

ARTICLE 6
ALCOHOLIC LIQUORS

SECTION 6.1: CONSTRUCTION

This Article shall be liberally construed to the end that the health, safety, and welfare of the residents of the City of Mt. Vernon shall be protected, and temperance in the consumption of alcoholic liquor shall be fostered and promoted by sound and careful control and regulation of the sale of alcoholic liquors.

SECTION 6.2: DEFINITIONS

Unless the context clearly and unambiguously otherwise requires, the following words and phrases as used in this Article shall be construed according to the definitions set forth below:

1. “Alcohol” means the product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, and includes synthetic ethyl alcohol. It does not include denatured alcohol or wood alcohol.
2. “Alcoholic Liquor” includes alcohol, spirits, wine, and beer, and every liquor or solid, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed as a beverage by a human being. “Alcoholic liquor” shall not include any liquid or solid containing one-half of one percent or less of alcohol by volume.
3. “Beer” means a beverage obtained by alcoholic fermentation of an infusion or concoction of barley or other grain, malt, and hops in water and includes among other things beer, ale, stout, lager beer, porter, and the like.
4. “Bowling Alley” means an establishment or premises or part of an establishment or building as the case may be wherein the game of bowling with composition balls and ten wooden pins is played.
5. “Club” means a corporation organized under the laws of this state, not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquors, kept, used, and maintained by its members through the payment of annual dues, and owning, hiring, or leasing a building or space in a building, of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and provided with suitable and adequate kitchen and dining room space and equipment and maintaining a

sufficient number of servants and employees for cooking, preparing, and serving food and meals for its members and their guests; PROVIDED that such club files with the Local Liquor Control Commissioner at the time of its application for a license under this Article two copies of a list of the names and residences of its members and similarly files within ten (10) days of the election of any additional member his name and address; AND PROVIDED FURTHER that the affairs and management of such club are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting, and that no member or any officer, agent, or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation any profits from the distribution or sale of alcoholic liquor to the club or the members of the club or its guests introduced by members beyond the amount of such salary as may be fixed and voted at any annual meeting by the members or by its board of directors or other governing body out of the general revenue of the club.

6. “Consumption Sales” means the sale or offering for sale at retail of any alcoholic liquor for consumption upon the licensed premises where it is sold.
7. “Control Premises” means the licensed premises and all property adjacent to the licensed premises which is owned or leased by or which is under the authority or supervision of the licensee; control premises shall include, but shall not be limited to, the licensed premises, parking lots, sidewalks and walkways. Except as provided within § 6.5 with regard to a Hotel License, each building, facility or business required for a particular classification (e.g. restaurant, hotel, lounge, tavern, etc.) must be under the sole and exclusive ownership and control of the licensee and no part thereof shall be leased, contracted, subleased or subcontracted to another person by the licensee, provided nothing herein shall prohibit the licensee from employing a manager or contracting for management services for which the licensee retains responsibility and liability.
8. “Convicted” means and includes a plea of guilty, a plea of no contest, or probation or any plea admitting guilt or admitting the facts of an offense; and it means and includes any finding of guilt by a court, a jury, an administrative agency or any other trier of fact.
9. “Hotel” means every building or other structure kept, used, maintained, advertised, and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to transient travelers and guests in which twenty-five (25) or more rooms

are used for sleeping accommodations of such guests and having one or more public dining rooms where meals are served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or buildings, structure or structures being provided with adequate and sanitary kitchen and dining room equipment and capacity; said hotel must actually be engaged in the business of renting, leasing or letting rooms and must be filing returns and paying the Mt. Vernon Motel-Hotel tax.

10. “Licensee” means any individual, corporation, partnership, or other person holding a license under the terms and provisions of this Article.
11. “Licensed Premises” means the area as described in the application where alcoholic liquor is served, consumed, stored, or sold and areas internally or externally connected thereto by doorway, which areas are integrally related to the operation of the licensed establishment. “Licensed Premises” is meant and defined as the interior of a building or a fully enclosed area and does not include a parking lot, a sidewalk, walk, covered walkway, or any unenclosed area.
12. “Local Liquor Control Commissioner” shall mean the Mayor of the City of Mt. Vernon.
13. “Motel-Hotel Tax” means the tax imposed by ordinance No. 87-27 of the City of Mt. Vernon.
14. “Mt. Vernon Liquor Advisory Board” means the Liquor Advisory Board established by Section 6.20 herein.
15. “Original Package” means any bottle, flask, jug, can, cask, barrel, keg, hogshead, or other receptacle or container, whatsoever used, corked or capped, sealed, and labeled by the manufacturer of alcoholic liquor to contain and to convey any alcoholic liquor.
16. “Package Sales” means the sale or offering for sale at retail of alcoholic liquor in the original package and not to be opened to be consumed in whole or in part on the premises where sold.
17. “Public Property” means (1) any public street, alley, sidewalk or public way, (2) all property owned by the United States, the State of Illinois or other State or any municipality or other political subdivision or agency thereof and (3) any property, including privately owned property, which is open to or held out for use by the public, except a “licensed premises” as defined above.

18. “Resident Manager” or “Managing Agent” means the person designated as manager within the application for license. The Resident Manager or Managing Agent must be a bona fide resident of the City and must be a full-time employee of licensee who is physically present on a daily basis at the license premises not less than forty (40) hours per week; the Resident Manager or managing Agent must have management authority including control of the premises, all books and records and must have the authority to make decisions and give consent regarding any matter concerning the control premises. A corporation and similar business entities must conduct business by a resident manager or managing agent.
19. “Restaurant” means any public place kept, used, maintained, advertised, and held out to the public as a place where meals are served, and where meals are actually and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook, and serve suitable food for its guests.
20. “Retailer” means a person who sells or offers for sale alcoholic liquor for use or consumption and not for resale in any form.
21. “Sell At Retail” and “sale at retail” refer to and mean sales for use or consumption and not for resale in any form.
22. “Service Bar” means a place or location not within the view of the public where alcoholic liquor may be poured and served. A service bar may only be located in a kitchen, food preparation area or waiter or service station area of a licensee.
23. “Sale” means any transfer, exchange, or barter in any manner or by any means whatsoever, whether for immediate or future delivery, for a consideration and includes and means all sales made by any person, whether principal, proprietor, agent, servant, or employee.
24. “Sampling” means a supervised offering at a licensed premises of an alcoholic product or products as a sales promotion of said products by a licensee, provided that a sampling product may only be tasted in the following amounts: distilled spirits, 1/4 ounce, wine 1 ounce, and beer 2 ounces.
25. “Spirits” means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin, or other spirituous liquors, and such liquors when rectified, blended, or otherwise mixed with alcohol or substances.

