicant for a local license or for a renewal thereof, or any licensee upon whom notice of revocation has been served, or any licensee against whom a citation proceeding has been instituted by the Illinois State Liquor Control Commission: to examine, or cause to be examined, the books and records of any such applicant or licensee, and to hear testimony and take evidence for use in the performance of the commissioners duties, and for the information of the commissioner to issue subpoenas which shall be effective in any part of this state. Other persons such as the code enforcer and/or law enforcement can take action to enforce rules currently set forward by state and local laws and shall be permitted proceed to adjudication hearings.

36.03 Applicability of other provisions.

Nothing in this Chapter shall excuse or relieve the licensee, owner, proprietor, or person in charge of any place in the City where alcoholic liquor is sold from the restrictions and requirements of any other provision of this Code, other ordinances of the City or the statutes of the State of Illinois.

Article II. Retail Licenses

36.04 Retail license required.

- (a) It shall be unlawful for any person to sell or offer for sale at retail in the City any alcoholic liquor without first having obtained a license therefore, or in violation of the terms of such license.
- (b) It shall be unlawful for any person to permit or allow the consumption of liquor in, on or at the premises of a food establishment, whether such liquor is provided by a patron, the food establishment (including any principal, proprietor, agent, servant or employee therefor) or otherwise, and whether for a fee or otherwise, without first having obtained a license therefor.

36.05 Form and contents of applications for license: application fee.

Application for the issuance or renewal of a license required by Section 36.04 shall be made to the Local Liquor Commissioner in writing, signed by the applicant, if an individual, or by a duly authorized agent thereof, if a club or corporation, verified by oath or affidavit, and shall contain the following information and statements:

- (a) The name, age, and address of the applicant in the case of an individual; in the case of a partnership, the person entitled to share in the profits thereof; and in the case of a for profit corporation or a club, the date of incorporation, the objects for which it was 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.
- (b) The character of business of the applicant, and in the case of a corporation, the objects for which it was formed.

- (c) The length of time that the applicant has been in business of the described character, or in the case of a corporation or club the date on which its charter was issued.
- (d) The location and description of the premises or place of business which is to be operated under such license.
- (e) A statement as to whether the applicant has made a similar application for any other license on the premises other than that which is described in the application, and the disposition of such application.
- (f) A statement that the applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this Chapter, laws of the state, or any ordinance of the city.
- (g) Whether any previous license issued by any state or subdivision thereof, or by the federal government has been revoked, and the reasons therefor.
- (h) A statement that the applicant will not violate any of the laws of the state or of the United States or any provision of this Code or other ordinance of the City in the conduct of the place of business proposed to be licensed.
- (i) Each applicant except applicants for class C licenses, shall designate at least one individual who shall serve as liquor manager for the applicant. Upon each request for a class C liquor license the licensee shall designate a liquor manager or managers. The applicant shall supply the following information with respect to such manager or managers:
 - (1) The name of the manager.
 - (2) The residence address of the manager or agent and the length of time such manager has resided at that address, and if such length of time is less than one year, the previous residence address of such manager or agent.
 - (3) The place and date of birth of the manager.
 - (4) The social security number and driver's license number of the manager.
 - (5) The experience of the manager in handling alcoholic liquor or in conducting a business of the character for which a license is being applied.
 - (6) The home and business telephone numbers of the manager or agent.
 - (7) The number of hours during which the manager will be on the premises to be licensed; provided that at least one manager, to be designated as the liquor manager for the premises, shall be on the premises not less than thirty-five (35) hours per week. This provision shall not apply to class C.
- (j) Certificates of completion of a State of Illinois certified alcohol awareness program for the managers of liquor sales, bartenders and servers for the licensed premises, as required under Section 36.26(d) of this Chapter, except for those managers, bartenders or servers who have been employed by licensee less than ninety (90) days.

- (k) For any application for a license for retail sale of alcoholic liquor for consumption on the premises, a floor plan, drawn to scale, and with sufficient detail to depict type of seating, location and type of bars, and other design features of the premises to be licensed.
- (l) A statement authorizing a police background investigation to verify the information included in the application and releasing the City, its officers, agents and employees from any and all liability which may arise as a consequence thereof. Each officer, owner and manager shall execute such a statement.
- (m) An application fee of six hundred dollars (\$600.00) shall be paid at the time any application for initial licensing or renewal is filed, except that no application fee shall be required for a temporary license. The purpose of this fee is to partially offset the costs incurred by the City for carrying out an investigation of the applicant and its liquor manager. Such fee shall be due and payable whenever a different person is designated as liquor manager.

36.06 Restrictions on issuance of licenses.

- (a) No liquor license shall be issued under the terms of this Chapter to any person, partnership, corporation or club if that person, or any partner, officer, director, stockholder or stockholders owning in the aggregate more than five percent of the stock of such corporation.
 - 1. Is a person who refuses to cooperate in providing necessary information and fingerprints for the conduct of a background check, or for whom the background check reveals information which would disqualify such person from receiving a license hereunder, including, but not limited to information related to subsection (a)(2) through (5), (9) or (14) hereof;
 - 2. Is not a person of good character and representation in the community in which such person resides.
 - 3. Is a person who has been convicted of a felony under any Federal or State law, unless the Illinois State Liquor Control Commission 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 Commission's investigation. The burden of proof of sufficient rehabilitation shall be on the applicant.
 - 4. Is a person who has been convicted of being the keeper or is keeping a house of ill fame.
 - 5. Is a person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality.
 - 6. Is a person whose license issued under this chapter has been revoked for cause.
 - 7. A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application.
 - 8. Is a person whose place of business is conducted by a manager or agent unless the manager or agent possesses the same qualifications required of the licensee.

9. Is a person who has been convicted of a violation of any federal or state law concerning the manufacture, possession, or sale of alcoholic liquor.
 10. Is 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.
 11. Is a law enforcing public official, Mayor, Alderman, member of the City Council or employee.
 12. Is a person, association or corporation not eligible for a state retail liquor dealer's license.
 13. Is doing business in Illinois as a corporation without being incorporated in Illinois or qualified to do business in Illinois if a foreign corporation.
 14. Is a person who has been convicted of gambling offense as proscribed by the applicable and appropriate Statutes of the State of Illinois, as heretofore or hereafter amended, or as proscribed by a statute replaced by any of the aforesaid statutory provisions;
 15. Is a person to whom a federal wagering stamp has been issued by the federal government for the current tax period.
- (b) No liquor license shall be issued under the terms of this chapter for any premises if such premises or the activities proposed to be conducted thereon, violate any of the following restrictions:
1. No premises shall be licensed for which a federal wagering stamp has been issued by the federal government for the current tax period.
 2. No premises shall be licensed if the activity proposed to be conducted thereon includes any "adult business uses," as defined in Chapter 22, Article IV, Section 22.42(e) of the Elmhurst Municipal Code.
 3. No premises shall be licensed within one hundred (100) feet of any church, school or hospital; provided however, that this prohibition shall not apply to regularly organized clubs, restaurants, food shops or other places where sale of alcoholic liquors is not the principal business carried on, if such place of business so exempted shall have been established for such purposes prior to February 6, 1950 or as to class C licenses, the location of which licensed premises shall be in the discretion of the local liquor commissioner, provided further that this prohibition shall not apply to a class C licenses.

