

CHAPTER 9. ALCOHOLIC BEVERAGES

ARTICLE I. IN GENERAL

9.101. ADOPTION OF STATE LAW. All provisions of the Illinois Compiled Statutes 2008, Chapter 235, Section 5/1-1 et seq., and as hereafter amended from time to time, shall be hereby made a part of this chapter insofar as the provisions of such law pertain to the Village of Machesney Park. (Amd. Ord. 18-88 - 3/29/88; Amd. Ord 36-09 - 10/19/2009).

9.102. LIQUOR CONTROL COMMISSIONER. 9.102. LIQUOR CONTROL COMMISSIONER. The Village President is hereby designated as the Liquor Control Commissioner and shall be charged with the administration of the appropriate provisions of this Chapter, all other ordinances and resolutions relating to alcoholic liquor as may be enacted by the Board of Trustees, and all legislation as may become applicable within the Village with respect to the sale or use of alcoholic liquor. (Amd. Ord. 46-09 - 12/21/2009)

9.103. LIQUOR CONTROL COMMISSION. The President of the Village Board shall appoint three (3) of its members AND ONE (1) CITIZEN MEMBER to assist the President in the exercise of those powers and the performance of the duties of this chapter and state law. Such members, together with the President, shall constitute the Village Liquor Control Commission. (Amd. Ord. 31-94 - 4/11/94; Amd. Ord. 27-03 - 08/25/2003 - Amd. Ord. 46-09 - 12/21/2009)

9.104. MANNER OF AMENDING CHAPTER. This chapter or any part thereof may be amended by an ordinance receiving a concurrence of a majority of all members then holding office on the Village Board, including the Mayor. (Amd. Ord. 36-88 - 5/3/88; Amd. Ord. 46-09 - 12/21/2009)

9.105. EVASION OF LAW PROHIBITED. The free dispensing, giving away or delivering of any alcoholic liquor for the purpose of evading any provisions of this chapter or state law or any other shift or device to evade any provision of this chapter shall be held to be an unlawful selling and shall ipso facto revoke a liquor license.

9.106. PROHIBITED SALES GENERALLY. No licensee shall sell, offer for sale or furnish alcoholic liquor to any person or patron except on the licensed premises; the serving of liquor to persons for consumption or permitting the consumption in parked automobiles or at tables outside the building or bar room where the same is sold is hereby prohibited. This Section shall not be interpreted to preclude sale of alcoholic beverages for consumption in a patio or beer garden immediately adjacent to the licensed

premises, in the event a patio or beer garden license is obtained. (Amd. Ord. 44-83 - 7/26/83; Amd. Ord. 128-86 - 1/13/87; Amd. Ord. 46-09 - 12/21/2009)

9.107. PREMISES NOT TO BE LOCATED NEAR FOREST PRESERVE. No license shall be issued for a proposed place of business which is within fifteen hundred feet of any territorial limit of any forest preserve except that licenses may be issued for use within forest preserves. (Amd. Ord. 17-92 - 5/26/92)

9.108. Deleted by Ord. 46-09 - 12/21/2009

9.109. Repealed 3/29/88, Ord. 18-88.

9.110. SANITATION OF LICENSED PREMISES. All premises used for the retail sale of alcoholic liquor or the storage of such liquor for sale shall be kept in a clean and sanitary condition, and shall be kept in full compliance with all applicable village ordinances and state statutes including, but not limited to, the health codes, zoning codes, and building codes. (Amd. Ord. 46-09 - 12/21/2009)

Hot and cold running water. All sinks and particularly those at the bars and counters used for the cleaning and sterilizing of glasses, dishes, receptacles and utensils shall be provided with running hot and cold water.

Sterilization, etc., of utensils. All glasses, utensils and other appliances used in preparation, service and sale of alcoholic liquor shall be properly cleaned and sterilized with steam or warm water and chemicals approved by the state after use, and no utensil shall under any circumstances be used a second time unless it shall have been after previous use thereof so cleaned and sterilized. In so cleaning glasses and utensils, the use of water which has been made unsanitary by previous use is prohibited.

Coils, faucets, etc. All coils, faucets and other appurtenances used in dispensing alcoholic liquors shall be of such material as will not chip, corrode or be injurious or deleterious to health. All connections shall be made with block tin pipe.

Contagious, etc. diseases. It shall be unlawful to employ in any premises used for the retail sale of alcoholic liquor any person who is afflicted with or who is a carrier of any contagious, infectious or venereal disease; and, it shall be unlawful for any person who is afflicted with or a carrier of any such disease to work in or about any premises or to engage in any way in the handling, preparation or distribution of such alcoholic liquor.

Ventilation; toilets. All premises licensed under this

chapter shall be properly ventilated and supplied with separate and sufficient toilet arrangements for each sex, toilets to be of water closet combination type and located inside the licensed premises.

9.111. REGULATIONS AS TO DRUNKARDS AND CRIMINALS GENERALLY. It shall be unlawful for any licensee to allow persons in a drunken condition to remain upon or loiter in and around any licensed premises or to harbor, conceal, aid or assist any person who has committed any criminal offense against the laws of the state, or to refuse to aid or assist the law enforcing officers of the Village in the apprehension of persons accused or suspected of crime.

And further, it shall be the personal responsibility and duty of the licensee to maintain peace and order on the licensed premises and to maintain such premises free from rowdiness, rioting, fighting, brawling, shootings, cuttings, stabbings, and any and all such related conduct.

9.112. SALES TO HABITUAL DRUNKARDS. No licensee shall sell, give or deliver alcoholic liquor to any person known by him to be a habitual drunkard.

