

CITY OF FREEPORT, ILLINOIS
CONSOLIDATED LIQUOR CODE*
Sections 608 and 806 of the Codified Ordinance
and other Affected Ordinances

As Adopted March 4, 2018

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CHAPTER 608 - ALCOHOLIC LIQUOR

608.01 DEFINITIONS; CLASSIFICATION OF LICENSES.

Unless the context otherwise requires, words and phrases used in this chapter shall be defined as provided in Section 806.01 of the Business Regulation and Taxation Code, and classification of licenses shall be as provided in Section 806.03 of the Business Regulation and Taxation Code.

608.02 OFFENSES BY LICENSEES.

No licensee under the provisions of this chapter or Chapter 806 of the Business Regulation and Taxation Code shall, either individually or through his or her agents or employees:

- (a) Sell or possess for sale any package containing alcoholic liquor unless the same shall have affixed thereto all canceled revenue stamps which may be required by State or Federal law;
- (b) Sell alcoholic liquor during prohibited hours;
- (c) Except for holders of licenses authorizing package sales only, fail, neglect or refuse to lock all doors and entrances to the licensed premises and to keep the same continuously locked during prohibited hours, except that such doors and entrances may be temporarily unlocked from time to time during prohibited hours to permit the egress of any person or to permit the ingress of any authorized person. As used in this subsection, "authorized person" means the licensee, his or her spouse, his or her employees or any independent contractors summoned to the premises for purposes of rendering construction or repair services to the licensed premises or to any equipment utilized for the operation of such licensed premises.
- (d) Permit any gambling on the premises, unless pursuant to a validly issued supplemental video gaming license issued by the City and otherwise validly licensed by the State of Illinois;
- (e) Permit any intoxicated person to loiter on the licensed premises, or permit any conduct which shall tend to disturb the peace or quiet of the neighborhood or the premises;
- (f) Serve or permit any person to consume any alcoholic liquor in any curtained booth or enclosure;
- (g) Make sales of alcoholic liquor in excess of or contrary to the powers granted in the license for the premises, in violation of the Liquor Control Act of the State, or in violation of any other statute of the State;
- (h) Serve any alcoholic beverage to any person for consumption on the streets of the City, except as permitted by a valid Sidewalk Cafe or Parklet permit issued pursuant to Chapter 1026 or Chapter 1034 of these Codified Ordinances, in any theater or in or upon any other public place in the City, or to

any persons in motor vehicles on such streets;

- (i) Permit any person to consume any alcoholic liquor on the licensed premises unless such alcoholic liquor has been purchased on the premises or is in conjunction with a bona fide product sampling in an amount and manner consistent with 235 ILCS 5/6-31 and with five days written notice to the City Clerk, if such product sampling is done by someone other than the licensee;
- (j) Sell alcoholic liquor to any person under the age of twenty-one;
- (k) Sell alcoholic liquor to any intoxicated person;
- (l) Employ or permit any person under the age of twenty-one to draw, pour or mix alcoholic liquor;
- (m) Have in his or her possession, or have registered in his or her name, a Federal Wagering Stamp or Stamps, as provided by the Revenue Acts of the United States of America;
- (n) Permit any person under twenty-one years of age, other than an employee, in or on any licensed premises at any time, except premises on which alcoholic liquor is sold only for off-premises consumption, unless such person under twenty-one years of age is accompanied by his or her parent, legal guardian or spouse who is at least twenty-one years of age, or unless such person is otherwise permitted in a portion of the Licensed Premises pursuant to the provisions of Section 608.08.
- (o) Prevent or refuse the inspection of the licensed premises by the Liquor Commissioner, or his or her designated agent, or any police officer of the City, without a search warrant, at any time, for the purpose of enforcing this chapter.
- (p) Permit any person to carry an alcoholic beverage in an open container from the licensed premises onto public property or private property other than the licensed premises.
- (q) Except for holders of Class R, Class LR, Class CR, and Class H Licenses only, employ or permit any person under the age of twenty-one to sell or serve alcoholic liquor. Holders of Class R, Class LR, Class CR, and Class H Licenses may not employ or permit any person under the age of eighteen to sell or serve alcoholic liquor.
- (r) Permit any person serving or selling alcoholic liquor at the licensed premises to be visibly impaired or intoxicated on the licensed premises while on duty.
- (s) Permit any person to sell or serve alcoholic liquors without being properly BASSETT certified as required by the State of Illinois. Proof of certification of any person selling or serving alcoholic liquor shall be available on site and produced upon request by any law enforcement officer.
- (t) Permit any illegal, disorderly activities or crowd on or about the premises as described in 608.14.
- (u) Sell any alcoholic liquor using a drive-up or drive-through window, unless said window is equipped with a recording security camera of a type and placement approved by the Chief of Police, and maintained and operated in a manner consistent with Section 874.13(c) of these Codified Ordinances.

608.03 OFFENSES BY EMPLOYEES OF LICENSEES.

It shall be unlawful for any bartender, agent or employee of a licensee to commit any of the acts prohibited in Section 608.02.

608.04 POSSESSION OR CONSUMPTION IN PUBLIC PLACES.

It shall be unlawful for any person to carry or possess any alcoholic beverage, other than in the original package and with the seal unbroken, or to consume any alcoholic beverage upon any public street in the City, or in any theater or in or upon any other public place in the City, a sidewalk café or parklet permit utilized in conjunction with Chapter 806 (Alcoholic Liquor Sales), and the specific premises licensed for a Special Event in compliance with the provisions of Chapter 806 regarding temporary liquor licenses.

608.05 CONSUMPTION ON LICENSED PREMISES.

It shall be unlawful for any person to consume any alcoholic liquor on any licensed premises unless such alcoholic liquor has been purchased from the licensee or is a product sampling under 235 ILCS 5/6-31 and Section 608.02(i).

608.06 PERMITTED HOURS OF SALES.

(a) For holders of licenses authorizing sales for off premises consumption only, liquor sales are permitted during the hours of 7:00 a.m. to 1:00 a.m. unless excepted under subsection (b) below. For holders of all other classes of liquor licenses, liquor sales are permitted during the hours of 7:00 a.m. to 1:00 a.m. on Sunday through Thursday, inclusive; and between 7:00 a.m. and 2:00 a.m. on Fridays and Saturdays, inclusive, unless excepted under subsection (b) below.

(b) Notwithstanding any of the provisions of this section all license holders may be open for the retail sale of alcoholic liquors until 2:00 a.m. on the following special dates, when falling on a Sunday through Thursday in any given year: New Year's Eve,, Superbowl Sunday, Memorial Day Eve, July 4th Eve, July 4th, Labor Day Eve, Thanksgiving Eve, Christmas Eve or Christmas Day. As used herein, "Eve" shall refer to the calendar day commencing immediately prior to the referenced holiday and extending to 2:00am on the referenced holiday.

(c) All times specified herein shall be determined in accordance with the prevailing time under laws of the State.

(d) Except for holders of licenses authorizing sales of alcoholic liquor for off premises consumption only, no licensee shall permit or allow any person, except those authorized, to remain on or within the licensed premises before one-half hour prior to permitted hours of sales or after one-half hour after permitted hours of sales . As used in this section, "authorized persons" means the licensee, his or her spouse, his or her employees or any independent contractors summoned to the premises by any of the above for purposes of rendering construction or repair services to the licensed premises or to any equipment utilized for the operation of such licensed premises.

608.07 PURCHASE BY INTOXICATED OR UNDERAGE PERSONS.

It shall be unlawful for any person under the age of twenty-one years to purchase any alcoholic liquor. It shall be unlawful for any intoxicated person to purchase alcoholic liquor. It shall be unlawful for any person under the age of twenty-one years to misrepresent his or her age or for any other person to misrepresent the age of such person who is under the age of twenty-one years for the purpose of inducing any licensee, agent or employee to sell or give any person under the age of

twenty-one years any alcoholic liquor. Each licensee shall display in a prominent place in the licensed premises a card or sign warning persons under the age of twenty-one years of penalties for violations of any of the provisions of this section.

608.08 UNDERAGE PERSONS ON LICENSED PREMISES.

It shall be unlawful for any person under the age of twenty-one years to be in or on any premises licensed to sell alcoholic liquor for on premises consumption, unless such person is accompanied by his or her parent, legal guardian or a spouse who is at least twenty-one years of age. Likewise, it shall be unlawful for any parent or legal guardian to knowingly permit his or her child or ward under the age of twenty-one years to go upon or into any licensed premises in violation of the provisions of this section.