26. “To sell” means to advertise for sale or to solicit or receive any order for or to keep or expose for sale or to keep or possess with intent to sell.
27. “Wine” means any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables containing sugar, including any such beverages when fortified by the addition of alcohol or spirits as above defined.

SECTION 6.3: APPLICATIONS AND LICENSING

A. **LICENSE REQUIRED.** No person shall sell or offer for sale, possess for sale, advertise for sale or display for sale alcoholic liquor within the corporate limits of the City without having first obtained a license to do so as provided in this Article.

B. **NATURE AND EXTENT OF LICENSE.** The license required by this Article shall be a retailer's license and shall permit the licensee to sell and offer for sale alcoholic liquor at retail upon the licensed premises specified and described in the licensee's application and as defined within this ordinance. Each license granted shall be subject to the provisions of this Article, other applicable Ordinances of the City of Mt. Vernon, and all applicable laws of the State of Illinois and the United States, including but not limited to the Illinois Liquor Control Act.

A license issued hereunder shall be a purely personal privilege good for not to exceed one (1) year after issuance, and said license 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 be encumbered or hypothecated; such license shall not descend by the laws of testate or intestate devolution, but it shall cease upon the death of the licensee except as hereinafter provided. All licenses issued hereunder shall expire on April 30 following issuance. Any sale of alcoholic liquor after expiration of a license shall constitute sale of alcoholic liquor without a license; if an applicant seeks renewal of an existing license, an application for renewal shall be submitted with the required license fee prior to expiration of the existing license. Expiration of a license shall occur by operation of law without any notice or hearing and there shall be no right to reinstatement of any license, although an application for a new license may be submitted. A licensed premises shall be subject to inspection by the Building Inspector at all times.

A license issued hereunder shall not be transferred or otherwise conveyed through a change in ownership or change in interest of any licensed premises or any licensee. Any change in stock ownership, a partnership interest or other change in any ownership interest shall constitute an attempt to transfer a license and shall terminate the license by operation of law without notice or hearing.

No license shall issued for any premises unless and until the premises has obtained a valid Certificate of Occupancy under the Revised Code of Ordinances; no license shall issue for any premises proposed to be constructed and/or under construction or remodeling

until after a Certificate of Occupancy has been issued. No remodeling, alteration or other construction shall be made to any licensed premises without a Building Permit and compliance with all requirements and procedures associated therewith.

C. APPLICATION FOR LICENSE. All applications for licenses under this Article shall be in writing, under oath, addressed to the Local Liquor Control Commissioner, and filed in the office of the City Clerk.

Each application shall be signed by the applicant. If the applicant is a partnership, all partners shall sign the application. If the applicant is a corporation or club, the application shall be signed and verified by the president and secretary. The information recited in the application shall be under oath or affirmation as to each person signing the application. The wilful making of any false statement as to a material fact in any application shall constitute cause for denial of a license or revocation of any license issued hereunder.

The applicant has a duty to keep the City Clerk and the Local Liquor Control Commissioner advised as to its current mailing address. The applicant has a duty to file a completed application and to provide all information required or requested. The applicant has a duty to timely comply with the requirements of this Article and to diligently prosecute any application filed with the City Clerk. The applicant has the burden of proof to establish the applicant's qualifications and the qualifications of the premises for a license.

Each application shall include the following information and statements:

1. Name, birth date, social security number, residence address, and citizenship (and if a naturalized citizen, the time and place of naturalization) of the applicant in the case of an individual.
2. In the case of a partnership, the names, birth dates, social security numbers, and residence addresses of all partners.
3. In the case of a corporation or club, the names, birth dates, social security numbers, driver's license numbers, and residence addresses of the officers, directors, managers; and the names, birth dates, social security numbers, and residence addresses of all persons who own or have an interest in over five (5) percent of the stock.
4. In the case of a partnership, the date of the formation of the partnership; in the case of an Illinois corporation, the date of its incorporation; or in the case of a foreign corporation, the state where it was incorporated and the date of its becoming qualified to transact business in the State of Illinois.
5. The location where the applicant proposes to engage in the business for which the application is submitted along with an affirmative statement that the

proposed location does not conflict with the location restrictions detailed with Section 6.11 herein.

6. The class of license for which the application is submitted.
 7. The name and address of the landlord if the premises are leased.
 8. The nature of the business which the applicant intends to carry out and the amount of applicant's anticipated gross revenue from other sources within the proposed licensed premises.
 9. A list of the governmental entities to which the applicant has submitted an application(s) for a liquor license; the date of the application; the disposition of such application; amounts of and reasons for fines imposed; and the dates, reason, and length of suspension or revocation of such license, if any.
 10. A statement that the applicant, individual applicant, partners of a partnership applicant, and officers, manager, directors, and stockholders of any corporation applicant have never been convicted of keeping a house of ill fame, convicted of pandering or other crime or misdemeanor opposed to decency and morality, or convicted of any felony under any federal or state law.
 11. A complete criminal background and credit check authorization for each person identified within the immediately preceding subparagraph.
 12. The name of any person identified within Subparagraph 10 who has been issued a federal wagering stamp for the current tax year.
 13. Evidence of dram shop liability insurance covering the entire period of the license in the form of a certificate of insurance issued by an insurance company licensed to do business in the State of Illinois. The certificate shall insure applicant and owner or lessor of the premises in such amounts as may be required by the Illinois Liquor Control Act, or in an amount of not less than \$1,000,000.00, whichever amount is greater.
- D. PERSONS INELIGIBLE TO HOLD A LICENSE. No license shall issued to:
1. A person who is not a bona fide resident of the City.
 2. A person who is not of good character and reputation in the City.
 3. A person who is not a citizen of the United States.
 4. A person who has been convicted of a felony or who has been convicted of

pandering or any other crime of morality or a person who has been convicted of being a keeper of a house of ill fame under the laws of the State of Illinois or any other federal or state law, unless the Commissioner determines within his sole discretion that such person now warrants the public trust.