9.113. REGULATIONS CONCERNING MINORS.

A. It shall be unlawful to employ any person under the age of 21 years of age in any place in the Village to mix, handle or dispense alcoholic beverages. Employees must be 21 years of age or older to act as a clerk to be authorized to sell alcoholic beverages at checkout counters for the sale of packaged goods or for goods to be consumed on the premises. Employees other than defined above may be 18 years of age in any place in the Village which serves alcoholic beverages. Bartenders and retail checkout clerks must be 21 years or older to handle alcoholic beverages. Wait staff or other persons, employed by a Licensee with a restaurant license, serving alcoholic beverages must be 18 years or older. Bus boys or other staff employed by the Licensee other than bartenders, retail checkout clerks or wait staff, may be less than 18 years old. (Amd. Ord. 32-02 - 07/29/2002; Amd. Ord. 46-09 - 12/21/2009)

B. Except as herein provided and as provided in Subsection (a) of this Section, no person under the age of twenty-one (21) years shall attend any premises where alcoholic liquors are sold or dispensed unless accompanied by his or her parent or legally appointed guardian unless such person is in the exercise of his or her legitimate business or trade. (Amd. Ord. 16-97 - 5/12/97)

C. It shall also be unlawful for any person under twenty-one (21) years of age to purchase or otherwise obtain or to attempt to purchase, or otherwise obtain alcoholic liquor from any person, whether engaged in the retail sale of intoxicating liquor or otherwise; or to consume intoxicating liquor, or to make false statements, or to furnish, present or exhibit any fictitious or false registration card, or identification card, or other document indicating that such person is of age; or, to engage or utilize the service of any other person, whether for remuneration or not, to procure for such person any such intoxicating liquor.

D. It shall be unlawful for any licensee or any officer, associate, member, representative, agent, or employee of such licensee to sell, give or deliver alcoholic liquor to any person under the age of twenty-one (21) years, or to any intoxicated person or to any person known by him to be a habitual drunkard, mentally ill, mentally deficient or in need of mental treatment. No person after purchasing or otherwise obtaining alcoholic liquor shall sell, give or deliver such alcoholic liquor to another person under the age of twenty-one (21) years, except in the performance of a religious ceremony or service. For the purpose of preventing the violation of this Section, any licensee, or his agent or employee, may refuse to sell or serve alcoholic beverages to any person who is unable to produce adequate written evidence of identity and of the fact that he or she is over the age of twenty-one (21) years. (Amd. Ord. 84-85 - 11/12/85; Amd. Ord. 46-09 - 12/21/2009)

Adequate written evidence of age and identity of the person is a Federal permanent resident card or passport, or a document issued by a State, County, or Municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, a registration certificate issued under the Federal Selective Act, or an identification card issued to a member of the Armed Forces. Proof that the defendant/licensee, or his employee or agent, demanded, was shown and reasonably relied upon such written evidence in any transaction, forbidden by this Section is competent evidence and may be considered in any criminal prosecution therefor or to any proceedings for the suspension or revocation of any license based thereon. (Amd. Ord. 84-85 - 11/12/85; Amd. Ord. 46-09 - 12/21/2009)

It is unlawful to sell, give, or furnish to any person under the age of twenty-one (21) years, any false or fraudulent written, printed, or photo static evidence of the age and identity of such person or to sell, give or furnish

to any person under the age of twenty-one (21) years, evidence of age and identification of any other person. (Amd. Ord. 84-85 -11/12/85)

It is unlawful for any person under the age of twenty-one (21) years to present or offer to any licensee, his agent or employee, any written, printed or photo static evidence of age and identity which is false, fraudulent or not actually his own for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any alcoholic beverage, or to have in his possession any false or fraudulent written, printed or photo static evidence of age and identity. (Amd. Ord. 84-85 - 11/12/85)

It is unlawful for any person under the age of twenty-one (21) years to have any alcoholic beverage in his possession on any street or highway or in any public place or in any place open to the public. (Amd. Ord. 84-85 - 11/12/85)

Any person, firm or corporation violating the provisions of Section 9.113 shall be fined, upon conviction not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) plus costs of court for each offense. (Amd. Ord. 84-85 - 11/12/85; Amd. Ord. 46-09 - 12/21/2009)

9.114. BUSINESS HOURS, ETC.

No alcoholic liquor shall be sold, offered for sale, given away, purchased, obtained, attempted to be obtained, attempted to be purchased, accepted as a gift, carried out of or consumed by anyone, including the owners or employees thereof, on or in any premises licensed under this chapter from 2:00 AM until 6:00 AM the same morning, nor shall anyone, excluding owners and employees acting within the scope of their employment, be in the premises during the time from 30 minutes after the applicable closing time for the license holder and permissible opening time the following day. (Amd. Ord. 24-88 - 5/31/88; Amd. Ord. 129-88 - 12/27/88; Amd. Ord. 10-98 - 4/13/98)

Provided that on December 31, it shall be lawful for alcoholic liquor to be sold or offered for sale, or consumed on or in any premises licensed under this chapter between normal opening hours for that day and 3:00 AM January 1.

Provided that, alcoholic liquors may be sold, offered for sale, given away, carried out of or consumed in any premises licensed under this Chapter on Sundays beginning at 9:00 AM and continuing until 2:00 AM Monday. (Amd. Ord. 50-81, - 11/24/81; Ord. 45-83 - 7/12/83; Amd. Ord. 122-86 - 12/9/86;

Amd. Ord. 102-89 - 12/5/89; Amd. Ord. 10-98 - 4/13/98; Amd. Ord. 37-11 - 9/19/11)

The hours of opening and closing as defined in this section shall be applicable to either Central Standard Time or central daylight savings time, whichever is in effect in Winnebago County. (Amd. Ord. 49-81 - 11/24/81; Amd. Ord. 46-09 - 12/21/2009)

9.115. DUTY OF LICENSEE TO EMPLOY A SECURITY OFFICER. On the licensed premises where dancing is permitted or where in the judgment of the Liquor Control Commission it is necessary for the purpose of keeping order, or where in the judgement of the commission the parking or departing of automobiles is obstructing or endangering traffic, it shall be the duty of the licensee upon the request of the commission to engage a security officer at the expense of the licensee during such hours as it may be deemed necessary by the commission.