This subsection shall not apply to:

- (a) The Licensed Premises of any licensee holding a current and valid R, LR, M or H license;
- (b) Any Licensed Premises being currently served by a holder of a CR license;
- (c) Any Licensed Premises, or portion thereof, being served by the holder of a duly issued Temporary License, if specifically permitted in the issuance of the Temporary License, and as provided for therein;
- (d) Any portion of the Licensed Premises of a licensee holding a Class A, K, or W License, if such portion of the Licensed Premises is:
 - (i) Clearly delineated as reserved for a private function;
 - (ii) Access to such portion of the Licensed Premises is not accessible to the general public without invitation;
 - (iii) Access to the portion of the Licensed Premises being utilized for the private function is actually made only via a separate entrance which does not require entrance through any area in which alcoholic liquor is being served to the general public; and
 - (iv) Access to the public area of the Licensed Premises is not made directly from the area reserved for the private function.

608.09 PURCHASE FOR PERSONS UNDER MINIMUM AGE.

It shall be unlawful for any person to purchase for, offer to purchase for, sell, offer to sell, dispense or give away any alcoholic liquor to any person under the age of twenty-one years.

608.10 POSSESSION BY PERSON UNDER MINIMUM AGE.

It shall be unlawful for any person under the age of twenty-one years to have in his or her possession any alcoholic liquor.

608.11 CONSUMPTION BY PERSONS UNDER MINIMUM AGE.

It shall be unlawful for any person under the age of twenty-one years to consume any alcoholic liquor.

608.12 RESERVED.

608.13 REVOCATION OR SUSPENSION OF LICENSES.

In addition to the penalty provided in Section 608.99, any license issued to any person under Chapter 806 of the Business Regulation and Taxation Code may be revoked or suspended, as provided therein, if such person is convicted of or pleads guilty to a violation of any of the provisions of this Chapter.

608.14 ILLEGAL, DISORDERLY ACTIVITIES OR CROWDS ON OR ABOUT PREMISES.

(a) No licensee under the provisions of this chapter or Chapter 806, nor any officer, associate, member, representative, agent or employee of such licensee shall engage on or about the licensed premises, or upon any parking lot which is utilized by the licensee to fulfill its parking requirements, in any activity or conduct or permit any other person to engage in any activity which is prohibited by any ordinance of the City or law of the State or the United States. Every licensee under this chapter or Chapter 806, shall at all times keep a good and orderly house.

(b) Fees will be assessed at the rate of one hundred twenty dollars (\$120.00) per officer hour, in hourly increments, for any portion thereof, with a minimum charge of one hour for Police Department responses to a licensed establishment as a result of disorderly activities on or about the premises, including, but not limited to crowd and/or traffic control. No fee shall be assessed if two or fewer police officers respond to the licensed premises or adjacent property. No fee shall be assessed for the first qualifying incident in each calendar year. Nothing in this subsection shall abrogate a licensee's duty to fully comply with Section 608.15.

(c) All such City police responses shall be documented in a Police Department report by a responding officer and include the reason for police response to the scene, the time of arrival at and departure from the scene, and a list of all City Police Department responding officers. Said fees are due and payable upon written demand from the City Legal Counsel. No liquor license shall be renewed upon expiration of the same unless all fees assessed pursuant to this section are paid in full.

608.15 REPORTING OF INCIDENTS TO POLICE; TELEPHONE REQUIRED ON PREMISES.

(a) Each licensee under this chapter or Chapter 806 and each of his agents and employees shall promptly report to the Police Department of the City any incident occurring in, on or about the licensed premises and in his knowledge or view relating to the commission of any crime, including any violation of this chapter or Chapter 806, and shall truthfully and fully answer all questions and investigations of any identified police officer who makes inquiry concerning any persons in or about the licensed premises any events taking place in and about the licensed premises, and cooperate fully in any such investigation including the giving of any oral or written statements, and any other physical evidence in their possession or control, including but not limited to: photographs, videotape, compact disc, and digital video disc depictions of the events in question, at such reasonable times and in such reasonable locations to any police officer engaged in said investigation.

(b) Each licensee shall maintain on each licensed premises not less than one telephone in operating order, which phone must be within the easy access of the bartender or other responsible person in charge of the premises at all times for the purpose of reporting to the Police Department incidents occurring on or about the licensed premises.

608.99 PENALTY.

Any person violating any of the provisions of this chapter shall be fined not more than seven hundred and fifty dollars (\$750.00). The levy or payment of any penalty herein provided for shall not be deemed a waiver of the power of the Liquor Commission to revoke or suspend any license. Each day any offense continues shall be deemed a separate offense.

CHAPTER 806 ALCOHOLIC LIQUOR SALES

806.01 DEFINITIONS

All definitions contained in the "Liquor Control Act" of the State (235 ILCS 5/1-1 *et seq.*, as amended from time to time) are hereby incorporated herein by reference, as if set forth fully herein. Reference is hereby particularly made to the definitions in such Act of "spirits," "wine," "beer," "alcohol," "alcoholic liquor," "brew pub," "limited wine manufacturer," "wine-maker," "club," "original package," "retailer," "caterer retailer," "sell at retail," "sale at retail," "sale," "to sell," "restaurant" and "hotel."

In addition to the definitions provided in such Act, the following words and phrases shall be defined as follows, unless the context requires otherwise:

- (a) "Authorized agent" means a full-time employee who is regularly on the premises during hours when the business is open and is designated as the authorized agent for any licensee for purposes of any notification required to be made pursuant to this Chapter or Chapter 608 of these Codified Ordinances.
- (b) "Wine Maker Retailer" means a person who is either a first-class or second class wine maker, is engaged in the making of less than 50,000 gallons of wine annually, and is authorized to serve wine at retail only at a specified location or locations expressly approved by the State of Illinois.
- (c) "Craft Distiller" means a person who is engaged in the manufacture of less than 100,000 gallons of spirits by distillation per year, and the incidental storage of such spirits.
- (d) "Licensed premises" means the premises described and identified in the particular application for license, being one business unit consisting of a room, rooms or a building under the control and jurisdiction of a licensee, by ownership or lease, not leased to another and being no more extensive than the premises in which the business of the licensee is actually conducted, unless otherwise expanded or defined pursuant to the provisions of this Chapter. Except as otherwise approved by the Liquor Commission for specific premises, "licensed premises" excludes any outside areas such as patios, open porches, roof tops, balconies, stoops, sidewalks, yards, driveways, parking lots and similar outside areas.
- (e) "Market" means a self-service retail market which sells foods, convenience goods and household merchandise, arranged in open mass display, and in which the sale of alcoholic liquor does not comprise a majority of goods sold in terms of either floor area or dollar value.
- (f) "Package liquor store" means a retail store in which alcoholic liquors comprise the majority of goods sold in terms of both floor area and dollar value.
- (g) "Person" includes individuals, limited and general partnerships, voluntary or fraternal associations, clubs, limited liability companies, corporations, and subdivisions of local government.
- (h) "Prohibited hours" means the hours during which the licensed premises shall be closed to the public and patrons and during which no alcoholic liquor shall be sold or consumed on the licensed premises.
- (i) "Rental hall" means a place available for rental for a fee by members of the general public. The building must be designed to accommodate a minimum of three hundred and fifty (350)

persons safely for such uses as wedding celebrations, parties, receptions or dances by private clubs, individuals or other entities.

(j) "Resident manager" means a full-time employee who is regularly on the premises during hours when the business is open and is responsible for conducting the business of a licensee. The resident manager may, but need not, be the same person as the Authorized Agent designated by a licensee.

(k) "Restaurant" means any public place meeting the definition of a "restaurant" pursuant to the Act, but shall not be deemed to include any location which is not licensed by Stephenson County as a Category I or Category II food service establishment.

(l) "Off premises sales" shall not be deemed to include the act of the operator of a restaurant or winery in permitting a patron to remove a partially consumed bottle of wine from the premises, so long as such removal complies with the provisions of 235 ILCS 5/6-33.

In the event of a conflict between the definitions set forth in this section and a definition used elsewhere in these Codified Ordinances, the definition established in this section shall be used exclusively for purposes of interpreting the provisions of this Chapter or Chapter 608 of these Codified Ordinances.

