

CHAPTER 25
ALCOHOLIC LIQUOR DEALERS

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25.01 ADOPTION OF LIQUOR CONTROL ACT OF 1934

In addition to the provisions of this Chapter 25, the Liquor Control Act of 1934 (Chapter 235 of the Illinois Compiled Statutes), as amended from time to time ("Act"), shall be incorporated herein by reference.

25.02 DEFINITIONS

In addition to the terms defined in Appendix A of this Code and the Act, the following terms are defined as follows:

Act: The Liquor Control Act of 1934 (Chapter 235 of the Illinois Compiled Statutes).

Bowling Alley: any establishment or building, or any part thereof, wherein the game of bowling with composition balls and 10 pins is played.

Commissioner: The Local Liquor Control Commissioner of the City of Harvard.

Hotel, Motel: See the Definition in Title 17 of the Harvard Municipal Code.

License: A liquor license issued by the City.

Licensee: The holder of a City liquor license.

25.03 LIQUOR LICENSE REQUIRED

It is unlawful to sell or offer for sale in the City, any alcoholic liquor either without having a local license or in violation of the terms, conditions and restrictions of such license. A liquor license is purely a personal privilege. It is effective until the first or earliest of 1) one year from the date of issuance; 2) April 30 of the year following the date of issuance; 3) suspension or revocation; or 4) abandonment. All applicants shall be required to pay the full liquor license fee, whether the license is to be issued for a full or partial year.

25.04 LIQUOR LICENSE APPLICATIONS

A. Application for a liquor license shall be made to the Commissioner in writing, signed by the applicant, if an individual, or by a duly authorized agent thereof if a group or corporation, verified by oath or affidavit, and shall be addressed to the Commissioner. All applicants may be subject to a background check, which may be conducted by the City through the Federal Bureau of Investigation, the Illinois State Police or other law enforcement agency. The Commissioner shall act to approve or deny the application and, if approved, to issue the license.

B. For any start-up business the applicant must make application not less than 90 days prior to the issuance date of the license to provide sufficient time for a background check.

C. An applicant applying for an annual liquor license shall first deposit the license fee and application fee, if applicable, with the Commissioner. There shall be no rebate of any portion of the license fee due to the fact that the application is made after the beginning of the license year. All applicants desiring a liquor license shall be required to pay the full license fee, whether the license is to be issued for a full or part year.

D. In the event there is a change of ownership in a licensed business, or change of managers, or partners in a

partnership, or shareholders in a corporation who own more than 5 percent of the stock of a corporation, or members in a limited liability company, the Commissioner may issue the license prior to receiving the results of the background check. However, if the background check reveals information provided in the application is false, the license will be subject to immediate revocation, the applicant will be subject to a fine and there shall be no refund of any portion of the license fee.

E. An applicant shall allow at least six weeks for processing an application. In addition to the information required by the Act, the application shall include the following information, statements and attachments:

1. If a partnership, proprietorship or joint venture: the name, date of birth and address of all applicants, including all partners, general or limited, character of business in which applicant is engaged and for which said license is desired.

If a corporation: the name, corporate address, principal place of business; character of business; the names and addresses of the officers and directors; if a majority interest of stock in said corporation is owned by 1 person or his nominee, the name and address of such person; the name and address of the 2 largest shareholders of each class of stock in said corporation; the name and address of the person or persons owning controlling interest in said corporation; the name and address of the manager or person(s) in daily charge and control of the business operation; in the case of a copartnership, the persons entitled to share in the profits thereof; the name, date of birth and address of the party to be manager of the corporate facility for which the license is sought; a certified copy of the corporate charter; and a copy of by-laws, including the objects for which organized.

If a limited liability corporation: the name, date of birth and address of all members, character of business in which applicant is engaged and for which said license is desired; and the name and address of the manager or

person(s) in daily charge and control of the business operation.

2. Citizenship of the applicant(s), respective places of birth, and if a naturalized citizen(s) of the United States, the date and place of said respective naturalization.

3. Length of time said applicant has been in business of that character; or if a corporation, whether the corporation is either a continuation or successor of a prior entity and if so, the character of the prior entity's business.