9.116. BRINGING IN LIQUOR TO BE CONSUMED ON PREMISES. It shall be unlawful to consume on the licensed premises alcoholic liquors other than those furnished by the licensee, the bringing in of liquor by patrons for personal consumption on the licensed premises being hereby prohibited, except as otherwise provided for in Section 9.214(I) of this Code. (Amd. Ord. 44-12 - 01/07/2013)

9.117. Deleted by Ord. 46-09 - 12/21/2009

9.118. PROSTITUTES: LEWDNESS: GAMING IN PREMISES: REPORT OF PERSONS EMPLOYED. It shall be the duty and responsibility of every licensee under this chapter that no lewd persons or prostitutes remain in or about the licensed premises and that no soliciting to prostitution, practices of prostitution, or lewdness, idleness, gaming, fornication or other misbehavior is conducted on such licensed premises. He shall within seven days after employment commences report to the Village Liquor Control Commission, in writing, stating name, address, age, condition of health and length of residence in the county of every person employed by him in connection with such licensed premises. Notwithstanding the foregoing, any licensed premises shall be permitted to have, locate maintain and operate Video Gaming Terminals (as defined under the Illinois Video Gaming Act, 230 ILCS 40/1 et seq.) so long as such Video Gaming Terminals are duly licensed pursuant to and in conformance with the Illinois Video Gaming Act and such location, maintaining and operation of Video Gaming Terminals on the licensed premises otherwise conforms to all applicable provisions of the Video Gaming Act (Amd. Ord. 2-86 - 1/28/86; Amd. Ord. 25-12 - 6/4/2012)

A. REPORT OF PERSONS EMPLOYED. Licensees shall within seven days after employment commences report to the Village Liquor Control Commission, in writing, stating name, address, and age, of every person employed in connection with such licensed premises. Licensee shall also report such information as may be required pursuant to renewal of license. (Amd. Ord. 2-86 - 1/28/86; Amd. Ord. 46-09 - 12/21/2009)

9.119. LOCATION OF PACKAGED LIQUOR. It shall be the duty and responsibility of every licensee under this chapter also selling other general merchandise when the principal business of the licensee is not the sale of alcoholic liquor, to segregate all alcoholic liquors in the original and unbroken packages on the premises into a separate area within the premises. (Amd. Ord. 80-85 - 11/12/85)

9.120. SELLING SINGLE BOTTLES PROHIBITED. It shall be unlawful for any licensee also selling other general merchandise when the principal business of the licensee is not the sale of alcoholic liquor, to sell beer or wine coolers by the can or the bottle containing less than 16 ounces. This Section also does not apply to a restaurant, or a hotel, or a bowling alley, as defined in the Illinois Compiled Statutes, Chapter 235, Section 5/, et. seq. (Amd. Ord. 81-85 - 11/12/85; Amd. Ord. 46-09 - 12/21/2009)

A. PENALTY. Any licensee violating the provisions of this Section shall be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) plus costs of court for each offense. (Amd. Ord. 82-85 - 11/12/85; Amd. Ord. 46-09 - 12/21/2009)

ARTICLE II. RETAIL LICENSES

9.201. DEFINITIONS OF LAPSED, REVOKED AND CANCELLED LICENSES.

A. A license shall be treated as lapsed where a complete application for renewal of the same shall not have been filed on or prior to the expiration date thereof.

B. A revoked license is one that has been made inoperative pursuant to law.

C. A cancelled license is one that has been voluntarily surrendered by the licensee.

9.202. This section was deleted in its entirety by Ordinance 46-09 -12/21/2009

9.203. APPLICATIONS GENERALLY. Applications for licenses from the Village Liquor Control Commission shall be made with the Clerk, in writing, under oath and on forms of application furnished by the Village, such applications shall contain the information and statements as set out in state law for a state license. (Amd. Ord. 15-97 - 5/5/97)

Consents for Class "A", "B", "BB", "C", "P", or "R" Licenses. All new applicants for Class A, B, BB (Boutique Bar), C, P, or R licenses to sell alcoholic liquor at retail in the Village of Machesney Park shall, by certified mail, send a copy of the application including date and time of Liquor Control Commission meeting to adjacent property owners. Applicants shall provide return receipts as proof of mailing to Village as part of completed application. The Liquor Control Commission will provide opportunity for the public and adjacent property owners to be heard at the Commission meeting. This provision does not apply to a renewal or transfer of an existing Class A, B, BB, C, P, or R license, but shall apply to any new application.

Notwithstanding the foregoing, this provision shall also not apply to situations where there is a change in ownership at an existing license location (e.g. license holder "1" ceases to operate his business and surrenders his liquor license to the Village and license holder "2" obtains a new liquor license for the same location as license holder "1's" former business. The provisions of this subparagraph shall not apply to License holder "2" in such a situation). However, should 90 days elapse between the date on which the prior license holder closes for business and the date on which the new license holder opens for business, then the provisions of this subparagraph shall apply to the new license holder. (Amd. 03-05-2012 - Ord. 03-12) (Amd. Ord. 44-12, 1/7/2013)

9.204. REFERRAL OF APPLICATION; EXAMINATION OF APPLICANT. All applications for licenses shall be referred to the Village Liquor Control Commission. The Liquor Control Commission shall make a recommendation to the Village Board for approval by the Corporate Authorities of all "A", "B", "C", "R", "P", and "BB" licenses. All other licenses shall be approved by the Liquor Commissioner. The Liquor Control Commission is empowered to grant licenses subject to the provisions set forth in the state law and this chapter. It shall be the duty of the commission to check the applicant's record with the Rockford Police Department, the Winnebago County Sheriff, and the State's Attorney of the county. In addition, the commission shall require the fingerprinting of each applicant and the submission of such fingerprints to the

Illinois State Police, Bureau of Identification for the report. The processing fee charged to the Village by the Illinois State Police shall be paid by the applicants. If any applicant for a liquor license shall not have resided in the county for at least ten years immediately prior to his application, the commission shall have the duty to inquire of the police department, county sheriff and state's attorney in the county wherein the applicant has resided during the ten years immediately prior to the date of his application. (Amd. Ord. 54-94 - 9/12/94; Amd. Ord. 50-97 - 10/20/97; Amd. Ord. 46-09 - 12/21/2009)