36.07 Procedure for issuance of license.

The following are requirements to be considered a complete submission of a liquor license application:

1. Cover letter explaining what class of licenses you are seeking and a business plan.
2. Submitted background and fees associated with said background check.
3. Background investigation complete and recommendation for approval and non-approval by the City of Elmhurst Police Department.

4. Recommendation by the Liquor Control Commissioner to City Council for approval. The mayor reserves the right to request an interview to clarify questions or concerns prior to recommendation to Council for approval.
5. Liquor License application complete and fees within fourteen (14) days of approval by City Council.
6. City Council approval or denial of the mayor's recommendation for a liquor license approval based on the rules set forth in this chapter.

36.08 Insurance requirements.

All licensees shall have in effect, prior the issuance of any license hereunder, liquor liability insurance with limits of not less than one million dollars (\$1,000,000.00) combined single limit or one million dollars (\$1,000,000.00) per occurrence and per aggregate, and shall submit a certificate or policy of insurance as evidence of such coverage, issued by an insurance company licensed to do business in the State of Illinois and having a best rating acceptable to the city. The effective period of such insurance coverage shall coincide with the period for which the license is in effect. This section shall not apply to class C licenses, in the case of class C licenses, the local liquor commissioner may allow insurance in such lesser amounts as he deems appropriate, based upon the conditions and circumstances surrounding the sale of alcoholic liquor by such licensees.

36.09 Classification of licenses.

Retail liquor licenses as issued under this Chapter are hereby listed below and divided into base classes with endorsement options as applicable:

Base Classes:

(a) A- On Premise

(1) A1- Base Class A1 allows on premise sale of all liquor.

1. The premises shall be primarily devoted to the preparation, cooking and serving of meals.
2. The premises must have a kitchen and dining room and staff and equipment as deemed adequate by the City health authority.
3. May operate and sell alcoholic liquor in a room separate from the restaurant facility and shall provide food service at all hours of operation except the last hour prior to closing. Beer may be sold in growlers and crowlers for off-premises consumption only as may be authorized by Section 6-6.5 of The Liquor Control Act of 1934 (235 ILCS 5/6-6.5). Alcoholic liquor may also be sold at retail in the original package by licensee, but only incidental to a customer making a purchase for consumption off the premises described in the license. Partially consumed bottles of wine sealed as required by subsection 36.39(d) of this Chapter and accompanied by a dated receipt may be removed from the premises pursuant to said subsection 36.39(d). No merchandise may be displayed in the original package except on the back of the bar on such premises, and it shall be unlawful to advertise such merchandise in any other manner.

4. The sale of alcoholic beverages may only be made if incidental and complementary to the service of complete meals. The sale of alcoholic beverages may be deemed incidental and complementary to the ordering and service of complete meals only if such sale:

a. is made to a patron who orders a complete meal with the intent of consuming same;
or

b. is made to a patron waiting to be seated or to a seated patron prior to ordering, provided the person making such sale reasonably believes such patron intends to order and consume a complete meal.

(2) A2- Base Class A2 allows beer, wine and malted beverages only on premise

1. The premises shall be primarily devoted to the preparation, cooking and serving of meals.

2. The premises must have a kitchen and dining room and staff and equipment as deemed adequate by the City health authority.

3. May operate and sell beer, wine, and malted beverages in a room separate from the restaurant facility and shall provide food service at all hours of operation except the last hour prior to closing. Beer may be sold in growlers and crowlers for off-premises consumption only as may be authorized by Section 6-6.5 of The Liquor Control Act of 1934 (235 ILCS 5/6-6.5). Beer, wine, and malted beverages may also be sold at retail in the original package by licensee, but only incidental to a customer making a purchase for consumption off the premises described in the license. Partially consumed bottles of wine sealed as required by subsection 36.39(d) of this Chapter and accompanied by a dated receipt may be removed from the premises pursuant to said subsection 36.39(d). No merchandise may be displayed in the original package except on the back of the bar on such premises, and it shall be unlawful to advertise such merchandise in any other manner.

4. The sale of alcoholic beverages may only be made if incidental and complementary to the service of complete meals. The sale of alcoholic beverages may be deemed incidental and complementary to the ordering and service of complete meals only if such sale:

a. is made to a patron who orders a complete meal with the intent of consuming same;
or

b. is made to a patron waiting to be seated or to a seated patron prior to ordering, provided the person making such sale reasonably believes such patron intends to order and consume a complete meal.

(b) B- Packaged

(1) B1- Base Class License B1 allows all packaged liquor for retail sales for consumption off premises.

1. Authorizes the retail sale of beer, wine, malt beverages, and spirits, and only in its original package, or when sold in gift boxes or in gift baskets.

2. Prohibitions:

a. Consumption on the premises (except pursuant to the appropriate endorsement).

- b. Sale or offer of sale of single containers of refrigerated or chilled alcoholic beverages; except for bottles of wine containing at least 750 milliliters and except pursuant to the appropriate Endorsement.
- c. Sale of alcoholic beverages in any container other than its original sealed and unopened package (except pursuant to the appropriate Endorsement).
- d. Gasoline and Convenience Sales

(2) B2 - Base Class License B2 allows beer, wine and malted beverages only for retail sales for consumption off premise.

1. Authorizes the retail sale of beer, wine, and malt beverages only, and only in its original package, or when sold in gift boxes or in gift baskets.

2. Prohibitions:

- a. Consumption on the premises (except pursuant to the appropriate endorsement).
- b. Sale or offer of sale of single containers of refrigerated or chilled alcoholic beverages; except for bottles of wine containing at least 750 milliliters and except pursuant to the appropriate Endorsement.
- c. Sale of alcoholic beverages in any container other than its original sealed and unopened package (except pursuant to the appropriate Endorsement).

(c) C – Specialty

(1) C1 – Base Class C1 allows for a specialty license with endorsement options.

1.1. Endorsements are add-ons to Basic Class A, B or C licenses.

1.1.2 Banquet- This shall allow for the service of alcoholic beverages at private events for an A2 or A2 Licensee. Regulations specific to this Endorsement:

- a. Consumption of alcoholic beverages shall be on the premises only and in conjunction with food service pursuant to a contractual agreement for use of the establishment's facilities.
- b. Consumption of alcoholic beverages at or over a bar shall be permitted, but all consumption shall be limited to those patrons who are guests invited specifically to the private event.