806.02 LICENSES GENERALLY.

(a) Required. No person shall sell, keep, offer or expose for sale, or furnish any alcoholic liquor for beverage purposes for sale at retail, within the corporate limits of the City, without being first licensed to do so by the City.

(b) Issuance; Duration. A license shall be purely a personal privilege, issued only in the name of the person conducting business upon the licensed premises, valid for not to exceed one (1) year after issuance, unless sooner revoked, and shall not be alienable or transferable, voluntarily or involuntarily, except as provided in this Chapter. Such license shall permit the sale of alcoholic liquors only upon the Licensed Premises, and only according to the rights and limitations granted by the particular class of license granted.

(c) Records. The City Clerk shall keep a complete record of all licenses issued, surrendered, canceled, transferred, changed as to location, revoked or suspended, shall furnish the Chief of Police with a copy thereof, and shall promptly provide the Chief of Police with notice of any changes in status.

(d) Disposition of Fees. All fees received for the payment of licenses under this chapter shall be deposited in the General Corporate Fund of the City.

806.03 CLASSIFICATION OF LICENSES

The following classes of liquor licenses are available to qualified persons:

Tier I Licenses

Class A – Tavern License (Sale of Alcoholic Liquors for On-Premises Consumption)

Class A licenses shall authorize the sale of alcoholic liquor for consumption on the Licensed Premises only, in the original package or otherwise. Class A Licenses shall only be issued for locations where the sale of alcoholic liquors, for consumption on the premises, is the primary business, and shall no no event be issued to a market or other type of operation where the sale of alcoholic liquor is incidental to the sale of other goods or services.

Class R – Restaurant License (Sale of Alcoholic Liquors in Conjunction with Sales of Prepared Food – Category I or Category II Food Service)

Class R licenses shall authorize the sale of alcoholic liquor for consumption on the Licensed Premises only, in conjunction with the operation of a restaurant. Class R licensees shall be required to provide at the time of initial application, and upon each renewal of said license, proof of compliance with all applicable Federal, State and County sanitation and public health rules governing the operation of food service establishments generally, and specifically including proof of licensure by Stephenson County as a Category I or Category II food service establishment. Provided, that if a Class R License is sought by a licensee holding a Category II food service license, proof of on site preparation of raw foods, consisting of more than mere assembly of processed or prepackaged foods, shall be required, and the issuance of classification shall be subject to review at the discretion of the Liquor Commission. Any licensee currently holding a valid Class A-R license at the time of adoption of this ordinance, issued under the prior version of this Chapter 806, shall be deemed qualified to receive a Class R License for the license year following the date of enactment hereof.

Class LR – Limited Restaurant License (Sale of Beer and Wine in Conjunction with Sales of Prepared Food – Category I or II Food Service)

Class LR Licenses shall authorize the sale of beer and wine only for consumption on the Licensed Premises only, in conjunction with the operation of a restaurant. Class LR licensees shall be required to provide at the time of initial application, and upon each renewal of said license, proof of compliance with all applicable Federal, State and County sanitation and public health rules governing the operation of food service establishments generally, and specifically including proof of licensure by Stephenson County as a Category I or Category II food service establishment.

Class P – Package Sales License (Off-Premises Package Sales)

Class P Licenses shall authorize the sale of alcoholic liquor for off-premises consumption only by a licensee who operates a market or package liquor store at the Licensed Premises.

Class K – Brew Pub or Wine Retailer License

Class K Licenses shall authorize the sale of alcoholic liquor, for consumption on the Licensed Premises by a brew pub or a wine retailer. A Class K License shall also authorize off-premises package sales of beverages actually produced and placed into containers at the licensed location without the need for a supplemental off premises sales license.

Tier II Licenses

Class W – Beer and Wine Only (On-Premises Sales)

Class W Licenses shall allow the sale of beer and wine only, for consumption on the Licensed Premises.

Class WP – Beer and Wine (Off-Premises Package Sales)

Class WP Licenses shall authorize the sale of beer and wine only for off-premises consumption only by a licensee who operates a market at the Licensed Premises.

Tier III Licenses

Class CR – Caterer Retailer License

Class CR Licenses shall authorize the sale of alcoholic liquor by a caterer retailer for consumption incidental to food service at the Licensed Premises. A cash bar may also be operated by a caterer retailer at a site where food is being catered. For purposes of an event catered by a CR licensee at which liquor is intended to be served, the Licensed Premises for said event shall be such location as is identified in writing to the City Clerk by the licensee, or forms provided by the City Clerk, no less than ten (10) calendar days prior to the date of the event. The Liquor Commissioner may, at his or her sole discretion, require reasonable restrictions or requirements concerning crowd control, access control, and pedestrian and vehicular traffic control at a particular event. If the Liquor Commissioner elects to do so, said restrictions shall be communicated, in writing, to the licensee no less than five (5) calendar days after receipt of the notice contemplated hereby, or said restrictions shall be deemed waived.

Class H – Rental Hall License

Class H Licenses shall authorize the sale of alcoholic liquor by the operator of a rental hall for consumption incidental to food service at the Licensed Premises.

Tier IV Licenses

Class M – Park District License

Class M Licenses shall authorize the sale of beer and wine at retail in buildings of golf courses owned by park districts under the Illinois Park District Code in connection with the operation of an established food-serving facility during times when food is dispensed for consumption on the premises.

806.03A TEMPORARY LICENSES

Temporary Licenses authorizing the sale of alcoholic liquors at a location, or by a person, not otherwise authorized or licensed, may be obtained pursuant to the provisions of this section and in accordance with the rules and regulations established from time to time by the Illinois Liquor Control Commission.

(a) The following rules shall be applicable to all Temporary Licenses.

(1) An application for the temporary license shall be filed with the City Clerk. Except as otherwise expressly set forth herein, said application process shall be governed by the general provisions of Chapter 802, Licensing in General, of these Codified Ordinances. Provided, that where there is any conflict between this Section and the provisions of Chapter 802, the provisions of this Section shall supercede those of Chapter 802. The application required shall, at a minimum, include and/or be supported by documents or sworn statements as follows:

- (i) The name of the applicant, address for which the license is sought;
- (ii) The dates and times the license is to be effective;
- (iii) If the applicant is not an individual person, the name and contact information of the individual having authority to make decisions on behalf of the applicant concerning the application;
- (iv) A reasonably detailed diagram of the area to be used, including location of service of alcoholic beverages, location of any temporary structures or tents, designated access points, and any planned fencing or barriers;
- (v) Adequate written proof of authority to use the proposed site from the owner or tenant having possession of the property;
- (vi) A statement setting forth the purpose for the issuance of the temporary license;
- (vii) A statement setting forth arrangements for crowd control, access restrictions, and pedestrian and vehicular traffic control;
- (viii) A Certificate of Insurance showing evidence of dram shop and liability insurance coverage in an amount not less than one million dollars (\$1,000,000.00) per occurrence or two million dollars (\$2,000,000.00) combined single limits.

(2) The hours and location for which any Temporary License is in effect shall be deemed a Special Event as defined in Chapter 1030 of these Codified Ordinances, shall specifically be deemed an "Assembly" for purposes of that Chapter, and shall be subject to the approval requirements of that Chapter. Application shall be made for a Special Event at the same time as application is made for the Temporary License hereunder, and failure to obtain the Special Event Permit prior to the effective date of the Temporary License shall void said Temporary License. The Clerk may, but need not, establish a combined form for application which satisfies the requirements of both this Section and Chapter 1030. Upon payment of the fee for the Temporary License, the Special Event permit fee shall be waived.

(3) No Temporary License issued by the City shall be effective until and unless a Special Event Retailer's License is issued by the Illinois Liquor Control Commission for the same dates, times, and location approved hereunder.

(4) No person shall be issued a Temporary License which is effective for more than five (5) consecutive days, nor shall any person be issued Temporary Licenses which are effective on more than fifteen (15) days during any calendar year.

(5) The Licensed Premises for purposes of any Temporary License issued hereunder shall be the location, or any specified portion thereof, which has been approved by the Liquor Commission.