9.205. PERSONS INELIGIBLE FOR LICENSE GENERALLY. No license shall be granted to any person who has been convicted of a felony under any federal or state law, if the Liquor Commissioner determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust, or to a person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality, or a person who has been convicted or being the keeper or is keeping a house of ill fame, or a person who is not of good character and reputation in the community in which he resides, or a person who is not a citizen of the United States, or fails to qualify under any provision of state law. It shall be unlawful for a licensee to employ a person to operate or be in charge of such licensed premises unless he can and does so qualify as a licensee under the state law and this chapter before the Village Liquor Control Commission. (Amd. Ord. 18-88 - 3/29/88; Amd. Ord. 46-09 - 12/21/2009)

9.206. DRAM SHOP INSURANCE. At the time of application for or renewal of a liquor license, the applicant must show proof of dram shop insurance. It is the responsibility of the applicant to maintain insurance coverage during the entire period the license is in effect. Voluntary or involuntary cancellation of dram shop insurance gives the Village the right to revoke the liquor license immediately. (Amd. Ord. 55-94 - 9/12/94)

9.207. APPLICANT TO SHOW OWNERSHIP, ETC., OF PREMISES. At time of application for a liquor license the applicant shall show evidence of ownership or a bona fide lease for the premises to be used in such business to cover the period for the requested annual liquor license.

9.208. AGREEMENT BY APPLICANT. Each applicant for a license required by section 9.202 shall agree in his application to comply with all the restrictions and regulations imposed by the laws of the state and this chapter and other ordinances or resolutions of the Village in force at the time of making such application or that may thereafter be passed relating to the sale at retail of alcoholic

liquors, and shall authorize the liquor control commissioner to revoke such license for violation of such agreement, and that the license fee, paid for such license shall be forfeited to the Village.

9.209. DURATION AND EXPIRATION DATE; CONTENTS, ETC. All licenses issued by the commission shall be annual licenses and shall expire on April thirtieth (April 30) following their issuance and shall state thereon the name of the licensee and the address and description of the premises for which the license is granted, together with the date of its issuance and expiration. It shall be the duty of the Liquor Control Commission to see that all licenses are returned to the files of the commission upon expiration or revocation.

Periodic inspections of all license holders for compliance of Village liquor code and state law may be made each year, and one inspection may be performed within sixty (60) days of the license expiration date as described in Section 9.209.

Each license shall contain the following clause, "Subject to revocation and under such restrictions and regulations as provided by Illinois Liquor Control Law and Resolutions of the Village Board regulating the sale at retail of alcoholic liquor, and laws and resolutions amendatory thereto. (Amd. Ord. 46-09 - 12/21/2009)

9.210. EXECUTION; RENEWALS TO BE IDENTICAL WITH ORIGINALS. All licenses shall be signed by the liquor control commissioner and every renewal shall be in all respects identical with the original or first license. If prior to renewal the nature of a licensed business changes such that a different class license is appropriate, it is the duty of the license holder to advise the Liquor Control Commission and provide any and all information necessary for the issuance of the appropriate license. Renewals shall be made by the Liquor Commissioner and not require Village Board action. (Amd. 46-09 - 12/21/2009)

9.211. CONTROL OF NUMBER OF LICENSES ISSUED. (Deleted in its entirety Ord. 36-09 - 10/19/2009)

9.212. EFFECT OF ISSUING NEW LICENSES. Nothing by reason of the issuance of a new license either in connection with the transfer of a business to a new location or to a new owner at an old location shall entitle any other applicant to a license for other premises.

9.213. ONE LICENSE FOR EACH BAR; EXCEPTION. (This section was deleted in its entirety by Ordinance 46-09 - 12/21/2009)

9.214. CLASSES OF LICENSES; AMOUNT OF FEES. Any changes in license classification shall require a majority affirmative vote of the Corporate Authorities. The classification of licenses authorized to be issued under this Chapter and the license fees shall be as follows:

A. Class "A" Licenses. Class "A" shall authorize the retail sale on the premises specified of alcoholic liquor for consumption on the premises as well as other retail sale of such liquor for carryout from the premises in the original and unbroken packages only. The annual fee for such license shall be one thousand five hundred dollars (\$1,500). The maximum number of Class "A" licenses issued by the Village shall be nine (9) at any given time.

i. Any holder of a Class "A" License may apply for a Class "G" License, which Class "G" license shall also be required in order for the applicant to have, locate, maintain and operate Video Gaming Terminals (as defined under the Illinois Video Gaming Act, 230 ILCS 40/1 *et seq.*) within the Class "A" licensed establishment. Any person holding a Class "G" License shall comply with all provisions of the Illinois Video Gaming Act.

ii. The annual fee for a Class "G" License shall be one thousand dollars (\$1,000.00) and which fee is in addition to the annual fee for a Class "A" License. (Amd. Ord. 44-12 - 01/07/2013)

B. Class "B" Licenses. Class "B" shall authorize the retail sale of alcoholic liquors in the original and unbroken packages on the premises specified in the license, not for medicinal purposes, and not for consumption on the premises so licensed. A Class "B" License holder may allow for alcoholic liquor taste testing and consumption within the area of the licensed premises used for display of package alcoholic liquor. No display, taste testing or consumption related hereto may occur outside the area within the licensed premises used for display of package alcoholic liquor. The annual fee for such license shall be one thousand five hundred dollars (\$1,500). The maximum number of "B" licenses issued by the Village shall be thirteen (13) at any given time.