1.1.3 Catering - This shall allow the service of alcoholic beverages, at an otherwise unlicensed premises, by an Elmhurst Licensee. The caterer may serve alcoholic beverages only at events to which specific persons (not the general public) have been previously invited or at a city sponsored event.

1.1.4 Outdoor Seating - Outdoor seating is contingent on outdoor dining approval in section 36.33.

1.1.5 Tasting

1. Limited to a maximum of three per day per consumer only of products registered with the Illinois State Liquor Commission, consisting of no more than one ounce of wine or two ounces of beer or malt beverage or 1/4 oz of spirits.
2. Tasting must be conducted by the licensee or a registered tasting representative in accordance with the rules and regulations of the Illinois Liquor Control Commission.
3. Prohibited at locations identified as gasoline sales, convenient stores, and drug stores.

1.1.6 Limited Service -All Liquor

1. Authorizes the retail sale of alcoholic liquor in restaurants and recreational facilities for consumption only on the premises, only from a service bar, without bar stools, and only at the table where food service is provided. Partially consumed bottles of wine sealed as required by subsection 36.39(d) of this Chapter and accompanied by a dated receipt may be removed from the premises pursuant to said subsection 36.39(d). No merchandise shall be displayed in the original package except as may be incidental to serving customers on the premises.

1.1.7 Limited Service - Beer, Wine and Malt Beverages

1. Authorizes the retail sale of beer, wine, and malt beverages in restaurants and recreational facilities for consumption only on the premises, only from a service bar, without bar stools, and only at the table where food service is provided. Partially consumed bottles of wine sealed as required by subsection 36.39(d) of this Chapter and accompanied by a dated receipt may be removed from the premises pursuant to said subsection 36.39(d). No merchandise shall be displayed in the original package except as may be incidental to serving customers on the premises.

1.1.8 Special Event

1. License may be applied for as single event, multiple events (two to ten events), or by season i.e. Farmers & French Markets.
2. Authorizes the retail sale of alcoholic liquor, only by bona fide social, fraternal or religious organizations, or events approved by the liquor commissioner, and only for special occasions and at locations as approved by the local liquor commissioner, and only for consumption on the premises described in the license.

1.1.9 Complementary Service

1. Base Class C with Complementary Service endorsement shall authorize a business engaged in providing non-food goods or services to the public to allow the consumption of beer and wine by its patrons that is served by the business; as a complement to the patron's purchase of goods or services offered by the business (complementary service). A Base Class C with Complementary Service endorsement license shall be subject to the following regulations:

A. The licensee may provide patrons of the business with individual servings of wine or beer in glasses at no charge.

B. No wine or beer may be served to or consumed by persons on the business premises except as a complement to the patron's contemporaneous purchase or consumption of goods and services made available to the public by the licensee.

C. The complementary service or consumption of beer or wine at the licensed premises is limited to not more than three servings of alcoholic beverages by a patron during any single calendar day. No alcoholic beverages other than beer or wine are permitted.

D. It shall be unlawful for the licensee, its agents, and employees to permit any patron to leave the licensed premises with an open container of wine or beer.

E. The licensee must maintain general liability insurance coverage as required by Section 36.08.

F. In no case should the sale or consumption of alcoholic liquor take place outside of the normal business hours of the business.

G. A Base Class C with Complementary Service endorsement shall not be issued to any business which operates primarily as a packaged liquor store or restaurant.

1.1.10 Bring Your Own Bottle (BYOB)

1. Authorizes an "A" Licensee to allow service subject to the regulations set forth in section 36.09 (a).

2. The licensee may provide patrons of the business with individual servings of wine or beer in glasses at no charge or may provide glasses and ice for patrons who bring their own beer or wine to the premises.

3. No wine or beer may be served to or consumed by persons on the business premises except as a complement to the patron's contemporaneous purchase or consumption of goods and services made available to the public by the licensee.

4. The complementary service or consumption of beer or wine at the licensed premises is limited to not more than three servings of alcoholic beverages by a patron during any single calendar day, regardless of whether the beverage is provided by the licensee or brought to the licensed premises by the patron. No alcoholic beverages other than beer or wine are permitted.

5. It shall be unlawful for the licensee, its agents, and employees to permit any patron to leave the licensed premises with an open container of wine or beer regardless of whether the container is provided by the licensee or brought to the licensed premises by the patron.

6. A corkage fee may be assessed to the participating patrons.

7. Consumption of corkage beer and wine shall be limited to those patrons dining in the restaurant and seated at a table. Corkage service shall not be available in a Lounge.

1.1.11 Packaged add-on Beer, Wine, and Malted Beverages only

1. Authorizes the retail sale of beer, wine, and malt beverages only, and only in its original package, or when sold in gift boxes or in gift baskets.

2. Prohibitions:

- a. Consumption on the premises (except pursuant to the appropriate endorsement).
- b. Sale or offer of sale of single containers of refrigerated or chilled alcoholic beverages; except for bottles of wine containing at least 750 milliliters and except pursuant to the appropriate Endorsement.
- c. Sale of alcoholic beverages in any container other than its original sealed and unopened package (except pursuant to the appropriate Endorsement).

1.1.12 Packaged add-on All Liquor-

1. Authorizes the retail sale of beer, wine, malt beverages, and spirits, and only in its original package, or when sold in gift boxes or in gift baskets.

2. Prohibitions:

- a. Consumption on the premises (except pursuant to the appropriate endorsement).
- b. Sale or offer of sale of single containers of refrigerated or chilled alcoholic beverages; except for bottles of wine containing at least 750 milliliters and except pursuant to the appropriate Endorsement.
- c. Sale of alcoholic beverages in any container other than its original sealed and unopened package (except pursuant to the appropriate Endorsement).

d. Gasoline Sales

1.1.13 Internet Sales

1. Authorizes the retail sale of wine and spirits only and only in their original package and not for consumption on the premises where sold. Sales shall be made only electronically via the internet or via telephone. Wine or spirits purchased via the internet, or the phone may be transferred to the customer at the licensed premises or shall be delivered via Federal Express, UPS or a similar overnight courier service, to be delivered to the customer at his residence or place of business.

1.1.14 Club

1. Authorizes the retail sale of alcoholic liquor by a club, to its members only and their guests, only by individual drink, and only for consumption within the premises maintained by the club.

1.1.15 Hotel

1. Authorizes the retail sale of alcoholic liquor for consumption on the premises where the business is that of a hotel. Partially consumed bottles of wine sealed as required by subsection 36.39(d) of this Chapter and accompanied by a dated receipt may be removed from the premises pursuant to said subsection 36.39(d).

1.1.15 Brew Pub (1) Manufacture up to a total of one hundred fifty-five thousand (155,000) gallons of beer per year on the premises specified in the license.

(2) Sell beer manufactured on the premises to importing distributors, distributors, and to non-licensees for consumption.