5. A person whose license issued under this Article or the Illinois Liquor control Act has been revoked for cause.
6. A person who at the time of application for renewal of any license issued under this Article would not be eligible for such license upon a first application.
7. A person whose business is conducted by a manager or agent, unless such manager or agent is an actual resident of the City of Mt. Vernon and possesses the same qualifications required of the licensee and meets the requirements of Section 6.2(19).
8. A person who does not beneficially own the premises for which a license is sought or does not have a lease thereon for the full period for which the license is to be issued.
9. Any law enforcing public official, mayor, or any member of the City Council; and no such official shall be interested in any way either directly or indirectly in the sale or distribution of alcoholic liquor.
10. Any person, club, association, or corporation not eligible for a state retail liquor dealer's license.
11. A partnership, unless all of the members of such partnership shall be qualified to obtain a license.
12. A corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than five (5) percent of the stock of such corporation, would not be eligible to receive a license hereunder for any reason other than citizenship or residence within the political subdivision, except however, the manager must be an actual resident of the city.
13. A corporation, unless it is incorporated in Illinois or unless it is a foreign corporation which is qualified under the Illinois Business Corporation Act to transact business in Illinois.
14. A person who has been convicted of any gambling act or offense as prescribed

by any criminal code or statute of any state, including but not limited to Illinois, or as prescribed by any statute or regulation of the United States or as prescribed by any ordinance of the City of Mt. Vernon or any other political subdivision of the United States or any state.

15. A person to whom a federal wagering stamp has been issued by the federal government for the current tax period.
16. A partnership to whom a federal wagering stamp has been issued by the federal government for the current tax period or if any of the partners have been issued a federal wagering stamp by the federal government for the current tax period.
17. A corporation if the corporation or any officer, manager, or director thereof or any stockholder owning in the aggregate more than five (5) percent of the stock of said corporation has been issued a federal gaming device stamp of a federal wagering stamp for the current tax period.
18. A person in default of any payment to the City of Mt. Vernon, including any licensing fee under Article 6 or under any other Article of the Revised Code, any other charge or fee imposed by the Revised Code, any tax imposed by the City of Mt. Vernon, or any charge for water, sewer or garbage services, or a person in default on any loan agreement or contract with the City.

E. **BOND.** Each applicant making application for license hereunder at the time of filing the application shall execute a penal bond covering the entire period of the license in the form and with the security satisfactory to the Local Liquor Control Commissioner conditioned upon the faithful observance of the provisions of the laws of the State of Illinois, and that this Article indemnifying the City against all losses or injury arising against said City by reason of the conduct or operation of a business under such license and for payment of all fines or forfeitures against such license, which bond shall be in the sum of \$1,000.00

F. **SEPARATE APPLICATION.** Separate application by a licensee or a related person must be filed for separate classes of licenses by any applicant desiring to operate more than one licensed business, and a separate license must be obtained by any applicant desiring to operate a licensed business at more than one licensed premises.

G. **MULTIPLE LICENSES.** Licenses to operate more than one (1) licensed business or at more than one (1) licensed premises are not desirable and applications by an applicant or by a person related to a current license holder for a license or for a second license may be denied solely on the basis that the applicant or a related person is the holder of another license. "Related" means being employed by, owning stock in, being a partner in, having any interest directly or indirectly in or being related by blood or marriage in the

following relationships: spouse, parent, step-parent, grandparent, step-grandparent, child, step-child, grandchild, step-grandchild, brother, step-brother, sister, step-sister, uncle, aunt, niece or nephew. No person or related persons may possess more than two licenses.

H. APPLICATION PROCEDURE. Each applicant desiring to engage in the business of sale of alcoholic liquor shall make application to the City Clerk for a license to do so. Such application shall be referred to the Local Liquor Control Commissioner, and if applicable to the Mt. Vernon Liquor Advisory Board. The application shall be processed in accordance with the procedures set forth within this Article. The Local Liquor Control Commissioner shall have sole authority to approve or reject such application. In the event such application is approved by the Local Liquor Control Commissioner, a license shall be issued by the Clerk to such applicant signed by the Commissioner and countersigned by the Clerk, who shall keep a complete record of all such licenses issued.

SECTION 6.4: PAYMENT OF LICENSE AND PERMIT FEES

All fees payable under this Article shall be paid in full by cash, certified check, or money order and submitted at the time the application is made except that annual license fees, upon an application for renewal, may be paid by equal installments with the first installment due on or before May 1 of each license year and the second installment to be before September 1 of each license year; the first installment must accompany the application for renewal and must be submitted and paid prior to expiration of the existing license and if said installment is not timely paid then no sale of alcoholic liquor shall be made after expiration of the license and there shall be no right to reinstatement of any expired license, although an application for a new license with payment of the entire annual license fee may be submitted; upon failure to pay the second installment within ten (10) days of its due date a penalty of twenty-five percent (25%) of the installment amount shall be assessed and shall be due and payable immediately and if the fee and penalty is not paid in full on or before October 1 then the license shall be subject to immediate revocation for nonpayment of the fee or penalty or any part thereof.

The license fee for each license classification and the permit fees shall be as provided within Section 6.5. When a license is issued at some time other than May 1, the fee shall be reduced in proportion to the calendar months which have fully expired in the license year prior to issuance.

SECTION 6.5: LICENSE CLASSIFICATIONS, PERMITS, AND FEES

Licenses to sell alcoholic liquor shall be of the following classes:

1. A "Tavern License" shall entitle the licensee to make consumption and package sales of alcoholic liquor. The license fee for a "Tavern License" shall be One Thousand Dollars (\$1,000.00) per annum.