i. Any holder of a Class "B" License may apply

for a Class "G" License which Class "B" license shall also be required in order for the applicant to have, locate, maintain and operate Video Gaming Terminals (as defined under the Illinois Video Gaming Act, 230 ILCS 40/1 et seq.) within the Class "B" licensed establishment, provided such establishment meets all the requirements to be considered a "Licensed Truck Stop Establishment" as defined under the Illinois Gaming Act (i.e. is a facility (i) that is at least a 3-acre facility with a convenience store, (ii) with separate diesel islands for fueling commercial motor vehicles, (iii) that sells at retail more than 10,000 gallons of diesel or biodiesel fuel per month, and (iv) with parking spaces for commercial motor vehicles. "Commercial motor vehicles" has the same meaning as defined in Section 18b-101 of the Illinois Vehicle Code. The requirement of item (iii) of this paragraph may be met by showing that estimated future sales or past sales average at least 10,000 gallons per month.) Any person holding a Class "G" License shall comply with all provisions of the Illinois Video Gaming Act.

ii. The annual fee for a Class "G" License shall be one thousand dollars (\$1,000.00) and which fee is in addition to the annual fee for a Class "B" License. (Amd. Ord. 44-12 - 01/07/2013)

C. Class "C" Licenses. Class "C" shall authorize the retail sale of beer and wine only for consumption on the premises specified in the license. The annual fee for such license shall be seven hundred dollars (\$700). The maximum number of Class "C" licenses issued by the Village shall be one (1) at any given time.

"i. Any holder of a Class "C" License may apply for a Class "G" License which Class "G" license shall also be required in order for the applicant to have, locate, maintain and operate Video Gaming Terminals (as defined under the Illinois Video Gaming Act, 230 ILCS 40/1 et seq.) within the Class "C" licensed establishment. Any person holding a Class "G" License shall comply with all provisions of the Illinois Video Gaming Act.

- ii. The annual fee for a Class "G" License shall be one thousand dollars (\$1,000.00) and which fee is in addition to the annual fee for a Class "C" License.
- D. "Class "P" (patio/beer garden) Licenses. A Class "P" license is required for an outdoor patio/beer garden which shall allow for the retail sale of alcoholic liquors for consumption within the designated outdoor patio area. A Class "P" license shall only be issued to the holders of either a Class "A", Class "C", or Class "R" (restaurant) license, provided that a site plan is submitted by the license holder describing the designated outdoor patio area which must be approved by the Liquor Commission. The annual fee for such Class "P" license shall be three hundred dollars (\$300.00)". (Amd. Ord. 128-86-1/13/87; Amd. Ord 44-12 - 01/07/2013)
- E. Class "R" (restaurant) Licenses. Class "R" shall authorize the retail sale of alcoholic liquor on the premises for consumption on the premises only. Class "R" (restaurant) licenses may be issued only to bona fide full service restaurants, which restaurants derive at least fifty percent (50%) of their sales from food served and eaten on the premises. Bona fide full service restaurants must have a full service kitchen, provide full sit-down table service and wait staff. The Liquor Control Commissioner may require proof of such percentages before issuance of renewal of a Class "R" (restaurant) license. The annual fee for such license shall be one thousand five hundred dollars (\$1,500). (Amd. Ord. 48-81 - 11/10/81; Ord. 82-85 - 11/12/85; Ord. 83-85 - 11/12/85; Amd. Ord. 15-97 - 5/5/97; Amd. Ord. 27-03 - 08/25/2003/ Amd. Ord. 44-12 - 01/07/2013).
- i. Any holder of a Class "R" License may apply for a Class "G" License which Class "G" license shall also be required in order for the applicant to have, locate, maintain and operate Video Gaming Terminals (as defined under the Illinois Video Gaming Act, 230 ILCS 40/1 et seq.) within the Class "R" licensed establishment. Any person holding a Class "G" License shall comply with all provisions of the Illinois Video Gaming Act.

ii. The annual fee for a Class "G" License shall be one thousand dollars (\$1,000.00) and which fee is in addition to the annual fee for a Class "R" License.

F. LEFT INTENTIONALLY BLANK (Language inserted as a separate paragraph after the last sentence in Section 9.203) (Amd. Ord. 44-12 - 01/07/2013)

G. Class "SE" (special event) license shall constitute a special and limited license. A Class "SE" license shall permit the licensee to purchase alcoholic liquors from an Illinois licensed distributor (unless the licensee purchases less than \$500.00 of alcoholic liquors for the special event, in which case the licensee may purchase the alcoholic liquors from a licensed retailer), and authorizes the licensee to sell and offer for sale, at retail, alcoholic liquors for use or consumption, but not for resale in any form, and only at the location and on the specific dates designated for the special event in the license.

The Liquor Commissioner may grant a special event license to any not-for-profit organization or club such as a church, order or lodge, veterans organization, civic organization or other similar not-for-profit organization, authorizing the sale of alcoholic beverages approved by the Liquor Commissioner at any special event, including, but not limited to any dance, concert, races, runs, walks, block parties, festivals, picnics, or similar function sponsored by such not-for-profit organization or club. The following restrictions are applicable for a special event license:

1. A Class "SE" license holder shall be entitled to dispense alcoholic liquor at an event for not more than four (4) consecutive specified days and shall be limited to two (2) events per calendar year.
2. A license fee of \$100 per day shall be deposited by the licensee with the application for said special event license. Sufficient evidence of dram shop liability insurance must be provided with the applicant's application.
3. All sales and consumption pursuant to the special event license issued in accordance with this Section 9.214(G) shall be conducted

within an enclosed area and such area shall have controlled entrances and exits and shall be adequately lighted.

4. Any alcoholic beverages sold pursuant to a special event license must be consumed within the area described in the license. Applicant shall submit a site plan of the area where alcoholic beverages will be sold and consumed with Applicant's application.
 5. All sales and consumption pursuant to the special event license shall be conducted only during the hours specified on the license.
 6. Unless specifically provided otherwise, all requirements of this Chapter 9 shall apply to licenses granted under this Section 9.214(G).
 7. Proof of receiving a state special event retailer's liquor license shall be required prior to the event.
(Amd. Ord. 38-05 - 9/12/2005; Amd. Ord. 46-09 - 12/21/2009; Amd. Ord 44-12, 01-07-2013)
- H. Class "SU" (Special Use Permit) license shall allow an Illinois-licensed liquor retailer to transfer a portion of its inventory approved by the Liquor Commissioner from its licensed retail premises to a designated site, and to sell or offer for sale at retail, only at the designated site, the transferred alcoholic liquor for use and consumption, but not for resale in any form.