(3) Store the beer upon the premises.

(4) Sell and offer for sale at retail from the licensed premises where the beer is manufactured by the licensee, for lawful on or off-premises consumption, to non-licensees, in total quantities of no more than one hundred fifty-five thousand (155,000) gallons per year, so long as such sales are only made in-person.

(5) In addition to the sale of beer manufactured on the premises specified in the license for on-premises consumption, the licensee may sell and offer for sale at retail for consumption on the premises specified in the license any form of alcoholic liquor purchased from a licensed distributor or importing distributor.

(6) A brew pub licensee shall not under any circumstance sell or offer for sale beer manufactured by the brew pub licensee to retail licensees.

(7) If food is provided at the licensed premise, it may be incidental to the primary business of the licensed establishment but shall be subject to all requirements in Chapter 31, Article XI, of the City of Elmhurst Code of Ordinances, except for Section 31.138. Endorsements definitions provided in section 36.01 Definitions.

Fees provided in the table listed in section 36.10 Terms—Fees.

36.10 Terms—Fees. *

(a) The term of each license issued hereunder shall be from July 1 of each calendar year to June 30 of the following calendar year.

(b) The fee for the various classes of licenses shall be as follows:

License	Annual Fee
A- On Premise	
A1 - All Liquor	\$5,500.00
A2 – Beer, Wine and Malted Beverages Only	\$3,000.00
B- Packaged	
B1--All Liquor	\$5,500.00
B2- Beer, Wine and Malted Beverages Only	\$3,000.00
C-Specialty	Fee is set by endorsement
C1- Basic Class C1 allows for a specialty license with endorsement options	\$0

(c)

Endorsement	Fee
Banquet	\$2,500.00
Catering	\$500.00
Outdoor Seating	\$100.00 An Outdoor Dining Permit is required for an outdoor seating endorsement. See section 36.33 for more details on outdoor dining details.
Tasting	\$250.00
Limited Service – All Liquor	\$3,000.00
Limited Services – Beer, Wine and Malted Beverages Only	\$1,000.00
Special Event Temporary Licensing	
Single	\$100.00
Multiple – two to ten	\$250.00
full season-i.e.-Farmers’ & French Markets	\$500.00
Complementary Service	\$750.00
Bring Your Own Bottle (BYOB)	\$750.00
Packaged add-on Beer, Wine, and Malted Beverages only	\$250.00
Packaged add-on All-Liquor	\$500.00
Internet Sales	\$1,500.00
Club	\$2,500.00
Hotel	\$500.00
Brew Pub	\$500.00

- (d) License fees may be prorated for persons or firms not holding a liquor license at the time of application according to the following schedule:

Period	Prorated Fee
For licenses issued between July 1 through September 30 of each year	100% of full license fee
For licenses issued between October 1 through December 31 of each year	75% of full license fee
For licenses issued between January 1 through March 31 of each year	50% of full license fee
For licenses issued between April 1 through June 30 of each year	25% of full license fee

There shall be no refund of a license fee for any portion of a license period during which the licensee ceases to engage in the business of selling alcoholic liquor.

- (e) The annual fee shall be due and payable on or before that date which is five (5) business days prior to June 30 in each year. All renewals shall be subject to all other license qualifications.
- (f) No licensee shall continue to engage in the business of selling alcoholic liquor after expiration of a license unless the required fee has been paid.
- (g) All required fees shall be paid to the City Clerk's Office, in cash, by credit card, certified or cashier's check or business check at the discretion of the Clerk's Office at the time of issuance of the license after approval of the local liquor commissioner pursuant to Section 36.07 of this Chapter. All such fees shall be deposited with the Finance Department.
- (f) It is the intention of the City to review and, if justified, adjust license fees annually based upon the costs and expenses incurred by the City to administer this Chapter; provided, however, that nothing herein shall require such review nor impair or prohibit any adjustment in fees as may from time to time be approved by the City Council.

36.11 Limitation on number of licenses.

Each new license should be determined by the recommendation of the Liquor Control Commissioner directly to the City Council Meeting. The City Council should be notified of the recommendation one week prior to the meeting for review and approval.

36.12 License a personal privilege—Not to be subject to attachment, transfer, devolution Renewals.

A license shall be purely a personal privilege, good for not to exceed one year after issuance, unless sooner revoked as in this Chapter provided, and shall not constitute property, nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated.

Such license shall not descend by the laws of testate or intestate devolution, but it shall cease upon the death of the licensee; provided, that executors or administrators 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, may continue the business of the sale or manufacture of alcoholic liquor under order of the appropriate court, and may exercise the privileges of the deceased or insolvent or bankrupt licensee after the death of such decedent or such insolvency or bankruptcy until the expiration of such license, but not longer than six months after the death, bankruptcy or insolvency. No refund shall be made for any portion of the license fees paid for any period in which the licensee shall not have operated under such license.

36.13 Renewal: effect of failure to renew.

Any licensee may renew its license at the expiration thereof, provided that such licensee is then entitled to receive a license, and that the premises for which such renewal license is sought are suitable for such purpose. Application for renewal shall be made online as provided in Section 36.05. Any license issued pursuant to this chapter shall terminate by operation of law if not renewed within ten days after the date of its expiration. Thereafter, the licensee may apply for reissuance, consideration of which application shall be made pursuant to the procedures established by Section 36.07. To assure eligibility to renew the license, the licensee shall certify to the continued compliance of the premises with the conditions pursuant to which the license was initially granted, including the floor plan, if any, which was approved as part of the initial licensing. The privilege of renewal shall not be construed as a vested right, and nothing herein shall prevent the local liquor commissioner or City Council from reducing the available licenses in any license classification. All information and material required for license renewal shall be submitted to the City Clerk's Office not less than five business days prior to the date of expiration of the current license (the due date). Failure to timely submit all required information and material shall result in a twenty-five (25) percent increase of the applicable license fee as set forth in Section 31.03 of the Elmhurst Municipal Code.

36.14 Change in personnel.

- (a) Any changes in partnerships, officers, directors, persons holding directly or beneficially more than five percent of the stock or ownership interest, or managers of premises licensed under this chapter, shall be reported in writing to the local liquor commissioner within ten days of the change. All new personnel shall meet all the standards of this chapter and must otherwise qualify to hold a liquor license, including the fee set forth in Section 36.05(m). All such changes in personnel shall be subject to review by the local liquor commissioner.
- (b) When a license has been issued to a partnership and a change of ownership occurs resulting in a partnership interest by one who is not eligible to hold a liquor license, such license shall terminate.
- (c) When a license has been issued to a corporation and a change takes place in officers, directors, or shareholders of more than five percent of the stock, resulting in the holding of office or such shares of stock by one who is not eligible for a license, such license shall terminate.
- (d) When a license has been issued to an individual who is no longer eligible for a license, such license shall terminate.