2. A “Club License” shall entitle licensee to make consumption and package sales of alcoholic liquor. The license shall issue only for clubs and bowling alleys; provided that no person shall receive a license to sell alcoholic liquor upon any premises as a club unless it has the qualifications described in Section 6.2(5) of the Revised Code. The license fee for a “Club License” shall be One Thousand Dollars (\$1,000.00) per annum; provided however that with respect to a club as defined within Section 6.2 (5) having a total membership of less than 300 members, the license fee shall be Five Hundred Dollars (\$500.00).
3. A “Restaurant With Lounge License” shall entitle the licensee to make consumption sales of alcoholic liquor; the licensee shall make no package sales. This license shall issue only for licensed premises having a dining area, a kitchen area, and a lounge area physically separate, divided, and apart from one another, and no sales of alcoholic liquor shall occur within the dining area except with meals. The licensee fee for a “Restaurant With Lounge License” shall be One Thousand Dollars (\$1,000.00) per annum.
4. A “Hotel License” shall entitle the licensee to make consumption sales of alcoholic liquor; the licensee shall make no package sales. This license shall issue only for hotels and motels. No person shall receive a “Hotel License” to sell alcoholic liquor upon any premises unless the premises has the qualifications described in section 6.2(9). The license may issue to the hotel owner or hotel operator or may issue to the Lessee of the restaurant situated within the hotel provided that in all events the licensed premises shall be the entire hotel and Licensee shall be responsible with regard to the provisions of this Ordinance for the licensed premises and control premises of the hotel. The license fee for a “Hotel License” shall be One Thousand Dollars (\$1,000.00) per annum. A violation of this Ordinance by a Licensee holding a license as the Lessee of the hotel restaurant shall also be considered to be the violation of the hotel premises for licensing purposes regardless of in whose name the license is held or has been held.
5. A “Hotel Ticket License” shall entitle the licensee to make consumption sales of alcoholic liquor only as specifically hereinafter provided; the licensee shall make no other consumption sales and shall make no package sales. This license shall issue only for hotels and motels. No person shall receive a “Hotel Ticket License” to sell alcoholic liquor upon any premises unless it has the qualifications described in Section 6.2(9), except that the premises shall not be required to have a restaurant. This license shall entitle licensee to provide drink tickets as an amenity to the licensee's registered guests whose room rentals are subject to the Mt. Vernon Motel-Hotel tax; the licensee shall not provide drink tickets except with the rental of a room and the licensee shall not

make any separate sales of tickets or of alcoholic liquor; tickets shall be date stamped and shall be redeemable only on the date of issue and shall be limited to three (3) tickets per transient guest per day. The alcoholic liquor shall be served only by an employee of the licensee and the alcoholic liquor shall be consumed upon the licensed premises only within a predesignated area during a predesignated time, each of which must appear upon the drink ticket. No tickets shall be redeemable as or used for room service and no alcoholic liquor shall be provided to any guests or other persons for consumption within any room upon the licensed premises except the predesignated area. The license fee for a "Hotel Ticket License" shall be Four Hundred Dollars (\$400.00) per annum.

6. A "Restaurant License" shall entitle the licensee to make consumption sales of beer and wine; the licensee shall make no package sales. This license shall issue only for restaurants. No person shall receive a "Restaurant License" to sell alcoholic liquor upon any premises as a restaurant unless it has the qualifications described in Section 6.2(19) of the Revised Code. No restaurant licensed hereunder shall sell alcoholic liquor except with meals. No restaurant shall have any lounge or bar or other similar area; only a service bar is permitted. The license fee for a "Restaurant License" shall be Four hundred Dollars (\$400.00) per annum.
7. A "Package Sales License" shall entitle licensee to make package sales of alcoholic liquor; the licensee shall make no consumption sales. The license fee for a "Package Sales License" shall be One Thousand Dollars (\$1,000.00) per annum.
8. "Wine-Makers Retail License" shall entitle licensee to make consumption sales of wine and package sales of wine only at the licensed premises, but not for resale in any form; this license shall be issued only to a person who is engaged in the manufacture of wine and who uses only grapes, berries, other fruits, fruit products, honey and vegetables produced or grown in Jefferson County, Illinois, except as follows: (i) during the first 36 months of operation after first being issued a license, the licensee may use as much as 100 percent imported products (ii) During the following 24 months, the licensee may use as much as 80 percent imported products; and (iii) thereafter, licensee may use as much as 60 percent imported products; provided however that the maximum allowances on use of imported products may be temporarily increased in any year in which there is a crop shortage or severe drought in such percentages as determined by the director of the Department of Agriculture and as provided by the Illinois Liquor Control Act. The license fee for a "Wine-Makers Retail License" shall be One Thousand Dollars (\$1,000.00) per annum.
9. A "Grandfathered Restaurant with Package Sales" shall entitle the license to

make consumption and package sales of alcoholic liquor. The license shall issue only for a restaurant as defined within Section 6.2 (19) of the Revised Code which previously operated under a "Tavern License" as of May 1, 2006 and which operated as and continues to operate as a "Smoke Free" premises and as a premises with not more than three coin - operated amusement devices situated thereon. The license fee for a "Grandfathered Restaurant with Package Sales" shall be \$1,000 per annum. (The purpose of this license classification is to accommodate an existing licensee operating a family restaurant which makes package sales operating under a Tavern License and it is the intent and declaration of this Ordinance that the number of Grandfathered Restaurant with Package Sales license as determined within Section 6.9 shall not be increased from one (1) and that upon cessation of business of the single holder of the Grandfathered Restaurant with Package Sales created herein that said license classification shall cease to exist and not be granted to any subsequent applicant).

10. A "Banquet Room License" shall entitle the licensee to make consumption sales of alcoholic liquor; the licensee shall make no package sales. The license shall issue only for a place of business which has one or more separate rooms used for accommodating banquets, parties, meetings, and similar functions. Licensee shall not permit consumption of alcoholic liquor except during the scheduled time of the banquet, party, meeting, or similar event. Licensee shall be entitled to make sales permitted by its license classification on Sunday without obtaining an additional "Sunday Sales" permit under Article 6; however, on Sunday the licensee shall not permit the consumption of alcoholic liquor except with the consumption of food. The manager or other employee of licensee must be on duty and on the licensed premises at all times any person or persons are upon the premises and all events shall be under the supervision and direction of the employee or employees of licensee. No licensee shall operate a lounge or a bar upon the licensed premises at any time except during and for scheduled banquet, party, meeting or similar event. The license fee for a "Banquet Room License" shall be \$1,500.00 per annum.
11. A "Temporary Special Event License" shall entitle the licensee to make consumption sales of alcoholic liquor. This license shall be a temporary license which shall be issued solely to a not-for-profit organization for one (1) day, and no organization shall be entitled to more than three (3) such temporary daily permits in any one calendar year. The application for such "Temporary Special Event License" shall designate the premises for which a license is desired and the hours of operation. The license fee for a "Temporary Special Event License" shall be Fifty Dollars (\$50.00) per day. No premises or control premises shall be the place for more than three (3) Temporary Special Event Licenses and/or Temporary Special Use Licenses (either singly or in combination) during any one calendar year.