(6) A temporary license issued hereunder shall not permit any person to serve or sell any type of alcoholic liquor unless such sales are permitted by such licensee under its license granted pursuant to Section 806.03 hereof, or similar provision of a foreign jurisdiction which issued a license for retail sales of alcoholic liquor (the "Primary License"). No person shall sell any package liquor for consumption off-premises pursuant to a temporary license unless otherwise permitted under its Primary License or an associated supplemental license.

(b) Types of Temporary Licenses

(1) A Class T-1 Temporary License shall authorize the sale of alcoholic liquor at the Licensed Premises by:

- (i) A not-for-profit entity which has been recognized by the Internal Revenue Service as a qualified tax-exempt organization under Section 501(c) of the Internal Revenue Code;
- (ii) A governmental unit or political subdivision whose boundaries contain any property within the corporate limits of the City; or
- (iii) A Church or other religious organization keeping a permanent house of worship within the corporate limits of the City.

(2) A Class T-2 Temporary License shall authorize the sale of alcoholic liquor at the Licensed Premises by the holder in good standing of any class of license granted hereunder which authorizes the sale of any alcoholic liquor at retail.

(3) A Class T-3 Temporary License shall authorize the sale of alcoholic liquor at the Licensed Premises by the holder in good standing of a State of Illinois Liquor License which authorizes the sale of alcoholic liquor at retail in a jurisdiction outside the corporate limits of the City.

806.04 SUPPLEMENTAL LICENSES

Holders of a license issued pursuant to this Chapter (herein referred to as the "Primary License") may be eligible for supplemental licenses as set forth in this Section, pursuant to approval by the Commission and payment of the requisite fee as from time to time established.

(a) Application for any supplemental license shall be made to the City Clerk, on forms provided for such purpose, and may be made at any time. The grant of a supplemental license shall be at the discretion of the Liquor Commission, pursuant to the same procedures as for a primary license. A supplemental license shall renew with, and according to the same process as, the Primary License.

(b) The award of any supplemental license shall be indicated by an endorsement on the face of the Primary License.

(c) The award of any supplemental license shall not affect the types of alcoholic liquor allowed to be sold at retail by any licensee pursuant to the Primary License.

(d) The following supplemental licenses shall be available to holders in good standing of a Primary License issued by the City of the following classifications: Class A, Class K, Class R, Class LR, and Class W.

(1) Supplemental Package Sales – A supplemental license for the sale of alcoholic liquor for consumption off of the Licensed Premises may be awarded to a person who is the holder in good standing of a Class A, R, LR, or W License. Notwithstanding anything to the contrary set forth in Section 806.04(c), the holder of an LR or W License may be issued a Supplemental Package Sales license for the package sale of any kind of alcoholic liquor, provided:

(a) A Class W licensee shall pay an additional one-time fee at the time of initial issuance of the Supplemental Package Sales license equal to the difference between the current issuance fee for a Tier I and a Tier II license, if applicable; and

(b) Any package sales of alcoholic liquor other than wine and beer shall be made from displays which are not accessible to the public and only accessible to employees of the licensee.

(2) Supplemental Video Gaming – A supplemental license for the operation of video gaming devices may be granted to a person who is the holder in good standing of a Class R or LR License, or who is the holder of a valid license with an "A-V" designation as of the date of enactment of this Ordinance issued by the City pursuant to the prior Chapter 806 of these Codified Ordinances. In addition to the standard requirements for issuance and maintenance of a license hereunder, any licensee applying for a Supplemental Video Gaming license shall further be required to comply at all times with the following provisions:

(i) A restaurant shall be operated on the Licensed Premises at all hours during which video gaming is available to the public.

(ii) The Licensed Premises shall have a minimum seating capacity of twenty (20) persons, with seating available for each person at least up to said capacity, and not including any seating offered in the area reserved for video gaming. The portion of the Licensed Premises reserved for dining shall provide a

minimum of ten (10) square feet per seat offered to customers.

(iii) No more than fifty percent (50.00%) of the gross revenue to any licensee having a supplemental video gaming license shall be derived from gaming revenues. The gross revenues from sales of food, and beverages (including but not limited to alcoholic liquor) by a licensee must be greater than the the licensee's revenues derived from video gaming during the same period, as determined by reports from the Illinois Gaming Board for at least 3 of the last 5 years on record. If a licensee has been in business less than five (5) years, a showing that the licensee has met the requirements of this Section in no less than 50% of the years for which data is available shall suffice for purposes hereof. Failure to meet the requirements of this Section in the first full year of operation shall be grounds for disqualification for a Supplemental Video Gaming license in succeeding years, unless a good faith showing of an attempt to comply with this Section can be made by the Licensee. A certification of compliance with this section, signed by the licensee's accountant, shall accompany any renewal application by any licensee holding a supplemental video gaming license. If the certification is provided by a Certified Public Accountant, it shall be deemed valid. In all other events, the Liquor Commission reserves the right to request any such further verification of the accounts provided as it deems necessary, including, but not limited to, an independent evaluation conducted by a Certified Public Accountant, at the licensee's sole expense, as a prerequisite for issuance of a supplemental video games license for the following year.

(3) Supplemental Outdoor Sales - A supplemental license for outdoor sales and service of alcoholic liquor may be granted to a person who is the holder in good standing of a Class A, K, R, LR, or W License. If a supplemental license is awarded by the Liquor Commission under this subsection, the Licensed Premises of the licensee shall be deemed expanded to include the area in which outdoor sales have been approved while such area is in fact in use. In addition to the standard requirements for issuance and maintenance of a license hereunder, a licensee applying for a Supplemental Outdoor Sales license shall further be required to comply at all times with the following provisions:

(i) The area in which outdoor sales are to occur must be contiguous to, and accessible from, the building which is the Licensed Premises for purposes of the Primary License. Said building shall be referred to herein as the "Primary Structure".

(ii) Access to the area in which outdoor sales occur shall either be:

(A) Exclusively by means of passing through the Primary Structure; or

(B) Through an access point which is within an unobstructed line of sight from the area in which outdoor sales of alcoholic liquor are occurring.

(iii) The area in which outdoor sales are to occur must be delineated by a clear and unambiguous physical barrier in a form approved by the Chief of Police and the Fire Chief. If said barrier is to be of a temporary or semi-permanent nature, the barrier shall be in place and intact at all times when outdoor sales are occurring.

(iv) No outdoor sales or service of alcoholic liquor shall be allowed after 10:00pm on any Sunday through Thursday, inclusive, or after 11:00pm on any Friday or Saturday.

(v) No smoking shall be allowed in the designated area, or within fifteen (15) feet thereof.

(vi) No outdoor sales of packaged goods shall be allowed.

(vii) Any holder of a Sidewalk Cafe permit or Parklet permit issued under Chapter 1026 or Chapter 1034 of these Codified Ordinances shall be required to comply with the provisions of those Chapters, as well as the specific provisions of any issued permit in relation to the sales of alcoholic liquors.

(e) Any violations of the requirements set forth in this Section with respect to a supplemental license shall be deemed a violation of the primary License for all purposes of this Chapter.

(f) Nothing contained herein, nor any approval granted by the Liquor Commission pursuant to this Section shall be deemed to relieve any person of its obligation to comply with all relevant zoning and building codes applicable to a location or structure.

806.05 LICENSE YEAR; FEES FOR LICENSES AND SUPPLEMENTAL LICENSES

The effective license year for any license or supplemental license issued hereunder shall begin at 12:01 am CDT on July 1 and shall end at 11:59pm CDT on June 30 in the following calendar year.

Fees for the various classifications of licenses and supplemental licenses as provided in this Chapter shall be as provided from time to time by Council. Copies of the latest schedule of fees may be obtained, at no cost, from the City Clerk. This schedule of alcoholic liquor sales license rates shall remain in effect until changed by City Council.

	Issuance Fee	Annual Fee
Any Tier I License	\$10,000.00	\$1,000.00
Any Tier II License	\$ 5,000.00	\$ 750.00
Any Tier III License	\$ 1,250.00	\$ 250 .00 0-15 events*
		\$ 500.00 16-30 events
		\$ 750.00 31 or more events
Any Tier IV License	\$ 500.00	\$ 500.00
T-1 Temporary License	\$ 25.00/event	
T-2 Temporary License	\$100.00/event	
T-3 Temporary License	\$250.00/event	
Supplemental License – Package Sales	\$250.00	
Supplemental License – Video Gaming	\$250.00 plus	
	\$100.00 per terminal	
Supplemental License – Outdoor Sales	\$100.00	

* Refers to number of events held where liquor is served within City limits in prior year. For the first year, the number of events shall be deemed zero.