- (e) When a change takes place in any manager of a licensed premises, resulting in a manager who is not eligible to hold a liquor license and is, therefore not eligible to be a manager, such license shall terminate unless such manager is replaced by a manager who is qualified to hold a liquor license within thirty days of notice thereof to the licensee.

36.15 Change of location.

A retail liquor license shall permit the sale of alcoholic liquor only on the premises described in the application for the license. Such location may be changed only upon prior notice to the local liquor commissioner by the licensee, and written permission to make such change issued by the local liquor commissioner. No change of location shall be permitted unless the proposed new location is a proper one for the retail sale of alcoholic liquor under the laws of the state, this code and other ordinances of the city.

36.16 Change in floor plan or operation of licensed restaurants.

- (a) During the term of any license issued for the sale of alcoholic liquor in a restaurant for consumption on the premises, if a licensee proposes to make any of the changes hereinafter enumerated, which would alter its operation from the conditions pursuant to which the license was initially granted, the licensee shall apply in writing to the local liquor commissioner for approval of such changes, and provide information concerning the specific changes proposed, including a revised floor plan, if any. The following shall be considered a change in the operation for purposes of this section: a change in the floor plan in any manner which would alter the number of seats provided primarily for restaurant use by more than ten (10) percent, or which would expand by more than ten (10) percent any area in which entertainment or service of alcoholic liquor is provided: ii) a change in the operation of the licensed premises which would add entertainment or dancing, or which would substantially increase the promotion of the sale of alcohol or the entertainment available on the premises as opposed to the availability of food service, or which would change the ratio of alcohol sales to other activities on the licensed premises by more than ten (10) percent.
- (b) Upon receipt of a request for approval of any of the changes as provided in paragraph (a) of this section, the local liquor commissioner shall review the licensee's proposed changes to determine the nature and significance of the changes in the consideration of the classification of license held and the requirements established for such classification. The local liquor commissioner may approve the proposed changes if it is determined that the proposed changes in the floor plan or operation, and the ratio of alcoholic sales to other activities on the premises are not so substantial as to make questionable the continued conformance of the licensed premises with the requirements of this chapter for the applicable license classification. The local liquor commissioner shall notify the licensee in writing as to whether approval of proposed changes is granted or denied.

- (c) So long as an application for approval of any of the changes described in paragraph (a) hereof is pending, and not yet acted on by the local liquor commissioner, the applicant may continue to conduct its business and operations in the manner approved at the time the license was initially granted. If approval of the proposed changes is granted, the licensee may proceed to implement such changes in accordance with the approval granted, and subject to any conditions which may be established as part of such approval. If approval is denied, the licensee shall continue to operate its business in the manner approved at the time the license was initially granted or shall cease operation.
- (d) Any licensed business which implements any of the changes on licensed premises described in paragraph (a) hereof, without requesting and receiving approval of the local liquor commissioner as provided therein, shall be subject to penalties for violation of this chapter, as established in Article V hereof, up to and including revocation of the license.

36.17 Operation in manner consistent with application.

Except as provided in Section 36.16 of this chapter, a licensee shall conduct his business in a manner consistent with the representations made on his application and before the local liquor commissioner.

36.18 Cessation of business.

Any licensee who has ceased to do business or closes his place of business for a period of more than thirty successive days without written permission from the local liquor commissioner shall be subject to having its license declared forfeited and lapsed by order of the commissioner.

36.19 Correspondence shall be a matter of public record.

All correspondence relating to the issuance, renewal, suspension or revocation of licenses governed by this chapter shall be a matter of public record. Correspondence, subject to this section, includes but is not limited to:

- (a) Applications for licenses, not including the results of the police background investigation.
- (b) Inquiries by an applicant preparatory or relating to applications for licenses.
- (c) Renewals of licenses.
- (d) All decisions of the local liquor commissioner which are required by this chapter to be in writing.

36.20 Records: notice of issuance or revocation.

The City of Elmhurst shall keep records of each liquor license for public records purposes.

Article III Restrictions and Requirements for Conduct on Licensed Premises

36.21 Display of license.

Any license issued under this chapter shall be displayed by the licensee at all times in a conspicuous place where it is readily visible to an inspecting officer.

36.22 Unlawful sale or purchase of alcoholic liquor.

- (a) No licensee shall sell, give or deliver alcohol, spirits or beer and wine to any person under the age of twenty-one (21) years or to any intoxicated person, or any person known by him to be a habitual drunkard, or any person known to him to be under legal disability or in need of mental treatment.
- (b) No person under the age of twenty-one (21) years shall purchase or accept delivery of any alcohol, spirits, or beer or wine from any licensed retail liquor dealer.
- (c) If a person under the age of twenty-one (21) is in possession of alcoholic liquor on premises licensed to sell alcoholic liquor for consumption on such premises, it shall be presumed that the licensee sold, gave or delivered such alcoholic liquor to the minor in possession thereof.
- (d) For the purpose of preventing the violation of this section, any licensee, or its agent or employee, may refuse to sell or serve alcoholic beverages to any person who is unable to produce evidence of identity and of the fact that he or she is over the age of twenty-one (21) years pursuant to Section 36.23(a).

36.23 Evidence of age of person attempting to purchase or receive alcoholic liquor.

- (a) If a licensee or its agent or employee believes, has reason to believe or should have reason to believe, that a sale or delivery of alcoholic liquor is prohibited because the prospective recipient is underage, then, before making such sale or delivery, the licensee shall demand presentation of positive identification issued by a public officer in the performance of official duties, and containing proof of age and a photograph of the holder thereof. A traffic citation shall not be accepted as identification or evidence of age.
- (b) No person shall transfer, alter or deface an identification card issued by a federal, state, county or municipal government or subdivision or agency thereof, use or attempt to use the identification of another, carry or use a false or forged identification card, or obtain an identification card by means of false identification.
- (c) No person shall purchase, accept delivery or have possession of alcoholic liquor by the use of an altered forged or defaced identification card or by the use of an identification card of another person.
- (d) No person shall misrepresent his or her age for the purpose of purchasing or obtaining alcoholic liquor in any place in the city where alcoholic liquor is sold at retail.

36.24 Responsibility for agents and employees.

Every act or omission of whatsoever nature, constituting a violation of any of the provisions of this chapter by an officer, director, manager or other agent or employee of any licensee, if such act is committed or omission is made within the scope of such agency or employment or with the authorization, knowledge, or approval of the licensee, shall be deemed and held to be in the act of such employer or licensee and such employer and licensee shall be punishable in the same manner as if such act or omission had been done or omitted by him personally.

36.25 Required warning signs.

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

"Warning: If you are under twenty-one years of age, you are subject to a fine of up to five hundred dollars (\$500.00) under the Elmhurst Municipal Code if you attempt to purchase alcoholic liquor, purchase alcoholic liquor or misrepresent your age for the purpose of purchasing or obtaining alcoholic liquor. Official photo identification will be required to prove the age before purchase."