12. A “Temporary Special Use License” shall allow a holder of an Illinois Winemaker’s Premises License to transfer a portion of its wine inventory from its State licensed premises to the premises specified in the license hereby created and to sell or offer for sale at retail only in the premises specified in the license hereby created the transferred wine for use or consumption, including package sales, but not for resale in any form. Each Temporary Special Use License shall be for one (1) day and no winemaker shall be entitled to more than three (3) such Temporary Special Use Licenses in any one calendar year. The application for such Temporary Special Use License shall designate the premises for which the license is desired and the hours of operation. The license fee for a “Temporary Special Use License” shall be Fifty Dollars (\$50.00) per day. No premises or control premises shall be the place for more than three (3) Temporary Special Event License and or Temporary Special Use License (either singly or in combination) during any one (1) calendar year.
13. A “Sunday Sales” permit shall entitle the licensee to make package sales of alcoholic liquor for consumption off the premises and sales of alcoholic liquor for consumption on the licensed premises. the permit fee for a “Sunday Sales” permit shall be Five Hundred Dollars (\$500.00) per license per annum. Such permit shall be subject to the following restrictions:
- (a) The permittee must hold a valid license under one of the foregoing license classifications; the permittee is subject to the restrictions of such license with regard to the type of sales which he may make. No licensee entitled to make consumption sales under its license classification shall be eligible to receive a “Package Sales” only Sunday Sales Permit.
 - (b) With regard to any licensee entitled to make sales of alcoholic liquor for consumption on the premises, the permittee must actually serve food on the premises and the premises must be provided with an adequate and sanitary kitchen and dining room equipment and capacity and have employed therein a sufficient number and kind of employees to prepare, cook, and serve food for its patrons.
 - (c) The permittee must provide a dining area separate from the kitchen, and each the dining area and the kitchen must be physically separate, divided, and apart from any bar or lounge area. No alcoholic liquor shall be sold or consumed within the dining area except with food.
 - (d) DELETED
14. A “Temporary Sunday Sales” permit shall entitle the licensee to make sales of alcoholic liquor for consumption on the licensed premises from 12 noon to

5:00 p.m. on Sunday. Such permit shall issue only to a not-for-profit fraternal or service organization having a valid license under one of the afore described license classifications and shall issue only if the licensee is holding or hosting a regional, district, state, or national convention or convocation of such fraternal or service organization.

15. A "Brew Pub License" shall entitle the Licensee to manufacture beer and to store the manufactured beer on the licensed premises, to make sales of the beer manufactured on the premises to distributors and to importing distributors for resale, and to sell and offer for sale at retail the beer manufactured on the premises; such "sale at retail" shall be only for consumption upon the licensed premises or sale by the package only at the licensed premises. A Brew Pub License shall also entitle Licensee to make consumption sales of beer which is not manufactured on the licensed premises. The license fee for the "Brew Pub License" shall be One Thousand Dollars (\$1,000.00) per annum.
16. A "Combined Wine-Makers Retail and Brew Pub License" shall entitle the Licensee to the same privileges which are granted to and enjoyed by a holder of a "Wine-Makers Retail License" or a "Brew Pub License"; except that Licensee shall also be entitled to make sales as permitted by its license classification on Sunday without obtaining an additional "Sunday Sales" permit under Article 6, provided that on Sunday the Licensee shall not permit the consumption of alcoholic liquor except with the consumption of food. The combined Wine-Makers Retail and Brew Pub License shall be a single license classification and the License Fee for a "Combined Wine-Makers Retail License and Brew Pub License" shall be \$2,000.00 per annum

Except as limited by the terms of the license of the permit, all licenses and permits shall be annual licenses and permits, and same shall expire on April 30 of each year following the date of issuance and shall consist of the name of the licensee, the address and description of the licensed premises, and if applicable a notation permitting Sunday sales.

SECTION 6.6: POSTING OF LICENSE OR PERMIT

Every person licensed under the provisions of this Article shall immediately post and keep posted while in force in a conspicuous place upon the premises described in such license the license so issued hereunder and also any license required to be issued under the Illinois Liquor Control Act; all permits shall also be conspicuously posted in the same manner as a license.

SECTION 6.7: LICENSE FOR EACH SPECIFIC PREMISES; TRANSFER TO OTHER PREMISES OWNED BY LICENSEE

A License issued hereunder shall apply only to the licensed premises described in the application and in the license issued thereon, and only one location shall be so described in each license.

After a license has been granted for a particular premises, a licensee may request a transfer of said license to another premises owned by licensee. The licensee shall file a request in writing and under oath that licensee desires to transfer the license to a new premises owned by licensee; the licensee shall also submit a non-refundable one Hundred Dollar (\$100.00) processing fee and shall submit an application for a license for the proposed premises, which application shall be in the form and shall be subject to the same application procedure as provided in section 6.3 and as provided within this Article. A licensee may not request a transfer of a license to a premises not owned by or leased by licensee, nor may licensee request transfer of the license to another person.

SECTION 6.8: SURRENDER OF LICENSE

Any licensee who desires to surrender and terminate a license issued hereunder shall file in the Office of the City Clerk a written notice under oath addressed to the Local Liquor Control Commissioner advising the commissioner of the intent to surrender the license and the effective date of the termination of the license. The termination of the license shall not be effective until the date stated within the notice and may be withdrawn by the licensee prior to the effective date by filing in the Office of the City Clerk a statement in writing under oath withdrawing the notice of surrender, provided that a notice of withdrawal shall be null and void and of no effect if filed on or after the effective date of the termination. If no date of termination is stated within the notice then the termination shall be immediately effective upon filing of the notice.

SECTION 6.9: NUMBER OF LICENSES

There shall exist in the City of Mt. Vernon zero (0) Wine Makers Retail License, eight (8) Tavern Licenses, nine (9) Club Licenses, eleven(11) Restaurant With Lounge Licenses, two (2) Motel-Hotel Licenses, four (4) Motel-Hotel Ticket Licenses, three (3) Restaurant Licenses, six (6) Package Sales Licenses, one (1) Grand-fathered Restaurant with Package Sales License, three (3) Banquet Room Licenses, zero (0) Brew Pub License, one (1) Combined Wine-Makers Retail and Brew Pub License, and an unlimited number of temporary Licenses. Said number of licenses in existence may be changed by Ordinance.