4. Amount of all goods, wares and merchandise on hand at the time application is made.

5. Location, general description and approximate square footage of the premises or place of business which is to be operated under such license, including a scaled drawing of the premises showing all ingress and egress locations, windows and location of bar.

6. A statement whether applicant has made application for a similar or other license on premises other than described in this application, and the disposition of such application; a statement whether an application was filed or a similar license was issued in any other state, county or local municipality; the date of issuance, name and address of the governmental entity; the disposition of said application or license; and the reasons therefore.

7. On initial applications, or whenever there has been remodeling, photographs depicting the interior of the premises including all ingress and egress locations, windows and bar and service areas.

8. A statement that applicant will allow neither gambling nor gambling devices on the premises except licensed raffles and "Las Vegas"

type events, for which all necessary permits have been obtained.

9. Whether a previous license issued by any municipality, state or subdivision thereof, or the federal government has been either revoked or suspended and the reasons therefore and date of said revocation or suspension. This includes, but is not limited to suspension and revocation of licenses held by any individual, partner, corporation, majority of controlling shareholder or manager of the applicant seeking a license hereunder.

10. A statement that applicant has neither been convicted of a felony nor is disqualified to receive a license by reason of any matter or thing contained in this Chapter 25, the ordinances of this City or the laws of this State and the United States of America.

11. A statement that applicant will not violate any laws of the State, the United States or any ordinance of the City.

12. A complete set of fingerprints of all persons listed on the liquor license application shall be provided as part of the background investigation.

13. In the event the premises to be licensed are leased, a copy of the lease shall be included with the application.

25.05 LIQUOR LICENSE RESTRICTIONS

A. The issuance of a liquor license is a privilege and the Commissioner may deny an application if the issuance of such license would tend to create a law enforcement problem, result in or add to an undue concentration of licenses, or have a deleterious impact on the health, safety or welfare of the area in which the licensed premise is to be located. (Ord. 2006-110, §1)

B. In addition to the liquor license restrictions contained in the Act, a license shall not be issued to a person whose place of business is conducted by a manager or agent unless the manager or agent possesses the same qualifications required by the licensee. Ord. 2006-110, §1)

25.06 LIQUOR LICENSE CLASSIFICATIONS; FEES
(Ord. 2005-154, §3)

Liquor licenses shall be divided into the following classifications and fees:

A. Classifications: Liquor licenses shall be divided into the following classifications and fees:

1. Class A: A Class A license authorizes the retail sale of alcoholic liquor for consumption of the licensed premises, as well as other retail sales of such alcoholic liquor.
2. Class B: A Class B license authorizes the retail sale of alcoholic liquor on the licenses premises but not for consumption on the licensed premises.
3. Class R1: Class R1 licenses authorize full bar service for alcoholic liquor on the licensed premises with no restrictions on the type of liquor served provided, however, a separate dining area, exclusive of the bar area, shall be made available. The sale of packaged liquor shall also be allowed. This license classification shall be restricted to businesses generating at least 60 percent of their gross sales from the sale of food. The holder of a Class R1 license shall be eligible to apply for not more than three outdoor liquor auxiliary permits per license year to provide bar service to an outside area of the licensed premises on a per event basis, subject to the following conditions:
 - a. Compliance with all City liquor codes, rules and regulations and conditions of the outdoor liquor auxiliary permit being issued;
 - b. Reimbursement of all costs incurred by the City in responding to complaints or

incidents resulting from the outdoor liquor auxiliary permit activity;

- c. The outdoor area shall be contiguous to and accessible from the licensed premises and in a location approved by the Liquor Commissioner or his official designee.
- d. The outdoor area shall be enclosed to prevent any alcoholic beverages from leaving the immediate area. The enclosure shall be approved by the Liquor Commissioner or his official designee.
- e. The operating hours of the outdoor area shall be approved by the Liquor Commissioner or his official designee.
- f. The outdoor liquor auxiliary permit expiration shall be approved by the Liquor Commissioner or his official designee.
- g. The licensee shall provide the Liquor Commissioner or his official designee with a current certificate evidencing public liability insurance in compliance with the requirements of Section 25.10 of this Code, including coverage for the outdoor area of service.
- h. The licensee shall execute a hold harmless and indemnification agreement, the text of which shall be approved by the Liquor Commissioner or his official designee.
- i. The outdoor area shall be monitored by the license holder to prevent patrons from exiting the area with alcohol or passing alcohol outside the outdoor area during the event.
- j. Any amplified music, its hours of playing and audible level shall be approved by the Liquor Commissioner or his official designee.