The issuance fee shall be payable upon the issuance of any new license, and must be paid in full in addition to the annual fee for the first year of licensure, before any license shall issue. The annual fee payable for any license or supplemental license during the first year of operation shall be prorated based upon the number of days remaining in the license year. The fee payable for the first year shall equal the regular annual fee payable for the particular class of license or supplemental license multiplied by the quotient derived by dividing the number of days remaining in the license year as of the date of issuance of the license or supplemental license by 365.

Fees paid for issuance of any license which is denied by the Liquor Commission shall be refunded to the applicant, in full, within seven (7) days of such denial.

806.06 PERSONS INELIGIBLE FOR LICENSES

No license of any class shall be issued to any person to whom issuance of a license is prohibited by Section 6-2 of the Illinois Liquor Control Act (235 ILCS 5/1-1 *et seq*), as hereafter in force and as from time to time amended.

806.07 APPLICATIONS FOR ISSUANCE OR RENEWAL OF LICENSES

(a) Applications for issuance of a new license or supplemental license shall be made to the Liquor Commission, in writing, on forms provided for such purpose by the City Clerk. Each such application shall also include, at a minimum:

(i) A fully completed Application for State of Illinois Retailer's Liquor License, or other such State of Illinois application relevant to the classification of license or supplemental license sought, excepting only the local license information, and all attachments required therefor.

(ii) Name of authorized agent and resident manager, along with valid state-issued identification for each and designated contact information;

(iii) Proof of site control, in the form of a deed in the name of the applicant for the licensed premises, or a written lease signed by the owner of the licensed premises showing the applicant as lessee.

(iv) Certificate of Insurance as required by this Chapter;

(v) If application is being made for an R or LR license, a copy of a current Stephenson County food service license.

(vi) If application is made for outdoor sales, a detailed diagram of the proposed area in which such sales will be allowed, including all access points, location and description of any proposed physical barriers, and location of beverage service.

(vii) Certified funds in an amount equal to all fees payable for issuance of the classification of license or supplemental license sought.

(vii) Any additional information determined to be necessary for the Commission to make a decision as to the issuance of any license.

(b) Applications for renewal of existing licenses or supplemental licenses shall be submitted to the City Clerk, on forms provided for such purposes, no later than June 1 in any calendar year. Each renewal application shall also include, at a minimum:

(i) A statement that all information on file with the City Clerk is true and correct as of the date of application for renewal. If any material changes have occurred during the most recent license year which have not otherwise been reported, such change shall be indicated on the renewal application.

(ii) A listing of all owners of the licensed establishment, including names, addresses, and percentage ownership interests.

(iii) If a corporation or limited liability company, a copy of the most recent annual report filed with the Secretary of State, along with a current Certificate of Good Standing issued thereby.

(iv) Payment of all sums due for renewal of the requested licenses or supplemental licenses.

(v) Any additional information determined to be necessary for the Commission to make a decision as to the renewal of any license.

(c) If any application is deemed insufficient by the Liquor Commission, or if any information can not be in good faith obtained by the applicant prior to the date of application, the Liquor Commission may, in its sole discretion, elect to:

(i) Grant a temporary license for a period of time not to exceed sixty (60) days pending correction of any application defects;

(ii) Grant a license which will be effective upon the satisfaction of one or more specific contingencies, without further action by the Liquor Commission;

(iii) Stay the consideration of the application until additional required information is provided or contingencies are met; or

(iv) Deny the application.

(d) During each license year, each licensee shall have a continuing duty to notify the City Clerk of any change in information provided on any application, within ten (10) days of any such change, including, but not limited to, any change in ownership, resident manager or authorized agent, or contact information of any such person or persons.

806.08 PROOF OF LIABILITY INSURANCE.

Each application for issuance or renewal of a license shall be accompanied by a certificate of insurance showing evidence of insurance against liability under the provisions of the Illinois Dram Shop Act, 235 ILCS 5/6-21 in no less than the minimum amount required thereby, and a policy of commercial general liability insurance with limits of not less than one million dollars (\$1,000,000) per occurrence, one million dollars (\$1,000,000) in the aggregate combined single limit, for bodily injury, personal injury and property damage liability.

806.09 TRANSFERS OF INTEREST.

(a) Nontransferability. No license, nor any interest in a licensed entity, shall be transferable by any licensee to any other person, but in certain circumstances as set forth in this Section, the issuance fee may be waived for a new license issued hereunder.

(b) Issuance Fees payable for a new license or supplemental license may be waived in the following circumstances:

(i) Any change in entity status involving the formation or dissolution of a corporation, limited liability company, or partnership, so long as the actual ownership and control of the licensed business is held by the same persons, in the same percentages, as prior to such entity change; or

(ii) The voluntary transfer, by gift or otherwise to an immediate family member of an interest in a licensed business. "Immediate family member", for purposes of this section means a persons in the same line of direct lineal descent, including grandparents, parents, children and grandchildren, but excluding siblings, aunts and uncles, and cousins.

The waiver of the issuance fee shall only be granted in the event application is made for issuance of a new license prior to the intended transfer, is and accompanied by such identification and documentary proof as may be required by the Liquor Commissioner to show that the transfer of ownership qualifies for an exemption set forth above.

(c) The following events shall not be deemed to create a change of ownership requiring issuance of a new license:

(i) The transfer of any ownership interest to or from a spouse, or any division of interests of spouses in relation to marital dissolution proceedings if ordered by a court of competent jurisdiction;

(ii) The transfer of any interest in a partnership, corporation or limited liability company to an immediate family member as the result of death of a person with a current ownership interest.

(iii) The transfer of less than fifty percent (50.00%) ownership interest in a licensed partnership, corporation, or limited liability company. For purposes of this Section, the relevant determination shall be whether, in the aggregate, more than fifty percent (50.00%) of the ownership interest in the licensed entity have been held by the same person or persons for at least the preceding thirty-six (36) months prior to the date of the most recent transfer. If any transfer or intended transfer would result in more than fifty percent (50.00%) of the overall ownership interests in the licensed entity having changed owners in the last thirty-six (36) months, the transfer shall be deemed to require issuance of a new license.

In the event of the occurrence of any of the exempt ownership transfers set forth above, the licensee shall immediately notify the City Clerk of the transfer, and shall provide such identification and documentary verification of the circumstances of such transfer as may be required by the Liquor Commissioner.

(d) Any transfer of interest which is not specifically authorized and **806.15 APPEALS.**

approved in the manner set forth herein hereby, or which is made to a person otherwise prohibited from holding a license, shall be deemed a prohibited transfer, and shall immediately void any license currently issued to the offending licensee.

806.10 CHANGE IN LICENSE CLASSIFICATION

A current licensee in good standing may request a change in license classification at any time, subject to the following:

- (a) Application shall be made to the Liquor Commission as if a new license were being sought, including all additional information which would be required of the new license type, if not otherwise already on file;
- (b) All requirements of the new license type shall be met; and
- (c) The Liquor Commission must approve such change.

If the new license classification is of the same or lower Tier of license, no Issuance Fee shall be payable for the new classification. If the new license classification is a higher Tier of license, then the Issuance Fee payable shall be equal to the Issuance Fee payable for the new Tier of license, less the Issuance Fee for the previous Tier of license held.

806.11 RESERVED.

806.12 RESERVED.

806.13 RESERVED.

806.14 REVOCATION OR SUSPENSION OF LICENSES.

In addition to the penalty provided in Section 806.99, any license may be revoked or suspended for cause by the Liquor Commission, after notice in writing served either by certified mail, return receipt requested, by personal service or by posting a notice on the licensed premises, and after formal hearing. A license may be suspended or revoked for any of the following reasons:

- (a) A violation of any provision of this Chapter;
- (b) Indebtedness to the City for any reason;
- (c) Conviction for a violation of the criminal laws of any state, other than minor traffic offenses, or forfeiture of a bond in connection therewith;
- (d) Misstatement or withholding of material information in an application for, or renewal of, a license or in connection with the transfer of any interest in a licensed business;
- (e) A violation of any laws of the United States relating to the sale of alcoholic liquor, or any of the provisions of the Illinois Liquor Control Act, or any ordinance enacted by the City Council, including this chapter, or any applicable rules and regulations adopted by the local Liquor Commission or by the State Liquor Commission;
- (f) Revocation or suspension of the license of the licensee by the State Liquor Commission; or
- (g) A violation of Chapter 682, "Sex Related Offenses," of these Codified Ordinances.