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SECTION 6.10: RENEWALS

A license may be renewed at the expiration thereof provided the licensee is then qualified to receive a license at the premises for which such renewal license is sought and complies with all ordinances of the City including health, building, zoning, and fire safety ordinances.

Applications for renewal of license shall be filed by the licensee with the City Clerk in the same manner and under the same terms and conditions as for an original application, except for an application for renewal should be filed not less than sixty (60) days prior to expiration of the license (i.e. March 1). The application procedure for renewal of a license shall be the same as for an original application, except that such application shall not be subject to review and action by the Liquor Advisory Board unless referred to the Advisory Board by the Local Liquor Control Commissioner. The Local Liquor Control Commissioner shall preliminarily or tentatively grant or deny in writing the renewal of license without any hearing; provided that if the applicant, within ten (10) days from date of the notice of the preliminary or tentative decision of the Local Liquor Control Commissioner, shall file in the Office of the City Clerk a written request for hearing upon the application then a hearing de novo shall be conducted by the Local Liquor Control Commissioner within thirty (30) days from date of the written request, which hearing shall be conducted in accordance with the procedures set forth in Section 6.21 herein. The preliminary or tentative decision of the Local Liquor Control Commissioner shall be served by certified mail return receipt requested to the address stated within the application; the date of mailing the decision of the Local Liquor Control Commissioner in a properly addressed envelope shall be the date of the notice regardless of whether the applicant actually receives the notice.

The renewal privilege herein described shall not be construed as a vested right which shall in any case prevent the City Council from decreasing the number of licenses to be issued within its jurisdiction. The City Council may eliminate licenses, amend license classifications, and/or impose such regulations and restrictions as deemed necessary by the City Council to protect and promote the public interest.

SECTION 6.11: LOCATION RESTRICTIONS

No license shall be issued for the sale at retail of any alcoholic liquor within one hundred (100) feet of any church; school; hospital; home for the aged or indigent persons or veterans, their wives, their children; or any military or naval station; provided, however, that this provision shall not apply to hotels offering restaurant service, regularly organized clubs, or restaurants.

Except in the case of hotels and clubs, no alcoholic liquor shall be sold at retail upon any premises which has any access which leads from such premises to any other portion of the same building or structure used for dwelling or lodging purposes and which is permitted to be used or kept accessible for use by the public. This provision shall not prevent any

connection between such premises or such other portion of the building or structure used only by the licensee, his family, and personal guests.

No licensee shall hold forth or operate at any place other than the licensed premises designated in his application for a license.

No license except a Temporary Special Event License or a Temporary Special Use license shall issue for any premises except the interior of a building or a fully enclosed area adjacent to and forming part of a building constituting a licensed premises which area is fully enclosed by a permanent solid board fence not less than 8 feet in height and which area has no entry or access except from the interior of a building forming part of the licensed premises, provided that the required fence (which must meet all other requirements) for a dining area where food is actually served may be a wrought iron fence not less than five feet in height for a premises licensed as a restaurant or as a restaurant with lounge upon the written approval of the Local Liquor Control Commissioner after a determination by said Commissioner that such wrought iron fence and the use thereof is compatible with adjacent properties and uses. A Temporary Special Event License or Temporary Special Use License may issue for the interior of a building and/or a fully enclosed area which is fully enclosed by a permanent or temporary fence not less than 4 feet in height and which area has no entry or access point except entrances that are clearly designated as the only place of entry or exit and which area (including without limitation the fencing and each entrance) is monitored at all times by an adult agent of the licensee who shall be not less than 21 years of age.

No license shall be issued to an applicant whose principal business at the premises described in the application is the sale at retail of groceries or drugs.

No license shall be issued to any premises where gasoline, diesel, petroleum fuels, or other fuels for motor vehicles as defined within the Illinois Vehicle code are dispensed or sold nor to any premises immediately abutting or adjacent to a premises owned, leased, managed, or controlled by a licensee in whole or part where gasoline, diesel, petroleum fuels, or other fuels for motor vehicles as defined within the Illinois Vehicle Code are dispensed or sold.

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

When a license has been revoked for any cause, no license shall be granted to any person for the period of one (1) year thereafter for the conduct of business of selling alcoholic liquor at retail on the premises or on any part of the premises subject of the revoked license.

No license shall be issued to any massage parlor as defined within Article 11, Section

11.14 of the Revised Code of Ordinances of the City of Mt. Vernon.

No license shall be issued to any sexually oriented business which shall include an adult store, adult cabaret, adult motel, adult theater, escort agency, semi-nude model studio, sexual encounter center or similar adult use.

No license shall be issued to any tattoo shop, tattoo parlor or to any similar business offering tattoo services.

No license shall be issued for the sale at retail of any alcoholic liquor within 800 feet of any massage parlor as defined within Article 11, Section 11.14 of the Revised Code of Ordinances or within 800 feet of any sexually oriented business or within 800 feet of any tattoo shop, tattoo parlor or any similar business offering tattoo services. For purposes of this subparagraph measurements shall be in straight line without regard to intervening structures or objects from the closest exterior wall of the structure in which each business is located.

Not more than one license shall be issued for the sale at retail of any alcoholic liquor for any structure or for any lot as defined by Article 21 of the Revised Code of Ordinances. The location restriction within this subparagraph shall not apply to a licensed premises having a valid license for the sale at retail of alcoholic liquor issued prior to December 18, 2006 for so long as the license for the premises in question is renewed each subsequent year and continues in effect during all periods from such date(i.e. The R & R Crossing and The Depot); nor shall the location restriction within this subparagraph apply to a licensed premises forming part of a planned shopping center situated upon real estate having the Zoning Classification B-PL, Planned Business District.

SECTION 6.12: HEALTH AND SAFETY LAWS

All premises licensed pursuant to this Article shall be in compliance at all times with the City's building, fire, and zoning Ordinances and all state ordinances and all state statutes pertaining to health, sanitation, and public safety.

Licensees shall comply at all times with all other applicable ordinances of the City and statutes of the State of Illinois.