The following restrictions shall be applicable to a special use permit:

1. A special use permit license must be obtained for each location and may be granted for the following time periods: one day or less; 2 or more days to a maximum of 15 days per location in any 12-month period.
2. A license fee of \$100 per day shall be deposited by the licensee with the application for said special use permit license. Sufficient evidence of dram shop liability insurance must be provided with the applicant's application.
3. All sales and consumption pursuant to the special use permit license issued in accordance with this Section 9.214(H) shall

be conducted within an enclosed area and such area shall have controlled entrances and exits and shall be adequately lighted.

4. Any alcoholic beverages approved by the Commissioner sold pursuant to a special use permit license shall only be consumed within the area described in the license. Applicant shall submit a site plan of the area where alcoholic beverages will be sold and consumed with Applicant's application.
 5. All sales and consumption pursuant to the special use permit license shall be conducted only during the hours specified on the license.
 6. Unless specifically provided otherwise, all requirements of this Chapter 9 shall apply to licenses granted under this Section 9.214(H).
 7. Proof of receiving a state special use permit liquor license shall be required prior to the event. (Amd. Ord. 44-12, 01-07-2013)
- I. Class "RB" Licenses. Class RB shall authorize consumption of bring your own bottle (BYOB) of wine in a sit-down restaurant under the following conditions:
1. Any Village liquor license establishment holding a Class "R" liquor license may request permission from the Liquor Control Commissioner, in writing, on an annual basis, to provide BYOB wine service pursuant to a Class R liquor license;
 2. Upon approval by the Local Liquor Commissioner and issuance of a Class RB liquor license by the Village Clerk after payment of the Class RB liquor license fee, the establishment may commence offering BYOB service to the public;
 3. The hours during which a BYOB license holder may permit the consumption of wine on the premises shall conform to the hours applicable to the Class R licenses.
 4. In the event that a qualified licensee is granted a Class RB liquor license to allow BYOB, the following conditions shall apply:
 - i. No more than one bottle of wine per patron over the age of 21 shall be permitted to be uncorked;

- ii. The licensee shall only permit BYOB to occur on the premises in conjunction with the purchase and consumption of a meal on the licensed premises;
- iii. The licensee may provide glassware and ice to patrons and may uncork a bottle of wine, pour it, and control its consumption for a corkage fee;
- iv. It shall be unlawful for any person to carry, transport or possess liquor in an unsealed and open condition, except as permitted for wine bottles from restaurants under the Illinois Liquor Control Act, 235 ILCS 5/6-33, which allows a liquor licensed establishment to permit a patron to remove one unsealed and partially consumed bottle of wine, provided the bottle shall be placed into a one-time use, see-through, sealable, tamper-proof bag which has been sealed by the restaurant licensee and affix either within or to the bag, a dated receipt for the bottle of wine or a receipt for the corkage fee from the license establishment, and proof of purchase of at least one meal;
- v. The licensee shall be liable for violations of this Chapter in the same manner as the holder of any other classification of liquor license.

5. The annual fee for a Class RB liquor license shall be three hundred dollars (\$300). (Amd. Ord. 29-11 - 08/01/2011)

J. Class "BB" (Bar-Boutique Gaming) Licenses. Class "BB" shall authorize the retail sale of alcoholic liquor on the premises specified for consumption on the premises only provided the licensed premises also has, locates, maintains and lawfully operates Video Gaming Terminals (as defined under the Illinois Video Gaming Act, 230 ILCS 40/1 et seq.) within the Class "BB" licensed establishment. The annual fee for such license shall be two thousand five hundred dollars (\$2,500.00). The maximum number of Class "BB" licenses issued by the Village shall be three (3) at any given time." (Amd. Ord 32-13; 7/15/2013)

A Class "BB" License and the holder thereof, shall be subject to the following limitations:

1. The licensed premises shall not exceed 1,500 square feet of patron accessible floor area.
2. The number of patrons on the licensed premises at any given time shall not exceed four (4) times the number of licensed Video Gaming Terminals at the premises.
3. Live music, DJ, karaoke, and/or juke boxes are prohibited on the licensed premises. Notwithstanding the foregoing, a music system, operated solely by the licensee, shall be permitted so long as such system is operated at such levels so as to not be heard outside of the licensed premises.
4. Licensee shall not be permitted to have a patio or beer garden of any kind.
5. No alcohol related signs which are visible from the outside of the licensed premises shall be permitted on the licensed premises.
6. No games, other than the Video Gaming Terminals as defined under the Illinois Video Gaming Act, 230 ILCS 40/1 *et seq.*, shall be permitted on the licensed premises, including, but not limited to, pool tables, dartboards, and shuffle board.
7. Notwithstanding the provisions of Section 9.114 of the Code governing "Business Hours", the holder of a Class "BB" license shall not be permitted to have any alcoholic liquor sold, offered for sale, given away, purchased, obtained, attempted to be obtained, attempted to be purchased, accepted as a gift, carried out of or consumed by anyone, including the owners or employees thereof, on the licensed premises from 12:00 AM until 6:00 AM the same morning. All other provisions of Section 9.114 not in conflict with this paragraph shall remain the same and shall be applicable. (Amd. Ord. 44-12, 01-07-2013)
8. Dispensing of draft beer from a tap is prohibited.