- k. An outdoor liquor auxiliary permit fee of \$100 per event and a security deposit of \$500 shall be paid and filed with the City. The security deposit is filed to secure compliance by the license holder with all conditions imposed herein. Following the event, the Commissioner shall determine to what extent the deposit is forfeited due to violations referenced herein.
- l. Outdoor liquor auxiliary permits shall be issued by the Liquor Commissioner or his official designee after consultation with the Chief of Police.
- 4. Class R2: A Class R2 license authorizes the sale of beer and wine on the licensed premises for consumption at food tables on the license premises. No bar service or sale of packaged alcoholic beverages shall be allowed.
- 5. Class D: A Class D license authorizes the sale of alcoholic liquor for consumption on the licensed premises only by clubs, as defined in the Act.
- 6. Class E: A Class E license authorizes the retail sale of alcoholic liquor only for consumption on the licensed premises of any motel, hotel or restaurant with separate banquet facilities for not less than 150 persons, provided that such consumption shall take place only at the table at which food is served to individual patrons of any such banquet facility, or in the case of a hotel or motel, in a room occupied by a guest thereof.
- 7. Class AUX: A Class AUX license authorizes the retail sale of alcoholic liquor for consumption on or off the licensed premises in an auxiliary or second building located on the same parcel of real estate or premises described in the primary liquor license. The privileges of said auxiliary license shall be the same as those of the primary liquor license. The requirements for obtaining a Class AUX license shall be the same as for the primary license. A Class AUX license cannot be issued without a primary license.

8. Special Permit: Upon approval of the City Council, the Commissioner may issue a special permit to any qualified person, firm, corporation or organization wishing to sell or deliver alcoholic liquor in connection with any picnic or other gathering sponsored by such person, firm, corporation or organization and shall only be held in a City park. A special permit shall authorize the sale or delivery of alcoholic liquor in the City park designated in the application. No more than three special permits shall be issued to any such person, firm, corporation or organization in any one licensing year (beginning May 1 and ending the following April 30). Special permits shall not exceed a 24-hour period. The fee for a special permit shall be \$30.
9. Extended Hours: An extended hours license is available to all licensees pursuant to Section 25.08 herein. The annual license fee shall be \$1,000 per weekend day for which application is sought.
10. Outdoor Dining License: Pursuant to the following regulations, an Outdoor Dining License may be issued, at no charge, to a Class R1 licensee that will permit the consumption of alcoholic liquor in conjunction with food service: (Ord. 2006-110, §2)
 - a. Alcoholic liquor shall not be dispensed within the outdoor dining area.
 - b. Any alcoholic liquor served in the outdoor dining area shall remain within those premises. Subject to the approval of the Commissioner, the area shall be screened or enclosed by either landscaping or fencing.
 - c. The outdoor dining area shall only be operated from 11 a.m. to 10 p.m.
 - d. The outdoor dining area shall be contiguous to and accessible from the licensed premises. Other than access from the licensed premises, there shall be no other

ingress or egress to the outdoor dining area.

- e. The size of the outdoor dining area shall not exceed one-half of the floor area of the licensed premises.
- f. Entertainment and/or sound amplification is prohibited.
- g. Lighting shall be approved by the Commissioner.