SECTION 6.13: CESSATION OF BUSINESS

The death of a licensee, termination of a partnership, dissolution of a corporation, or bankruptcy of a licensee shall cause the license to cease to exist provided that the executor or administrator of the estate of any deceased licensee may continue the business of the sale of alcoholic liquor under order of the appropriate court and may exercise the privileges of the deceased or insolvent or bankrupt licensee after the death of such decedent or such insolvency or such bankruptcy until the expiration of such bankruptcy, or insolvency of such licensee.

A licensee who will be ceasing to do business or who closes his or her place of business for more than ten (10) days shall give the Local Liquor Control Commissioner written notice of such cessation or closing as soon as practical after the decision to close or cease business is made, but in any event before the cessation or closing. Such notice shall state the reason therefor and the date of closing or cessation. Any licensee who ceases to do business or closes his or her place of business for a period of more than thirty (30) successive days and who fails to show good cause shall be subject to having his or her license suspended, revoked, or a fine imposed.

SECTION 6.14: HOURS OF OPERATION

It shall be unlawful to sell, to offer for sale, or deliver at retail, or give away in or upon any licensed premises any alcoholic liquor except during the following hours:

1. Monday-Thursday.

Between the hours of 6:00 a.m. of one day and 1:00 a.m. of the succeeding day of each day from Monday through Thursday inclusive.

2. Friday and Saturday.

Between the hours of 6:00 a.m. of one day and 2:00 a.m. of the succeeding day of each day from Friday through Saturday inclusive.

3. Sunday.

(a) From 12:00 noon to 10:00 p.m. Sunday provided the licensee has a Sunday sales permit or a Hotel Ticket License or a Banquet Room License or a Combined Wine-Makers Retail and Brew Pub License.

(b) From 12 noon to 5:00 p.m. Sunday provided the licensee has a temporary Sunday sales permit for said particular Sunday.

(c) All other sales on Sunday are prohibited.

4. Christmas Day.

Notwithstanding the other provisions of this Section, no person, firm, or other corporation licensed to sell malt or alcoholic liquors shall permit his, her, or its establishment to be open for the sale of such liquor on Christmas Day of each year.

5. New Year's Day.

Notwithstanding any other provisions herein, persons, firms, and corporations

licensed to sell malt or alcoholic liquor may serve and sell malt and alcoholic liquor at the licensed premises between the hours of 6:00 a.m. on New Year's Eve and 8:00 a.m. on New Year's Day or until normal permitted hours as provided above for said day, whichever is later; provided, however, that entry to the licensed premises, shall be denied to all persons at 2:00 a.m. on New Year's Day, and no person shall be permitted to enter or reenter the premises after said time until the licensed premises thereafter opens for normal permitted hours as provided above. All persons or patrons within the licensed premises at said 2:00 a.m. on New Year's Day shall be permitted to remain and be permitted to purchase and to consume malt and alcoholic liquor, although no person shall be permitted reentry upon exiting or leaving the licensed establishment until the licensed premises thereafter opens for normal permitted hours as provided above.

6. General Provisions.

In the case of restaurants, clubs, hotels, and motels that are licensed hereunder, such establishments may remain open at all hours otherwise permitted by law, but no malt or alcoholic liquors shall be sold or delivered except during the hours provided above. Furthermore, any lounge area or separate area for sale or service of alcohol shall be closed.

Each licensee shall require and have all customers off and out of said premises within twenty (20) minutes after the closing times provided herein, which twenty (20) minutes shall be considered a grace period to all time for closing and for all customers to leave the premises, but all sales or deliveries shall cease at the closing hours herein specified.

Whenever time is referred to in this Article, it shall be understood and is hereby enacted that the same shall be consistent with the official time of the City of Mt. Vernon, Illinois, whether the same shall be central standard time or central daylight savings time.

No individual other than a licensee or paid employee who is actually on duty for cleaning or maintenance purposes shall remain in a licensed premises after the closing time and grace time specified herein above.

SECTION 6.15: DRIVE-IN WINDOWS.

A. Drive-in windows maintained and operated on premises duly licensed for the sale of alcoholic liquors within the corporate limits of the City shall be adequately lighted during business hours by natural or artificial white light so that all persons or vehicles transacting business at such windows shall be clearly visible. From sunset until closing time, said drive-in windows shall be directly lighted by no less than two (2), 300-watt incandescent lamps or their equivalent, spaced at least eight (8) feet apart, located directly over or near

said drive-in window, with light rays so directed as to most effectively light the outside area immediately adjacent to said window.

B. In order to enforce this section, the City shall have the right to require the filing with it of plans, drawings, and photographs showing the lighting as above required. This paragraph shall constitute an additional regulation of premises licensed for the sale of alcoholic liquors.

C. Only “package sales” are permitted at drive-in windows.

D. Only a licensee having a Tavern or Package Sales license shall maintain and operate a drive-in window at which alcoholic liquors are sold.

SECTION 6.16: BOOKS AND BUSINESS RECORDS.

It shall be the duty of every licensee to keep and maintain books and records pertaining to all business conducted at the licensed premises. It shall be the duty of every licensee to make the books and records available upon reasonable notice for the purpose of investigation and control by the Local Liquor Control Commissioner. Such books and records need not be maintained on the licensed premises but must be maintained in the state of Illinois.

SECTION 6.17: ADDITIONAL RESTRICTIONS AND REGULATIONS.

A. No licensee shall cash checks or drafts to any purchaser or prospective purchaser of alcoholic liquors, which checks or drafts have been given such purchaser or prospective purchaser in payment of personal services, nor shall he give alcoholic liquors to any customer on credit.

B. No licensee or any agent, representative, manager, or employee of such licensee shall permit or allow any person under the age of 21 years to enter or remain upon any control premises; nor shall any person under the age of 21 years enter or remain upon any control premises. Provided, however, that the foregoing shall not apply to persons between the ages of 18 to 21 years remaining only within the dining area of a restaurant or a bowling area which is physically separate, divided, and apart from any bar or lounge area of a licensed premises, nor to a minor (i.e. under age 18) accompanied by a parent or legal guardian and the minor and his parent or guardian enter and remain only within the dining area, the bowling area, or a package sales area of a licensed premises, which dining area or bowling area or package sales area must be physically separate, divided, and apart from any bar or lounge area; nor shall the foregoing apply to persons between the ages of 18 and 21 years if the provisions of Section 6.17 O hereinafter set forth are applicable. Notwithstanding the foregoing no person under 21 years of age shall be permitted nor shall any person under 21 years of age enter any premises licensed as a tavern.