36.26 Restrictions and requirements for employees on licensed premises.

- (a) It shall be unlawful for any licensee, or any officer, associate, member, representative, agent or employee of such licensee, to engage, employ or permit any person under the age of twenty-one (21) years to tend bar, to draw, pour or mix any alcoholic liquor, or to take the initial order for any patron for any alcoholic liquor in any licensed premises: provided, that the provisions of this section shall not be construed to prevent the employment of persons who are at least nineteen (19) years of age as waiters or waitresses in restaurants or hotels for the purposes of serving food and alcoholic liquor in the licensed retail premises.
- (b) It shall be unlawful for any licensee or agent or employee of any licensee holding a retail liquor license authorizing the sale of alcoholic liquor not for consumption on the premises to permit any employee under the age of twenty-one (21) years or any customer of any age to register, by mechanical, electronic or other means, the sale of any alcoholic liquor, including beer and wine.
- (c) It shall be unlawful to employ on any premises used for the retail sale of alcoholic liquor any person who is afflicted with, or is carrier of, any contagious, infectious or venereal disease. It shall be unlawful for any person who is afflicted with or a carrier of such disease to work in or about any premises or to engage in any way in the handling, preparation or distribution of such liquor.
- (d) It shall be unlawful for a licensee to sell or serve any alcoholic beverage for consumption in a restaurant, bar or cocktail lounge on the licensed premises, unless the managers of liquor sales, the bartenders and all bar or lounge area servers of alcoholic beverages employed by the licensee, have completed a BASSET course, provided that only the manager of liquor sales need to complete such alcohol programs for restaurants having only a service bar. Such BASSET course must be completed in a classroom and taught by a certified BASSET trainer. An online BASSET training course does not fulfill such training certification required by the city.

36.27 – Reserved

36.28 Prohibited activities on licensed premises.

- (a) Gambling. It shall be unlawful to permit any gambling on any premises licensed to sell alcoholic liquor.

- (b) Solicitation. It shall be unlawful for any licensee, its manager, or other person in charge of any licensed premises where alcoholic liquor is sold or offered for the sale for consumption thereon, to engage, employ or permit the engagement or employment of any person, nor shall any person be permitted to remain on said premises, who shall solicit any patron or customer thereof to purchase alcoholic or nonalcoholic liquor for said person, or any other person therein: nor shall any person, whether or not such person is an employee or entertainer, solicit any patron or customer therein to purchase alcoholic or non-alcoholic liquor for himself or herself or any other person therein: provided, however, that nothing herein contained shall prohibit any adult manager, bartender or server who shall be regularly employed therein from accepting and serving the order of a patron or customer in the regular course of employment as such manager or server.
- (c) Adult Entertainment. It shall be unlawful for any licensee, its manager, or other person in charge of premises licensed to sell alcoholic liquor, to permit the following items or conduct on the licensed premises: books, or magazines, coin-operated motion pictures devices, films, movies, or live entertainment depicting, describing or relating to specified anatomical areas or specified sexual activities, as such terms are defined in the Elmhurst Zoning Ordinance, as amended from time to time. Notwithstanding any provision hereof to the contrary, this Section shall not be interpreted to limit or restrict a mother's right to breastfeed her baby under the Right to Breastfeed Act, 740 ILCS 137/1 et seq., as amended from time to time.
- (d) Reserved.
- (e) Reserved.
- (f) It shall be unlawful to provide coin-operated amusement devices, as described in Section 32.06 of the Code on liquor licensed premises, except as licensed under Section 32.06.
- (g) It shall be unlawful to conduct any "raffle," as authorized in Section 31.20 of the Elmhurst Municipal Code, on liquor licensed premises, except with written permission from the local liquor commissioner under the following conditions:
 - (1) Application for such raffle shall be made in writing to the local liquor commissioner and shall set forth the nature of the proposed raffle, the charitable organization which will be the sponsor of any promotion, and the nature of any promotions or other activities which will be associated with such raffle.
 - (2) Certification by the licensee that all monies collected by the licensed premises in conjunction with activities related to the conduct of the raffle, including monies collected for the sale of alcoholic liquor, will be donated to the charitable organization sponsoring the raffle; provided, that the licensee may deduct from such monies a small nominal fee for its costs in conjunction with the conduct of the raffle.
- (h) It shall be unlawful for any licensee, its manager, or other person in charge of the premises licensed, to allow, permit or maintain the licensed premises in such a way that controlled substances of any kind, including, but not limited to cocaine, marijuana, heroin, or other illegal drug or chemical, are present on the licensed premises at any time.

36.29 Liquor License Sales Hours

It shall be unlawful to sell or offer for sale at retail in the City any alcoholic liquor as follows:

(a)

Liquor License Sale Hours		
Days	Permitted Hours	Prohibited Hours
Sunday	6:01 a.m. to 12:44 a.m. (Monday)	1:45 a.m. to 6:00 a.m.
Monday	6:01 a.m. to 12:44 a.m. (Tuesday)	12:45 a.m. to 6:00 a.m.
Tuesday	6:01 a.m. to 12:44 a.m. (Wednesday)	12:45 a.m. to 6:00 a.m.
Wednesday	6:01 a.m. to 12:44 a.m. (Thursday)	12:45 a.m. to 6:00 a.m.
Thursday	6:01 a.m. to 12:44 a.m. (Friday)	12:45 a.m. to 6:00 a.m.
Friday	6:01 a.m. to 1:44 a.m. (Saturday)	12:45 a.m. to 6:00 a.m.
Saturday	6:01 a.m. to 1:44 a.m. (Sunday)	1:45 a.m. to 6:00 a.m.

- (b) Those liquor licensed establishments selling alcoholic liquor in its original packages, and not for consumption on the premises where sold such as class B licenses, that remain open during those hours when the sale of alcoholic liquors are prohibited, must prevent the sale of alcoholic liquor during prohibited hours, including but not limited to preventing customers from having access to those areas where alcoholic beverages intended for sale are stored, either by partitioning the aisles from entry and/or locking the coolers where alcohol is stored.
- (c) On December 25 and Thanksgiving Day, liquor licensed establishments are permitted to sell alcoholic liquor until 1:44 a.m. and on January 1st, all liquor licensed establishments are permitted to sell alcoholic liquor until 2:44 a.m.
- (d) Except for fifteen (15) minutes after the hours specified for sale of alcoholic beverages, it shall be unlawful for patrons to remain on the liquor licensed premises during the hours when sales, service, or delivery of alcoholic beverages for consumption on premises are prohibited.
- (e) The Mayor in his capacity as the Liquor Commissioner, upon application by a liquor licensee, and upon a showing of good cause, shall in his/her sole discretion have the authority to permit the retail sale of alcoholic liquor by individual drink, only for consumption within the licensed premises, during the hours for which the sale or delivery of alcoholic liquor in the City is generally prohibited, subject to the following conditions:
- (1) The business applying for the extended operation, during prohibited hours must currently be a liquor licensee with no pending liquor or tobacco license violations, nor

taxes, fees, or fines due and owing the city. The licensee's classification must currently authorize the holder to sell at retail, alcoholic liquor by individual drink for on premise consumption.