11. Application Fee: A non-refundable application fee in the amount of \$500 shall be payable upon initial application for a liquor license. (Ord. 2006-110, §2)

B. License Fees: The following fees shall be paid upon application for a new or renewed license: (effective May 1, 2006)

- 1. Class A: \$1,300
- 2. Class B: \$1,060
- 3. Class R1: \$1,180
- 4. Class R2: \$ 880
- 5. Class D: \$ 820
- 6. Class E: \$1,300
- 7. Class AUX: \$ 280

C. One Time License Fee: Any applicant who requests the City to create an additional license in any license classification may have the option of paying a one time license fee, subject to the approval of the Commissioner. The one time license fee shall be \$10,000. (Ord. 2006-110, §3)

25.07 NUMBER OF LIQUOR LICENSES ISSUED

The number of available licenses in each classification and special permits shall be determined from time to time by the City Council. (Ord. 2006-110, §4)

25.08 CLOSING HOURS

A. With the exception of those who purchase an extended hours license, it shall be unlawful to sell or offer for sale at retail, give or knowingly permit the consumption of alcoholic liquors on any licensed premises pursuant to this Chapter 25, between the hours of 1 a.m. and 7 a.m. Mondays through Fridays, 2 a.m. and 7 a.m. on Saturdays and 2 a.m. and 11 a.m. on Sundays. (Ord. 2005-154, §4,2005)

B. Those purchasing an extended hours license shall not be permitted to sell or offer for sale at retail, give or knowingly permit the consumption of alcoholic liquor on any licensed premises pursuant to this Chapter 25, between the hours of 1 a.m. and 7 a.m. Mondays through Fridays and 2 a.m. and 5 a.m. on Saturdays and 2 a.m. and 7 a.m. on Sundays.

C. It shall be unlawful to sell or offer to sell at retail, give or knowingly permit the consumption of alcoholic liquor on any licensed premises pursuant to this Chapter 25 between the hours of 6 p.m. on December 24th and 12 noon on December 25 of each year.

D. After closing hours, no person shall be permitted to remain on any licensed premises licensed pursuant to this Chapter 25 except the owner of the licensed premises or his or her duly authorized employees.

25.09 DISPOSITION OF LICENSE FEES

Unless otherwise designated by the City Council, all fees required by this Chapter 25 shall be deposited in the City's general corporate fund. In the event an application is denied, the fee less an administrative fee of \$250, shall be returned to the applicant.

25.10 INSURANCE REQUIREMENTS

Prior to the issuance of a liquor license under the provisions of this Chapter 25 the applicant shall file with the City a dram shop liability insurance certificate certifying that the applicant, has in full force and effect, for a term concurrent with the term of the license to be issued, dram shop liability insurance with limits of liability in excess of the statutory liability for dram shop under the Act and general liability insurance in an amount of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. "Host" insurance

shall not satisfy the terms of this Section 25.10. (Ord. 2004-119, §1, 2004)

Any such certificate of insurance shall provide that the insurance coverage may not be cancelled unless written notice is given to the City at least 15 days prior to the effective date of such cancellation. The failure of the licensee to have such insurance coverage in full force and effect at any time during the term of such license shall be cause for the revocation of the license.

25.11 LICENSE RENEWAL

Not less than six weeks before a liquor license is scheduled to expire and after a renewal notice is provided by the City to the licensee, the licensee may submit an application for renewal provided the applicant 1) is then qualified to receive a license and 2) the premises for which such renewal license is sought is suitable for purposes. The renewal privilege provided herein shall not be construed as a vested right and the Commissioner reserves the absolute right to determine the number of licenses to be issued within the City. In the event a renewal application is submitted less than six weeks before a liquor license expires, and after a 10-day written notice is mailed by the City to the licensee, the applicant shall be subject to an additional renewal application fee of \$500.

25.12 CHANGE OF LOCATION

The location of the license may be changed only upon the receipt of written permission from the Commissioner. No change of location shall be permitted unless the proposed new location is in compliance with the provisions and regulations of this Chapter 25. The written permission of change shall be posted with the license as provided for in this Chapter 25.