9.215. Payment of Fees. All license fees, except as otherwise provided in this chapter, shall be paid in full in advance and shall accompany the application for such license. Further, any applicant applying for a Class "A",

"B", "C", "R" or "BB" license, in addition to payment of the annual fee, shall also pay to the Village at the time of application, an additional amount equal to the annual fee of the class of license(s) for which is being applied. Said additional payment shall be placed in the general fund of the Village. The additional payment shall not be required for the renewal of any license. If a license applied for is denied, the applicant shall be entitled to a refund of all fees paid to the Village less one hundred dollars (\$100.00) as an administrative fee. To the extent any partner, member or shareholder of an applicant for a Class "A", "B", "C", "R" or "BB" license at a particular location had at least a fifty percent (50%) ownership interest in a licensed liquor establishment that operated at that same location immediately prior to the applicant's operation, then the applicant shall not be required to make the additional payment provided such partner, member or shareholder also has at least a fifty percent (50%) ownership interest in said applicant. See also the provisions of Section 9.221 of the Code regarding Operation of Business Under Assumed Name; Change in Ownership. (Amd. Ord. 44-12, 01-07-2013)

9.216. PRORATION OF FEES. Liquor license fees shall be prorated for any new Liquor License issued for less than a full licensed year. The Pro-rata fee to be paid shall be determined based on the month in which the Liquor License is issued as compared to the number of months remaining in the Village's fiscal year. The Village's fiscal year is between May 1st and April 30th of each year. (For example: If a license is issued in February, the pro-rata fee to be paid would be for February, March and April).

Notwithstanding the foregoing, should a licensee close its business or otherwise surrender its license during a licensed year, no pro-rata refund shall be given to the licensee. (Amd. Ord. 88-05 - 11/13/95; Amd. Ord 46-09 - 12/21/2009) (Amd. 03/05/12 - Ord. 03-12)

9.217. PRIVILEGE GRANTED BY LICENSE; NATURE AS PROPERTY NOT SUBJECT TO ATTACHMENT, ETC; TRANSFERABILITY. A license shall be purely a personal privilege good for not to exceed one year after issuance unless sooner revoked as provided in this chapter, 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 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, which such estate consists in part of alcoholic liquor, under order of the appropriate court may exercise the privileges

of the deceased or insolvent or bankrupt licensee after the death of such descendant or such insolvency or bankruptcy until the expiration of such license, but not longer than six months after the death, bankruptcy or insolvency of such licensee. Any licensee may renew his license at the expiration thereof; provided, that he is then qualified to receive a license and the premises for which such renewal is sought are suitable for such purpose; and provided further, that the renewal privilege herein provided for shall not be construed as a vested right. Amd. Ord. 46-09 - 12/21/2009)

9.218. DISPLAY. It shall be the duty of any person conducting a licensed business under this chapter to keep his license posted at all times in a prominent and conspicuous place on the premises for such business.

9.219. REPEALED APRIL 16, 1981. (Ord. 5-81)

9.220. CANCELLED LICENSES GENERALLY. Whenever any owner or members of an original firm or partnership, which is a licensee under this chapter, ceases to carry on business, the license issued under this chapter shall be returned, handed over and surrendered to the Village Liquor Control Commission for revocation and cancellation. The Village Liquor Control Commission shall have the right to assign and issue such revoked and cancelled liquor license.

9.221. OPERATION OF BUSINESS UNDER ASSUMED NAME; CHANGE IN OWNERSHIP. Every licensee under this chapter who does, conducts or transacts business under an assumed name shall be required to comply with the terms and provisions of "An Act in relation to the use of an assumed name in the conduct or transaction of business in the State." In the event one or more members of a firm or partnership withdraw from such business, the business may be continued by the remaining person or persons, partner or partners under the same liquor license for the remainder of the period for which the license was issued to the licensee or licensees. The change in ownership, however, shall be reported immediately to the Village Liquor Control Commission and the change shall be shown immediately on the original license application then in effect filed in the office of the Clerk. The failure by any licensee hereunder to comply with the provisions of any part of this section shall be considered and deemed cause for the revocation and cancellation of the liquor license issued under this chapter by the Village Liquor Control Commission. In the event the total of fifty percent (50%) or more of the stock of any corporation is transferred or sold to any other person, corporation, partnership or other entity, such transfer or sale shall require a new license be obtained from the Liquor Control Commissioner and a new license fee be paid as provided in this chapter. (Amd., Ord. 16-88 - 3/29/88; Amd. Ord. 15-97 - 5/5/97)

9.222. SALES IN PLACES OTHER THAN SHOWN IN APPLICATION FOR LICENSE; CHANGE OF LOCATION. A retail liquor dealer's license shall permit the sale of alcoholic liquor only in the premises described in the application and license. Such location may be changed only upon authority granted by the Village Liquor Control Commission; provided, that written application for such change is made by the licensee. No change of location shall be permitted unless the proposed new location in the written application is a proper one for the retail sale of alcoholic liquor under the laws of the state and this chapter.

9.223. SUSPENSION, REVOCATION, FINES, AND COSTS. If any licensee shall violate any of the provisions of this chapter or any provisions of the state law, relating to liquor control, or shall make any false statement in obtaining a license, such license shall be revoked by the Village Liquor Control Commission and all fees paid thereon shall be forfeited.

The Village Liquor Control Commission is further empowered to suspend the local liquor license of any licensee for a period of not to exceed thirty days in any instance when the members of the commission find that any licensee or his agents or employees have violated any of the provisions of this chapter or state law relating to liquor control. Ord. 5-81 - 4/16/81)

In lieu of suspension or revocation the Liquor Commission may instead levy a fine on the licensee for violations of any of the provisions in the Statutes of the State of Illinois, any valid ordinance or resolution of the Village, or any applicable rule or regulation established by the Liquor Control Commissioner or State Commission which is not inconsistent with law. The fine imposed shall not exceed Two Thousand Five Hundred Dollars (\$2,500) for each violation; each day on which a violation continues shall constitute a separate violation. Not more than Fifteen Thousand Dollars (\$15,000) in fines under this Section may be imposed against any licensee during the period of his license. Proceeds from such fines shall be paid into the general corporate fund of the municipal treasury. (Amd. Ord. 2-86 - 1/28/86; Amd. Ord 46-09 - 12/21/2009)