- (2) The licensee must make a written application to the Liquor Commissioner stating the reason for the requested extension and the date or dates for which the extension is sought.
- (3) The consumption of alcoholic beverages must be entirely within the licensed premises, and may not take place outside, which would exclude beer gardens, outdoor dining, and/or roof tops, during the hours for which the extended operation during prohibited hours is occurring. The sale of alcoholic liquor intended for consumption on the premises shall be limited to individual servings and shall be dispensed in accordance with Section 36.26.
- (4) The issuance of the extended hours of operation is solely discretionary with the Liquor Commissioner of the City of Elmhurst, and subject to additional conditions as the Liquor Commissioner in his/her best judgment deems advisable.
- (5) The days, dates and times permitted during the extended hours of operation shall be determined by the Liquor Commissioner and are solely within the Liquor Commissioner's discretion.
- (6) The extended hours of operation must be displayed with the licensed establishment's current liquor license.
- (7) The extended hours of operation is limited to the date(s) and time(s) delineated and creates no other rights to operate during prohibited hours, other than what is designated.

36.30 Minors on licensed premises.

It shall be unlawful for any person, except employees, under the age of twenty-one (21) years to be on any licensed premise whose primary function is described as bar/tavern or liquor store as defined in section 36.01, unless accompanied by a parent or guardian. This shall not prohibit a person under the age of twenty-one (21) years from being in an establishment which holds itself out to be a restaurant, hotel or banquet facility, as defined in this Chapter, for the purpose of consumption of food on the premises, and where the majority of the gross income of the licensed establishment is derived from the service of food, or for the purpose of utilizing the sleeping accommodations of a hotel. A person under the age of twenty-one (21) years is prohibited from being present in any room on the licensed premises used primarily for the sale of alcoholic beverages.

36.31 Restrictions on club licenses.

It shall be unlawful for any licensee holding a Class "C" license to sell or offer for sale any alcoholic liquor for any event which is open to the general public, except that an event open to the public which is for the benefit of a not-for-profit or charitable organization, and which is sponsored by a member of the club shall be permitted.

36.32 Sanitary premises.

All premises used for the retail sale of alcoholic liquor or for the storage of liquor for such sale shall be kept in a clean and sanitary condition and shall be kept in full compliance with the provisions of this Code regulating the condition of premises used for the storage or sale of food for human consumption. In all places where alcoholic liquor is sold for consumption on the premises, there shall be at least two sanitary toilets, one for each sex.

36.33 Restrictions on Outdoor Dining

No licensee shall sell, give, or deliver alcoholic liquor at or with any outdoor dining without first obtaining permission therefore from the local liquor commissioner. The local liquor commissioner shall not grant such permission unless the licensee shall show to the commissioner's satisfaction that service of alcoholic liquor at or with any outdoor dining will not increase the likelihood of unauthorized sales of alcoholic liquor nor otherwise pose risks to public safety. In addition to the permission required herein, the licensee shall satisfy all requirements for an outdoor dining permit as set forth in this Section of the Elmhurst Municipal Code.

36.34 – Reserved -

ARTICLE IV. Other Regulations and Restrictions Concerning Alcoholic Liquor

36.35 Definitions.

Certain terms used within this Article shall be defined as follows:

- (a) "Legal Guardian" means any foster parent, person appointed guardian or given custody of a minor by a circuit court of this state, or person appointed guardian or given custody of a minor under the Illinois Juvenile Court Act but shall not include any person appointed guardian only to the estate of a minor.
- (b) "Parent" shall include the father and mother of a minor child, whether by birth or adoption, or shall be deemed the parent having legal custody of the minor in the event the parents are divorced or separated. The term "parent" as used in this Section shall also be deemed to mean "legal guardian."
- (c) "Minor" shall mean any person over seven years of age but not yet twenty-one (21) years of age.
- (d) "Intentionally" shall mean conduct engaged in by a person with the conscious objective to accomplish that result or engage in that conduct.
- (e) "Knowingly" shall mean conduct engaged in by a person when he is consciously aware of the nature of attendant circumstances of his conduct which constitutes an offense under this Section.

- (f) "Recklessly" shall mean conduct engaged in by a person in conscious disregard of a substantial and unjustifiable risk that circumstances exist or that a result will follow which constitutes an offense under this Section and where such disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation.
- (g) "Negligence" shall mean conduct engaged in by a person where such person fails to be aware of a substantial and unjustifiable risk that circumstances exist or that a result will follow which constitutes an offense under this Section, and where such failure constitutes a substantial deviation from the standard of care which a reasonable person would exercise in the situation.

36.36 Unlawful possession or consumption by persons underage.

- (a) No minor shall possess or consume alcoholic liquor: provided the possession and dispensing, or consumption by a minor of alcoholic liquor, in the performance of a religious service or ceremony, the consumption by a minor under the direct supervision and approval of the parents or legal guardian of such minor in the privacy of the parent's or legal guardian's home, or the possession and delivery of or attempt to purchase alcoholic liquors in pursuance of a person's lawful employment is not prohibited and shall not be construed as a violation of this Section.
- (b) No person after purchasing or otherwise obtaining alcoholic liquor shall intentionally, knowingly, recklessly or negligently give or deliver such alcoholic liquor to a minor, except as allowed under paragraph (a) of this Section.
- (c) No owner or occupant of any premises located within the City shall intentionally, knowingly, recklessly or negligently allow any minor who is not his child to remain on such premises while in the possession of alcoholic liquor or while consuming alcoholic liquors in violation of subsection (a) of this Section.
- (d) Any person convicted of a violation of the provisions of Section 36.36 shall be fined not less than fifty dollars (\$50.00), nor more than one thousand dollars (\$1,000.00) for each offense.

36.37 Parental responsibility.

- (a) No parent shall give or deliver alcoholic liquor to his minor child for the minor's consumption unless the consumption of alcoholic liquor by such minor is in the performance of a religious service or ceremony under the direction, supervision, and approval of the parent of such minor in the privacy of a home.
- (b) No parent shall intentionally, knowingly, recklessly or negligently give or deliver alcoholic liquor to, or permit possession of alcoholic liquor by his or her minor child, or any other minor unless such minor is making a delivery of such alcoholic liquor pursuant to order of his parent, in pursuance of his employment or otherwise as allowed by subsection (a) hereof.