25.13 PROHIBITED ACTIVITIES BY LICENSEES

A. No person holding a license issued by the City shall, in the conduct of the licensed business or upon the licensed premises, either directly or through the agents or employees of the licensee:

1. Violate or permit a violation of any federal law, state statute or regulation related to the control of liquor.

2. Violate or permit a violation of any City ordinance or resolution regulating the sale of alcoholic liquor or relating to the eligibility of the licensee to hold a liquor license.
3. Violate or permit a violation of any rule or regulation of the Illinois Liquor Control Commission as amended from time to time.
4. Permit the sale and/or consumption of any alcoholic beverages outdoors absent a specific permit issued by the City.
5. Allow fighting, disorderly conduct or excessive noise constituting a nuisance or tumultuous conduct of patrons and/or employees of the licensee, as defined in this Code, to take place on the licensed premises or on, about and/or adjacent to the licensed premises.
6. Allow patrons to serve or distribute alcoholic beverages to minors on the licensed premises or allow minors to drink alcoholic beverages on the licensed premises.
7. Fail to call the City Police Department upon the violation of any City ordinance or state law relating to fighting, disorderly conduct or excessive noise constituting a nuisance or tumultuous conduct of patrons and/or employees on the licensed premises.
8. Submit to the City an application for a license containing a false or misleading statement.
9. Permit any gambling on any licensed premises.
10. Permit the sale, delivery or give any alcoholic liquor to any intoxicated person.
11. Permit or allow any of the following activity, as defined in Ordinance 98-111, *An Ordinance Defining Certain Terms Relating to Adult Businesses in the City of Harvard*, passed March 3, 1998, to be conducted on the premises: Adult Business, Adult Entertaining Center or Facility, Adults-Only Activity, Bookstore, Motion Picture

Theater, Nightclub, Sauna, Nudity, Obscene Activity, Rap Parlor, Sodomasochistic Activity or Sexual Conduct Activity.

12. To sell, distribute or permit alcoholic beverages on any premises defined as an Adult Business pursuant to Ordinance 98-111, *An Ordinance Defining Certain Terms Relating to Adult Businesses in the City of Harvard*, passed March 3, 1998.

13. Violate any section of this Chapter 25.

B. Public Consumption: It shall be unlawful for any person to consume any alcoholic liquor upon or about the following places: any street, sidewalk or public thoroughfare within any area zoned in a business district as defined in the Harvard Zoning Ordinance within the City limits, except to the extent the City waives the enforcement of this Section 24.13-B pursuant to a request by a licensee to sell or offer for sale alcoholic beverages at an outdoor dining café. As a condition of being granted this waiver, the licensee shall comply with all requirements imposed the City regarding screening, sound amplification and location. The licensee shall also comply with all insurance requirements pursuant to Section 25.10 herein and shall make the City as an additional insured party under the licensee's certificate of insurance. This exception shall only be available to retailers that derive their principal business from the sale of services or commodities other than alcoholic liquor. (Ord. 2006-110, §5)

C. Cause for Revocation: Proof before the Commissioner of the facts which establish a violation of any federal law, state statute, City ordinance or resolution or rule of the Illinois Liquor Control Commission shall be sufficient cause for revocation, suspension and fine of any licensee, irrespective of whether or not a conviction has been obtained in any court. In addition, the licensee shall be obligated to reimburse the City for all attorney's fees incurred as a result of the prosecution of the offending licensee. (Ord. 2006-110, §5)

D. Official Record: Pursuant to 235 ILCS 5/7-9, all appeals from the decision of the Commissioner shall be limited to a review of the official record of the proceedings. (Ord. 2006-110, §5)

E. Licensing After Revocation: If a license is permanently revoked, no license shall be granted to any person for a period of one year thereafter for the conduct of a business selling alcoholic liquors in the premises described in such revoked license. (Ord. 2006-110, §5)

25.14 ABSENCE; ABANDONMENT

A. Leave of Absence: If a licensee leaves the City for more than four consecutive weeks, the licensee shall designate an agent, who is a City resident, for service of notice and such leave shall be reported to the Commissioner, in writing, with the name and address of the designated agent.

B. Abandonment: If the licensee to which a license has been issued discontinues operations at the premises described in the application and license for a period of 60 consecutive days, (except as hereafter set forth) or whenever there is evidence of a clear intent of the licensee to abandon the premises, said license shall be subject to revocation. If said discontinued operation is due to fire or other such damage wherein the Building Commissioner deems the premises uninhabitable, said 60-day period shall be stayed only until occupancy is granted by the Building Commissioner.