(a) Appeals from an order or action of the Liquor Commission may be taken as provided by law. Any appeal to the State Liquor Control Commission shall be limited to a review of the official record of the proceedings of the City Liquor Commission. Within five (5) days after the filing with the Liquor Commission of a notice of appeal, the appellant shall procure, at his or her own expense, a certified official record of the proceedings, taken and prepared by a certified shorthand reporter, and file the same with the Liquor Commission. No new or additional evidence shall be included. The Liquor Commission shall timely file the official record with the State Liquor Control Commission.

(b) It shall be the duty of the City Legal Counsel to attend all appeals from the Liquor Commission. The Liquor Commission shall have the power to make all necessary rules and regulations governing the hearings before the Liquor Commission.

806.16 SANITARY CONDITIONS OF LICENSED PREMISES.

All licensed premises shall be kept in a clean, ventilated and sanitary condition, and shall be kept in full compliance with the ordinance and statute regulating the condition of premises used for the storage or sale of food for human consumption. Any applicant operating a restaurant shall present proof of compliance with State and County sanitation and public health rules and regulations at the time of filing an initial application and any subsequent license renewal application, and shall operate at all times in compliance with said rules and regulations.

806.17 OUTDOOR SALES.

Outdoor sales or service of alcoholic liquor shall be prohibited, unless made by the holder in good standing of a valid supplemental license issued hereunder which authorizes such outdoor sales.

806.18 CHANGES IN LOCATION AND EXPANSION OF LICENSED PREMISES.

Should a current license holder wish to move an existing liquor license to another location or expand an existing licensed premises as described in the current application on file with the City Clerk's office, he or she may apply to do so through a new application with all pertinent changes. Such request shall be brought to the Liquor Commission for consideration in the same manner as an original application. The fee for such an application change shall be five hundred dollars (\$500.00).

806.99 PENALTY.

Any person violating any of the provisions of this chapter shall be fined not more than seven hundred and fifty dollars (\$750.00). The levy or payment of any penalty herein provided shall not be deemed a waiver of the power of the Liquor Commission to revoke or suspend any license. Each day any offense continues shall be deemed a separate offense.

CHAPTER 844

MECHANICAL AND ELECTRONIC GAMES AND DEVICES

(Selected Sections Only)

844.01 DEFINITIONS.

As used in this chapter:

(a) "Due notice" means written notice personally served on the person owning, leasing, keeping, possessing, using or distributing any mechanical, electric, electronic or computer game or device at least three days before the time of seizure of such mechanical, electric, electronic or computer game or device.

(b) "Mechanical, electric, electronic and computer games and devices" means any machine, device, apparatus, computer or mechanical, electric, electronic and computer games and devices, with or without score-keeping devices, counters, screen displays, noise makers, magnetic devices or time keepers, or any combination of the foregoing, located in a public place, which is or can be used for any game, test of skill, contest, entertainment, amusement, game of chance or any combination thereof, the operation of which is governed or controlled by the depositing in the machine, device, apparatus or computer of a coin, bill, token, slug, plate, disc, or any other form of currency, or by the payment or delivery of coins, bills, tokens, slugs, plates, discs or other currency or consideration to a proprietor, waiter, employee or other attendant in the public place and includes machines, devices, apparatuses or computers which may be used, singly or in combination, for playing any game, or for amusement, entertainment, tests of skill or games of chance, or any combination of the foregoing, singly or in combination with others. The term does not mean billiard tables, pool tables or pocket billiard tables, the operation of which is not governed or controlled by depositing coins or tokens in them. The term also specifically excludes any video gambling devices otherwise licensed by the State of Illinois and operated by an establishment for which a supplemental video gaming license is required under Chapter 806 of these Codified Ordinances.

(c) "Person" means any person, individual, firm, partnership, corporation or association, jointly or severally.

(d) "Public place" means any place, indoors or outdoors, of any person owning, managing, keeping or operating any commercial business, club or organization which, during business hours, is open to the public or to the membership of the club or organization.

844.02 LICENSES; LICENSE FEE; SUSPENSION AND REVOCATION.

(a) Required. Any person who displays any device described in Section 844.01(b) to be played or operated by the public at any place owned or leased by any such person shall, before he or she displays such device, file in the office of the City Clerk an application for a license for each such device, properly sworn to, setting forth his or her name and address, with a brief description of the device to be displayed and the premises where such device will be located, together with such other relevant data as the City Clerk may require. The application for a license shall be accompanied by the required license fee. Such license fee shall be paid to the City, and all moneys received under this chapter shall be paid into the General Corporate Fund of the City. The City Clerk shall supply and deliver to the qualified applicant a license and shall indicate the number of

devices and the year for which such license is issued. The license shall be prominently displayed on a wall in the room where the devices are located. No City license shall be issued for any premises unless the applicant first furnishes satisfactory proof that all devices located at any time upon such premises have been licensed by the State under the provisions of 35 ILCS 510/2. Any City license for a device shall expire concurrently with the termination or revocation of the State license for that device.

(b) License Fee. There is hereby imposed on the privilege of displaying any device described in Section 844.01(b) an annual fee of fifty dollars (\$50.00) for each premises and an annual operator license fee of two hundred dollars (\$200.00) for the twelve-month period commencing May 1 of each year. The first device displayed at any premises shall be permitted without any additional annual fee. A ten dollar (\$10.00) fee shall be paid annually for each additional device displayed at any premises.

All license fees imposed hereunder shall be due and payable on or before July 1 of each year. However, any license initially issued on or after January 1 of any year shall be issued upon payment of a one hundred dollar (\$100.00) operator license fee, the fifty dollar (\$50.00) premises fee and any applicable device fee.

Provided, the annual operator license fee and the annual premises fee shall be waived for any establishment which currently holds a valid Supplemental Video Gaming License issued pursuant to Chapter 806 hereof.

(c) Suspension or Revocation. The City Manager reserves the right to suspend or revoke any license granted under this section in the event that any fee is not promptly paid upon the due date at the City Clerk's office or in the event that any license is suspended or revoked by the State of Illinois.

844.03 GAMBLING DEVICES PROHIBITED UNLESS LICENSED BY STATE.

No device described in Section 844.01(b) shall be used as a game of chance if money or any other thing of value is staked, hazarded, bet, won or lost, nor shall any device be used or designed primarily for such gambling.

CHAPTER 874 REGULATION OF TOBACCO PRODUCTS

(Selected Sections Only)

874.13 SURVEILLANCE CAMERAS.

(a) Purpose. The City Council finds that tobacco dealers can become targets of opportunity for theft and violent crimes. The purpose of this section is to protect the public health, safety and welfare by increasing security for patrons and employees of these businesses by the use of surveillance cameras. Surveillance cameras will assist in deterring crime in and adjacent to such businesses and can provide information to assist the police in investigating crimes that do occur.

(b) Security requirements. Every tobacco dealer shall install a recording security camera of a type, number and placement approved by the Chief of Police of the City.

(c) Maintenance of equipment and recording media required. The Chief of Police shall have the authority to formulate reasonable rules to fully implement this Chapter.

(1) Type of camera required. The camera(s) must be capable of producing a retrievable image on VHS tape or digital media that can be made a permanent record and which can be enlarged through projection or other means. Existing systems may be of analog cameras and VHS recording media or a digital camera with a digital video recorder, such equipment shall have date and time stamp on the recorded video and shall be maintained in proper working order at all times during all hours of operation of the business. Any new or replacement equipment shall consist of a digital camera and digital video recorder.

(2) Signage required. Said establishments shall post a conspicuous sign which states that the property is under video surveillance.

(3) Minimum standards. Cameras shall be subject to periodic inspections by the Chief of Police or his or her designee.

(4) Management of VHS or digital media. Said establishments shall maintain and make available; video tapes; film or digital media, to the Freeport Police Department for periods of one month before reusing or destruction of media. VHS Videotapes and digital media shall be marked with the day of the month the material was used. Digital materials shall be marked with the time and date. The establishment shall retain one blank VHS tape, or digital media to be used if the other media is taken by the police department or if the other recording media fails. All VHS video tapes shall be replaced after being used 12 times. All digital recording media shall be replaced upon failure or at the manufactures recommended replacement schedule whichever occurs first.