- (c) No parent shall intentionally, knowingly, recklessly or negligently give, deliver, invite or permit the consumption of alcoholic liquor by any minors on or about any premises owned, leased or controlled by such parent except as otherwise allowed by Section 36.36(a).
- (d) Parents shall restrain or prevent their minor children from consuming alcoholic liquor where the parent knows, or in the exercise of ordinary care should know, of a substantial probability that his or her minor child is or will consume alcoholic liquor under circumstances which violate the provisions of this Section, the Illinois Liquor Control Act, or any other ordinances, statutes or amendments thereof.
- (e) Parents who know, or in the exercise of ordinary care should know, of a substantial probability that their minor child has consumed or will consume alcoholic liquor in violation of this Section, the Illinois Liquor Control Act, or any other ordinances, statutes or amendments thereto, shall restrain or prevent their minor child from operating or driving a motor vehicle on the public streets and ways of the City of Elmhurst in violation of any ordinance, law or statutes.
- (f) Parents who know, or in the exercise of ordinary care should know, of a substantial probability that their minor child has consumed or will consume alcoholic liquor in violation of this Section, the Illinois Liquor Control Act, or any other ordinance, statutes or amendments thereto, shall restrain or prevent their minor child from committing acts which constitute vandalism, theft, disorderly conduct, or the unjustifiable use of force in violation of any ordinance, law or statute.
- (g) Any person convicted of any violation of the provisions of this Section shall be fined not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000.00) for each offense.

36.38 Reserved

36.39 Possession of liquor on public property.

- (a) No person shall consume or possess alcoholic liquor, with the original package seal broken on any street, highway, or in any public place, except under Section 36.34 of the Elmhurst Municipal Code, and except at those locations and during events authorized by Section 36.09 (c) 1.1.8 hereof.
- (b) No person shall transport, carry, possess, or have any alcoholic liquor, beer or wine within the passenger area of any motor vehicle except in the original package and with the seal unbroken except as provided by subsection (d) of this Section.
- (c) No minor shall have any alcoholic beverage in his possession on any street, highway, in any public place or in any place open to the public in the City, except when making a delivery of an alcoholic beverage by order of his parent or employer.
- (d) Notwithstanding any other provision of this Chapter, any premises: (1) licensed to serve alcoholic liquor pursuant to this Chapter; and (2) on which a restaurant (as defined in this Chapter) is operated may permit a patron to remove one unsealed and partially consumed bottle of wine for off-premises consumption provided that the patron has purchased a meal and consumed a portion of the bottle of wine with the meal on the premises. A partially

consumed bottle of wine that is to be removed from the premises pursuant to this Section shall be securely sealed by the licensee or an agent of the licensee prior to removal from the premises and placed in a transparent, one-time use tamper-proof bag. The licensee or agent of the licensee shall provide a dated receipt for the bottle of wine to the patron. Wine that is resealed in accordance with the provisions of this Section and not tampered with shall not be deemed an unsealed container for the purposes of Section 11-502 of the Illinois Vehicle Code (625 ILCS 5-11/502) or any comparable provision of the Elmhurst Municipal Code.

Article V. Penalties for Violation of this Chapter.

36.40 Revocation or suspension of licenses; fines.

- (a) The local liquor commissioner may revoke or suspend any license issued by him if the commissioner determines that the licensee has violated any of the provisions of the Illinois Liquor Control Act, any ordinance or resolution whatsoever enacted by the City Council, any state statute or applicable rule or regulation established by the local commissioner or the State Commission which is not inconsistent with law.
- (b) In lieu of or in addition to suspension or revocation of a license, the liquor commissioner may levy a fine on the licensee for such violation. The fine imposed shall not exceed one thousand dollars (\$1,000.00) for each violation, and each day on which the violation continues shall constitute a separate violation. Not more than ten thousand dollars (\$10,000.00) in fines under this Section may be imposed during the period of the license. However, no such license shall be so revoked or suspended, and no licensee shall be fined, except after a public hearing by the local liquor commissioner with at least three days written notice to the licensee affording the licensee an opportunity to appear and defend. If the licensee fails to appear and defend after receiving written notice, a default order may be entered against such licensee and the local liquor commissioner may impose such penalties as may be deemed appropriate.
- (c) Notwithstanding the provisions of subsections (a) and (b) of this Section, if the local liquor commissioner has reason to believe that any continued operation of particular licensed premises will immediately threaten the welfare of the community the commissioner may, without notice or hearing, order the licensed premises closed for not more than seven days, giving the licensee an opportunity to be heard during that period, except that if such licensee shall also be engaged in the conduct of another business or businesses on the licensed premises such order shall not be applicable to such other business or businesses.
- (d) Within ten (10) days after such a hearing, the local liquor commissioner shall determine whether the license should be revoked or suspended or whether the licensee shall be fined. If the commissioner so determines, a written order shall be prepared stating the reason or reasons for such determination and either the amount of the fine, the period of suspension or that the license has been revoked. A copy of which written order shall be served upon the licensee within the ten (10) days.
- (e) Any licensee who has violated the provisions of this Chapter, or the Liquor Control Act of 1934 (235 ILCS 5/), or any rules or regulations of the local liquor commissioner or of the

Illinois State Liquor Control Commission, shall pay to the City the costs of hearing before the local liquor commissioner on such violation and or be subject to adjudication. Such costs shall include, but not be limited to court reporter fees, costs of transcripts or records, attorneys' fees, and costs of mailing notices or orders. Failure to pay such costs shall be a violation of this Section which may subject the licensee to license revocation or suspension. In case of any appeals to the Illinois State Liquor Control Commission or pursuant to the Administrative Review Act, payment is due forty (40) days after entry of any order finally affirming the decision of the local liquor commissioner.

- (f) Whenever any license hereunder has been revoked as provided for in this Section, the licensee shall incur a forfeiture of all monies that have been paid for said license.

36.41 Appeals.

In the event of an appeal from an order or action of the local liquor commissioner to the State Commission, the appeal shall be limited to a review of the official records of the proceedings of the local liquor commissioner in accordance with Illinois Compiled Statutes, Chapter 235, Section 5/7-9, as amended.

36.42 Penalty for sale of liquor upon expiration or termination of license.

Any person, firm or corporation selling or distributing liquor without a license therefore in violation of the provision of Section 36.04 shall be fined five hundred dollars (\$500.00) per day for each day that said violation continues.

COUNCIL ACTION SUMMARY

SUBJECT: An Ordinance Amending Chapter 36 entitled "Liquor" of the Elmhurst Municipal Code.

ORIGINATOR: City Attorney

DESCRIPTION OF SUBJECT MATTER:

Pursuant to the recommendation of the Public Affairs and Safety Committee, attached for City Council consideration is the ordinance amending Chapter 36 entitled Liquor. The amendment changes to the liquor license classifications and fees in order to simplify the liquor licensure process and will better align fees based on the type of service.