Any licensee who violates any of said provisions shall also be liable for the costs of the Liquor Commission hearing, including but not limited to the costs of the court reporter, attorney, the costs of having subpoenas served, the costs of any newspaper publication notices, and the costs of U.S. mail incurred. (Amd. Ord. 2-86 - 1/28/86; Amd. Ord. 46-09 - 12/21/2009)

No such license shall be revoked or suspended and no licensee shall be fined except after a public hearing by the Liquor Control Commission with a three-day written notice to the licensee affording the licensee an opportunity to appear and defend, except that if the Liquor Control Commissioner has reason to believe that any continued operation of a particular licensed premises would immediately threaten the welfare of the community, he may, upon the issuance of a written order stating the reason for such conclusion and without notice or hearing, order the licensed premises closed for not more than seven (7) 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. (Amd. Ord. 2-86 - 1/28/86)

The Liquor Control Commissioner shall within five (5) days after such hearing, if he determines after such hearing that the license should be revoked or suspended or that the licensee should be fined, state the reason or reasons for such determination and written order, and either the amount of the fine, the period of suspension, or that the license has been revoked, and shall serve a copy of such order within the five (5) days upon the licensee. (Amd. Ord. 2-86 - 1/28/86)

9.224. APPEALS. All appeals to the State Liquor Control Commission of any decision, order or action by the Local Liquor Control Commissioner, or designee, having the effect of levying a fine or refusing to levy a fine on a licensee, granting or refusing to grant a license, revoking or suspending or refusing to revoke or suspend a license, or refusing for more than 30 days to grant a hearing upon a complaint to revoke or suspend a license, shall be limited to review of the official record of the formal proceedings before the Commissioner, or designee. (Ord. 58-97 - 11/03/97)

ARTICLE III. PUBLIC INTOXICATION/DRINKING

9.301. PROHIBITED. It shall be unlawful for any person to be in an intoxicated condition in or on any street, alley, or other public place in the Village.

9.302. EXCEPTION. No person shall without the written permission of the Liquor Commissioner and/or the Village Board of Machesney Park, consume or possess any alcoholic liquor on any street, alley, city parking lot, privately

owned parking lot open to the public in a commercial area, or a park or a recreational area, within the Village, except that alcoholic liquor may be possessed in said areas in the original container with the seal unbroken.

9.303. PENALTIES. Any person, firm, or corporation violating the provisions of this Ordinance shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) plus costs of court for each offense. (Ord. 23-82 - 6/9/82; Amd. Ord. 46-09 - 12/21/2009)

ARTICLE IV. ATWOOD GOLF COURSE

9.401. EXEMPTIONS. The area outside of the Atwood Golf Course Club House shall be exempt from all requirements, restrictions and limitations outlined in Chapter 9., Alcoholic Beverages.

9.402. REGULATION. The area outside of the Atwood Golf Course Club House known as the Atwood Golf Course (Forest Preserve), shall be governed by all existing laws, rules and regulations of the Winnebago County Board and/or the Winnebago County Forest Preserve. (Amd. Ord. 53-94 - 9/12/94)

ARTICLE V. NUDITY AND SEMI-NUDITY PROHIBITED

9.501. PROHIBITED.

A. No person or entity licensed under the provisions of this chapter, or any agent, officer or employee of any such person or entity, shall knowingly allow or otherwise participate in any kind of agreement or arrangement which allows or requires any person to appear before or amidst the public, in attendance at an establishment to which said license has been issued, in the nude or in any kind of apparel which as worn or by virtue of its design, fit or material makes visible or tends to make visible all or any portion of such person's:

1. Genitalia;
2. Pubic hair or pubic hair region;
3. Anus and/or anal crevice; and
4. If such person is a female, her breasts at, below and including the areola.

B. No person shall appear or enter into any kind of agreement or arrangement which allows or requires such person to appear before or amidst the public, in attendance at an establishment licensed under the

provisions of this chapter, in the nude or in apparel such as that described in subsection A. hereof.

C. The following activities are prohibited by licensees:

1. The performance or simulation of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

2. The actual or simulated touching, caressing or fondling of the breasts, buttocks, anus or genitals;

3. The displaying of films or pictures depicting acts, a live performance of which was prohibited by the regulations quoted above.

4. The holding, promotion, sponsoring or allowance of any contest, promotion, special night, event or any other activity where patrons of the license-holding establishment are encouraged or allowed to engage in any of the conduct, or to be attired as described in the preceding sub-paragraph of this subsection.

D. Licensees shall insure that a minimum distance of 10 feet is maintained between entertainers and patrons.

E. Any person or entity licensed under the provisions of this chapter, or any agent, officer or employee of any such person or entity, who violates any portion of this section may have his license revoked or suspended pursuant to the provisions of this chapter.

9.502. PENALTIES.

A. Any licensee who violates any provisions of this Article may be immediately closed for a maximum of 12 hours by the Law Enforcement Agency of the Village.

B. Any person, firm or corporation violating the provisions of Section 9.501 shall be fined, upon conviction not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) plus court costs for each offense. (Ord. 10-96 - 3/11/96)

ARTICLE VI. POSSESSION AND SALE OF TOBACCO PRODUCTS

9.601. PURCHASE BY MINORS PROHIBITED. No person under the age of eighteen (18) years shall purchase tobacco products, or misrepresent their identity or age, or use false or altered identification for the purpose of purchasing tobacco products.

9.602. POSSESSION BY MINORS PROHIBITED. No person under the age of eighteen (18) shall possess any tobacco products.

9.603. ENFORCEMENT. The Winnebago County Sheriff's Department or the Machesney Park Police Department shall enforce this Ordinance.

9.604. Possession of tobacco products in a motor vehicle shall not be the sole basis to stop a vehicle or to search a motor vehicle.

9.605. PENALTIES. The fine for violation of this Article shall be \$25 if paid within thirty (30) days of the date of violation, or \$100 if paid after thirty (30) days of the date of violation. (Ord. 49-05 - 11/07/05)