(5) Knowledge of equipment required. All licensees are required to have present on the licensed premises, at all times during business hours, a person having operational knowledge of, and access to, any surveillance equipment installed on the licensed premises. Such knowledge will include but not be limited to setup, use and operation, viewing retrieval

and transfer of video to removable storage media.

(d) Exemptions. The following shall be exempt from this section (Surveillance Cameras) of this Chapter:

(1) Any premises where access by persons under the age of 18 years is prohibited by law;

(2) Holders of Class A liquor licenses;

(3) Holders of any other license for the sale of alcoholic liquor at retail issued pursuant to Chapter 806 hereof, if the Chief of Police makes a specific determination that sales of tobacco products is in a segregated area where access is limited to those over the age of 18.

(e) Effective date. This section shall take effect on January 1, 2014 for all existing businesses and immediately for all new business applicants.

CHAPTER 1252 ZONING (BUSINESS DISTRICTS)

(Selected Sections Only)

1252.01 B1-1 Restricted Retail Business District

(a) Permitted Uses. The following retail business and service uses are permitted, provided they are operated entirely within a building, except for off-street parking and loading facilities:

...

(49) Restaurants, validly permitted Sidewalk Cafes pursuant to Section 1026.17, validly permitted Parklets pursuant to Chapter 1034, tearooms or cafes, when the establishment is not of the drive-in type where food is served to occupants remaining in motor vehicles.

(b) Special Uses.

...

(10) Restaurants with outdoor serving areas, unless otherwise permitted as a Sidewalk Cafe or a Parklet pursuant to Chapter 1026 or 1034 of these Codified Ordinances.; however, if alcoholic beverages are to be served, such restaurant must be in compliance with Section 806.17 of these Codified Ordinances.

CHAPTER 1026 - SIDEWALKS

(Selected Sections Only)

SECTION 1026.17 – SALES; MERCHANDISE DISPLAYS; CAFES.

(a) No person shall sell, attempt to sell or cry out for sale at public auction any real or personal property upon any sidewalk, except in accordance with Chapter 1030 (Special Events).

(b) No person shall place any boxes, goods, wares or merchandise, for sale or show, upon any sidewalk located in the Central Business District, except in accordance with Chapter 1030 (Special Events).

(c) Notwithstanding anything to the contrary in this section, any person or other entity owning, leasing, managing or operating a cafe, restaurant or hotel restaurant upon property which abuts upon any street within the City may serve food and/or non-alcoholic beverages upon the sidewalk of such street in an area adjacent to its premises, a sidewalk cafe, provided that such sidewalk cafe is operated in compliance with all license requirements of the Illinois Department of Public Health and/or the Stephenson County Health Department governing food and beverage preparation and service. For the purpose of this section, the term "sidewalk cafe" means any portion of an eating and drinking place located on a public right-of-way that provides food or beverage service and is either enclosed or unenclosed, operated by any inn, restaurant, eating place, lunch counter, fast food outlet, catering service, coffee shop, diner, sandwich shop, soda fountain, soft drink parlor, ice cream parlor, tea room, delicatessen operation, hotel, motel or other facility licensed by the County Health Department where food and beverages are sold at retail in the City, or where food is prepared for immediate consumption and sold by a business which provides for on-premises consumption of said food, whether or not such facility is situated in

an established, permanent business location and whether or not such facility is in connection with some other endeavor or enterprise. The term "sidewalk cafe" does not include any drive-in restaurant, buffet, tavern, bar, cocktail lounge, movie theater, mobile food or beverage or ice cream vehicle, club, public or private school or boarding house. It shall be a violation of this chapter for a "sidewalk cafe" to serve alcoholic beverages, unless under an appropriate license for the premises as described in the current application on file with the office of the City Clerk under Chapter 806 (Alcoholic Liquor Sales), and in accordance and compliance with that chapter, as well as Chapter 608 (Alcoholic Liquor) and the zoning restrictions of Chapter 1252 (Business Districts).

(d) All sidewalk cafes shall be adjacent to an existing building and shall not unreasonably interfere with unimpeded pedestrian traffic flow, access to building entrances, pedestrian and traffic safety and aesthetic compatibility with the surrounding area. Specifically, all sidewalk cafes shall comply with the Americans with Disabilities Act.

(e) No person shall operate a sidewalk cafe without first having obtained a sidewalk cafe license from the Community Development Department of the City of Freeport. The fee for a sidewalk cafe license shall be one hundred dollars (\$100.00). No licensee shall assign or transfer any license issued under this chapter. Prior to receiving a license hereunder, all licensees hereunder shall execute a document agreeing to indemnify the City from any and all losses or claims related to or arising from the operation of said sidewalk cafe upon the public right-of-way.

(f) Prior to obtaining a sidewalk cafe license, the restaurant establishment operator shall provide the Community Development Department with proof of liability insurance coverage in an amount not less than five hundred thousand dollars (\$500,000) for personal injury for any one person on any one occurrence and five hundred thousand dollars (\$500,000) for property damage and naming the City of Freeport as an additional insured. Each applicant shall furnish proof of insurance evidencing commercial general liability insurance with limits of not less than one million dollars (\$1,000,000) per occurrence, two million dollars (\$2,000,000) in the aggregate combined single limits, for bodily injury, personal injury and property damage liability. The insurance shall provide for thirty (30) days prior written notice to be given to the Community Development Director if coverage is substantially changed, canceled or non-renewed. The City shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operations of an sidewalk cafe; and the licensee shall indemnify, defend and hold the City harmless from and against any and all losses, costs, damages or expenses to persons or property including property of the City, arising out of or claimed to have arisen out of such use. Furthermore, all users shall defend, at no cost to the City, any such claims or suits, provided that the City may, at its sole option, join in the defense of such claim or suit without relieving the user from any of its promises or obligations under this section. If alcoholic beverages will be served at the sidewalk cafe, the applicant shall provide proof of dram shop insurance for the cafe as required by Chapter 806 of these codified ordinances. Each permittee shall maintain the insurance coverage required under this section for the duration of the permit. The proof of insurance shall be presented to the Community Development Director prior to the issuance of a license. Failure of the permittee to maintain the insurance shall result in the revocation of the sidewalk cafe license. A separate policy of insurance shall not be required under this Section if the general policy of insurance

provided to satisfy the requirements of Chapter 806 or Chapter 1034 of these Codified Ordinances specifically addresses the requirements of this Section.

(g) The franchisee shall indemnify, protect and save harmless the City from and against losses and physical damage to property and bodily injury or death to persons, including payments made under any worker's compensation law which may arise out of, or be caused by, the erection, maintenance, presence, use or removal of attachments on poles within the City, or by any act of the licensee, its agents or employees.

(h) The term of an annual license shall be from May 1 in any given year to November 1 of that year. The annual license fee shall be one hundred dollars (\$100.00). The initial license term shall be from the date of the issuance of the license to the following November 1. The initial license fee shall be a proration of the annual license fee based on the months and fraction thereof of the term of the initial license. A licensee may renew his or her license by paying the annual fee not later than March 31 in any year, provided that, upon payment of such fee, favorable reports are thereafter obtained as required not later than April 20 in any year.

(i) A sidewalk cafe license shall be conspicuously displayed near the cash register area within the establishment. Such sidewalk cafe license shall be in such form and shall include such information as may be prescribed from time to time by the Community Development Department.

(j) There shall be no permanent fixtures attached to the sidewalk and all materials and accessories appurtenant to such a sidewalk cafe shall be removed on or before November 1 of each year.

(k) The Community Development Department shall be empowered to promulgate reasonable rules and regulations governing sales, merchandise displays and sidewalk cafes, provided that such rules and regulations are consistent with the provisions of this section. In addition to such regulations imposed by the Community Development Department, and without limitation thereon, the requirements of Section 1034.08 of these Codified Ordinances pertaining to Parklets are hereby incorporated as if set forth fully herein as pertaining to Sidewalk Cafes authorized under this Section.