25.15 SALE RESTRICTIONS

A. Premises Catering to Minors: No license shall be issued to any person for the sale of any alcoholic liquor at any store or other place of business where the majority of the customers are minors or where the principal business transacted consists of school books, school supplies, food, lunches or beverages for such minors.

B. First Floor of Premises: No license shall be issued for the sale of any alcoholic liquor to any person, firm or corporation whose place of business is located or designated to be in a basement or in any story of any building other than the first floor of said building.

25.16 PUBLIC CONSUMPTION

It is unlawful to have or possess any glass, bottle, can or other container of alcoholic liquor with the seal broken, or to consume any alcoholic beverage upon any street, sidewalk or other public property within the City, provided that nothing contained in this Section 25.16 shall prohibit the sale,

possession or consumption of alcoholic liquor in any City park by any person attending a picnic or other gathering sponsored by a person, firm, corporation or organization which has been issued a special permit for such event pursuant to the provisions of paragraph 8 in Section 25.06 of this Code.

**25.17 REVOCATION OR SUSPENSION OF LICENSE; FINES; NOTICE;
HEARING; APPEAL, OF THE HARVARD MUNICIPAL CODE**
(Revised Ord. 2004-148)

The Commissioner may revoke or suspend any local retail liquor license issued by him if he determines that the licensee has violated any provision of this Chapter 25 or of any valid ordinance or resolution enacted by the City or any applicable rule or regulation established by the Commissioner or the State Liquor Control Commission which is not inconsistent with law, either in addition to said revocation or suspension or in lieu of suspension or revocation, the Commissioner may levy a fine on the licensee for such violation. The fine imposed shall not exceed \$1,000 for the first violation within a 12-month period, and \$1,500 for a second violation within a 12-month period and \$2,500 for a third or subsequent violation within a 12-month period. Each day on which a violation continues shall constitute a separate violation. Not more than \$15,000 in fines under this Section 25.17 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 City.

Said license shall be either revoked or suspended and fines levied only after a public hearing before the Commissioner with a 3-day written notice to the licensee affording the licensee an opportunity to appear and defend. All such hearings shall be open to the public and the Commissioner shall reduce all evidence to writing and shall maintain an official record of the proceedings. If the Commissioner has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the City 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 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.

The Commissioner shall, within 5 days after such hearing, state the reason or reasons in a written order served upon the licensee, for either the fine, suspension, revocation, or a combination thereof. The amount of the fine, the period of the suspension or the declaration of revocation of said license, and all costs shall be clearly set forth in said order. All costs of the public hearing incurred by the Village shall be charged to

the licensee upon a determination of a violation and the issuance of an order setting forth a fine, suspension, revocation or any combination thereof.

Any order or action of the Commissioner may, within 20 days after notice of such order or action, be appealed. The appeal shall be limited to a review of the official record of the proceedings of the Commissioner. A certified official record of the proceedings taken and prepared by a certified court reporter or certified shorthand reporter shall be filed by the Commissioner within 5 days after notice of the filing of such appeal, if the appellant licensee pays for the cost of the transcript.

25.18 PURCHASE, ACCEPTANCE, POSSESSION OR CONSUMPTION OF ALCOHOL BY PERSONS UNDER AGE 21

A. Purchase, gift: Any person under the age of 21 shall not purchase or accept a gift of alcoholic liquor or have alcoholic liquor in his possession.

B. Consumption: The consumption of alcoholic liquor by any person under the age of 21 years is unlawful.

C. Exemptions: The possession and dispensing or consumption of alcoholic liquor by a person under the age of 21 in the performance of a religious service or ceremony, or the consumption of alcoholic liquor by a person under the age of 21 under the direct supervision and approval of the parents or parent of such person in the privacy of a home, is not prohibited by the section.

D. Violation-Penalty: Whoever violates any provision of this Section 25.18 shall be guilty of a Class A misdemeanor. (Ord. 2001-111, §5; Ord. 96-128, §1; Ord. 91-132, §2)