CHAPTER 1034 - PARKLETS

1034.01 DEFINITION AND LICENSE REQUIRED.

(a) An "outdoor parklet" is defined as a space within a City right-of-way, excluding sidewalk areas, that is to be utilized to maintain movable outdoor furniture and will provide space for the consumption of food or beverage. Outdoor parklets shall be governed by the provisions of this chapter, and sidewalk areas of City right-of-way shall be governed by Section 1026.16 - Sales, Merchandise, Cafes. A parklet is a sidewalk extension that provides more space and amenities for people using the street. Usually parklets are installed on parking lanes and use several parking spaces. Parklets typically extend out from the sidewalk at the level of the sidewalk to the width of the adjacent parking space. The parklet premises will be defined as a space no less than one space and no greater than three parking spaces boarded by a removable barrier that can be of a nature determined by the owner.

(b) No person shall establish or utilize an outdoor parklet without first having obtained a license from the City. Such license shall either be a outdoor parklet license as described in this chapter.

(c) Any person or business desiring to utilize both sidewalk and street right-of-way shall be required to hold both licenses. The City Manager or his designee may designate the duration of the outdoor parklet license and any dates or times on which the license is not valid.

1034.02 APPLICATION.

(a) Application for an outdoor parklet license shall be in writing to the Community Development Director. The application shall state the following:

- (1) The size of the space or parking space(s) intended to be used or maintained along with a sketch of the same to include all dimensions of the outdoor parklet area, fencing, lighting, ingress and egress;
- (2) Description or photo of street furniture to be used;
- (3) Description of the food and drinks to be offered for sale;
- (4) Number of patrons proposed to be accommodated;
- (5) The purpose for which it is to be used and how the extended premises will be supervised and maintained;
- (6) A written plan detailing the measures which the applicant expects to take to ensure compliance with the conditions established hereby for a outdoor parklet license;
- (7) A statement by applicant that said applicant will, in consideration of being issued a license for the use of surface space, agree to hold harmless the City and the officers and employees of the City for any loss or damage arising out of the use; and
- (8) Such other information as the Community Development Director shall require.

(b) The Community Development Director shall be entitled to seek the opinion and advice of the City Engineer, Public Works Director, Police Chief, Fire Chief or any other City official in his review of an application.

1034.03 SALES OF ALCOHOL.

No alcohol may be served in an outdoor parklet unless under an appropriate license for the premises as described in the current application on file with the office of the City Clerk under Chapter 806 (Alcoholic Liquor Sales), and in accordance and compliance with that Chapter, as well as Chapter 608 (Alcoholic Liquor).

1034.04 INSURANCE AND SECURITY.

(a) Each applicant shall furnish proof of insurance evidencing commercial general liability insurance with limits of not less than one million dollars (\$1,000,000) per occurrence, two million dollars (\$2,000,000) in the aggregate combined single limits, for bodily injury, personal injury and property damage liability. The insurance shall provide for thirty (30) days prior written notice to be given to the Community Development Director if coverage is substantially changed, canceled or non-renewed.

(b) The City shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operations of an outdoor parklet; and the licensee shall indemnify, defend and hold the City harmless from and against any and all losses, costs, damages or expenses to persons or property including property of the City, arising out of or claimed to have arisen out of such use. Furthermore, all users shall defend, at no cost to the City, any such claims or suits, provided that the City may, at its sole option, join in the defense of such claim or suit without relieving the user from any of its promises or obligations under this section.

(c) If alcoholic beverages will be served at the curbside cafe, the applicant shall provide proof of dram shop insurance for the outdoor parklet as required by Section 806.115 of these codified ordinances.

(d) Each permittee shall maintain the insurance coverage required under this section for the duration of the permit. The proof of insurance shall be presented to the Community Development Director prior to the issuance of a license. Failure of the permittee to maintain the insurance shall result in the revocation of the outdoor parklet license.

(e) A separate policy of insurance shall not be required under this Section if the general policy of insurance provided to satisfy the requirements of Chapter 806 or Chapter 1026.17 of these Codified Ordinances specifically addresses the requirements of this Section.

1034.05 FEES AND DURATION.

The fee for an outdoor parklet license shall be one hundred dollars (\$100.00). A license shall be valid from May 1 of a given year to November 1 of the year in which it is issued. Applications for an outdoor parklet license may be submitted on or after March 1 of the calendar year in which the license is to be granted. In the event two or more applications for the same right-of-way space are received simultaneously, a lottery shall be conducted to determine which application will have precedence over the other(s).

1034.06 TRANSFER; PERSONAL PRIVILEGE.

The license may not be transferred or assigned. The license shall be construed as a privilege granted to the licensee and shall not create any vested rights to renewal or continuation.

1034.07 TERMINATION; REVOCATION; SUSPENSION.

(a) In the event of cessation of business by the licensee at the licensed address for more than seven consecutive days, the license granted hereunder shall automatically terminate. Unless revoked or terminated, the license shall remain valid indefinitely if all required fees are properly and timely paid to the City.

(b) The City Manager may alter, revoke, or suspend the license if:

- (1) The licensee violates any provision of the license agreement or this Code;
- (2) The City Manager in his or her judgment concludes that it would be necessary or convenient for the City to perform any work in the licensed area of the public property or right-of-way; or to reclaim that area for pedestrian or other public use; or
- (3) The use of the licensed area causes public disruption.

(c) If any such licensed area is not vacated and such use not discontinued by the time specified, the City may remove from such area any property left thereon at the risk and expense of the licensee.

1034.08 CONSENT TO LICENSE AGREEMENTS.

The City Manager or his designee is empowered to enter into license agreements giving the consent of the City to use City right-of-way for outdoor parklets. The minimum requirements for an agreement are as follows:

(a) The licensee shall properly supervise and maintain the property in a clean, orderly, and safe condition and in such a manner as to protect the public health and safety. All tables, chairs, umbrellas, and any other objects provided with an outdoor parklet shall be maintained with a clean and attractive appearance and shall be in good repair at all times.

(b) The licensee shall use positive action to assure that its use of the street right-of-way in no way interferes with traffic, any adjacent parking spaces being utilized as such, or limits the free, unobstructed passage of pedestrians.

(c) The licensee shall prevent the accumulation, blowing and scattering of trash, garbage, or any other such debris caused or permitted by the licensee's use of the property or by any person's use of the property during the time periods of said license. The licensee shall retrieve and properly dispose of any debris scattered onto adjacent property caused by any use of the property under the license, and, additionally, shall maintain its own trash containers upon the property for disposal of any debris.

(d) The licensee shall assure compliance with pedestrian minimum clear path guidelines of the Americans with Disabilities Act of 1990, as amended.

(e) The license shall not restrict ingress and egress to the property during the time periods of such license except as needed as to comply with current liquor laws.

(f) The licensee shall be strictly responsible that no customer, employee, or other person be permitted to remove alcoholic liquor from the area designated in the outdoor parklet license. Compliance with all City liquor codes, rules and regulations and any and all conditions as determined by the City Manager shall be observed.

(g) The hours of outdoor liquor sales shall be limited so as to end at or prior to 10:00 p.m. and no smoking shall be allowed in the delineated area or within fifteen feet thereof.

(h) Alcohol shall not be dispensed within the outdoor parklet area, any alcohol consumed must be incidental to food service.

(i) The licensee shall not erect, attach, or affix any permanent fixture upon the public right-of-way.

(j) The licensee shall remove all outdoor furniture from the property during any time period when the license for the property is not in effect. No furniture or any parts of the outdoor parklet shall be attached, chained, or in any manner affixed to any tree, post, signs, sidewalk, streetlight, fire hydrant, or other public fixture within or near the licensed area.

(k) The licensee shall not impede any maintenance activity conducted by the City or impair ingress or egress to the premises of any other person.

(l) The licensee shall not be permitted to use or operate any public address system, or similar device.

(m) The licensee shall be allowed to provide amplified or piped-in music within the licensed property during the hours of operation, but no earlier than 11:00 a.m. and no later than 1:00 a.m., so long as such sound otherwise complies with Title 16 of the Code.

(n) No advertising shall be permitted on or in any outdoor parklet except a sandwich board portable sign. Such sign shall not be located in the traveled roadway or block pedestrian traffic and shall be moved indoors daily at the end of business hours. Such sign shall not exceed eight square feet in area and four feet in height. If applicable, a scale drawing of the sign shall be included as part of the license agreement.

(o) Should the licensee breach any section of the agreement, the City may perform such cleaning or removal as it considers in its best interests, and the licensee shall reimburse the City for the cost thereof.