A person charged with a violation in any court or administrative hearing of this Subsection shall have the burden of proving that he meets one of the afore described exceptions.

C. No waiter or waitress nor any other employee of licensee shall enter, appear or remain within any dining area, any bowling area, or package sales area or other area of the control premises where minors are permitted, nor within any area which may reasonably be in view of a minor, unless said waiter, waitress or other employee shall be wearing or attired in non-transparent clothing which hides from view or prevents view of the breasts, the genitals, the buttocks and all areas of the torso and thigh from the bottom of the breast area downward to an area of the body which would cover from view the entire buttocks and genital area of the body.

D. No person shall possess any open container or consume any alcoholic liquor upon any public property as defined in section 6.2(17) within the corporate limits of the City. No licensee shall allow or permit any individual to transport or carry any alcoholic liquor out of the licensed premises of the licensee except in the original package with the seal unbroken.

E. No gambling devices of any kind or nature, games of chance, punch boards, slot machines, dice, or any other instrument of gambling shall be permitted or allowed upon any premises licensed for the retail sale of alcoholic liquors.

F. No licensee nor any manager, agent, or employee of licensee shall permit or allow any waitress, waiter, hostess, bartender, employee, agent, patron, or any other person to enter or remain upon any licensed premises or any control premises nor shall any such licensee, manager, agent, waitress, waiter, hostess, bartender, employee, patron or any other person enter or remain upon the licensed premises or control premises unless dressed in non-transparent and opaque clothing which completely covers from view the human male genitals in a discernibly turgid state, even if opaquely covered, and the human male or female genitals, pubic area, vulva, buttocks, anus, anal cleft and anal cleavage, and the female breast below a horizontal line across the top of the areola at its highest point. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided the areola or nipple is not exposed in whole or in part. This subparagraph shall not be construed to apply to a person engaged in the bona fide use of a single sex restroom for its intended purpose or to an occupant(s), not otherwise visible to the public, within a hotel or motel room situated upon a control premises.

No licensee nor any manager, agent or employee of licensee shall knowingly permit or allow any employee, agent, patron or any other person upon the licensed premises or control premises to engage in nor shall any licensee, employee, agent, patron or any other person knowingly engage in or knowingly participate in the fondling, caressing, or erotic touching of human genitals, pubic area, vulva, buttocks, anus, anal cleft or cleavage, or female breasts, whether covered or not, of another person. This subparagraph shall be construed so that each the person engaged in the touching and the recipient of the touching

are each in violation of this Ordinance.

G. No licensee or any officer, associate, member, representative, agent, or employee of such licensee shall sell, give, or deliver alcoholic liquor to any person under the age of 21 years except as hereinafter provided or to any intoxicated person or to any person known to him to be a habitual drunkard, spendthrift, insane, mentally ill, mentally deficient, or in need of mental treatment or to any person who is known to be an object of charity or who is known to be supported by any charitable association or institution or any relief commission or organization. Upon violation of this Subsection, the following fines and penalties shall be imposed upon the licensee and upon any officer, associate, member, representative, employee, or other agent of licensee.

1. For the first violation of this Subsection, the licensee shall pay a fine of one Hundred Dollars (\$100.00), and the officer, associate, member, representative, employee, or other agent of licensee shall also pay a fine of One Hundred Dollars (\$100.00).
2. For the second violation of this Subsection within any twelve (12) month period, the licensee shall pay a fine of Two Hundred Fifty Dollars (\$250.00), and the officer, associate, member, representative, employee, or other agent of the licensee shall also pay a fine of Two Hundred Fifty Dollars (\$250.00).
3. For the third violation of this Subsection within any twelve (12) month period, the licensee shall pay a fine of Five Hundred Dollars (\$500.00), and the officer, associate, member, representative, employee, or other agent of the licensee shall also pay a fine of Five Hundred Dollars (\$500.00).
4. The intent of this Subsection and the fines and penalties imposed hereunder are to punish both the licensee and the officer, associate, member, representative, employee, or other agent of the licensee for each violation. The foregoing fines and penalties shall be in addition to any action taken or sanction imposed by the Local Liquor Control Commissioner and shall not in any manner limit the authority of said Local Liquor Control Commissioner, who shall have authority to impose any penalty described within Section 6.21 herein, including revocation of the license.

H. Any person to whom the sale, gift, or delivery of any alcoholic liquor is prohibited because of age shall not purchase or accept a gift of such alcoholic liquor in his or her possession. Any person who violates this Subsection shall be subject to the following fines and penalties: (1) for the first violation of this Subsection, a fine of one Hundred Dollars (\$100.00) shall be imposed; (2) for the second violation of this Subsection, a fine of Two Hundred Fifty Dollars (\$250.00) shall be imposed; and (3) for the third violation within any twelve (12) month period, a fine of Five Hundred Dollars (\$500.00) shall be imposed.

For the purpose of preventing the violation of this Subsection, any licensee or his

agent or his 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 21 years. If a licensee or his agent or employee believes or has reason to believe that a sale or delivery of any alcoholic liquor is prohibited because of the nonage of the prospective recipient, he shall, before making such sale or delivery, demand presentation of some form of positive identification containing proof of age issued by a public officer in the performance of his official duties. A reasonable belief by the licensee or his agent that a person is 21 years of age or over shall not be a defense to any action under this Article unless

said licensee or agent shall have demanded and received some form of positive identification as above-described that such person is 21 years of age or over.

I. No person shall sell, give, or furnish to any person under the age of 21 years any false or fraudulent written, printed, or photostatic evidence of the age and identity of such person, nor shall any person sell, give, or furnish to any person under the age of 21 years evidence of age and identification of any other person.

J. No person under the age of 21 years shall present or offer to any licensee, his agent, or employee any written, printed, or photostatic evidence of age and identity which is false, fraudulent, or not actually his own for the purpose of procuring or attempting to procure the servicing of any alcoholic beverage, nor shall any person under the age of 21 years have in his possession any false or fraudulent written, printed, or photostatic evidence of age and identity.

K. No licensee under this Article shall sell or deliver any package containing alcoholic liquor to any other person or shall sell the contents of any such package for consumption on the premises, unless such package shall have affixed thereto all canceled revenue stamps which may be required by federal or state laws and unless same shall also bear thereon a clear and legible label containing the name of the manufacturer and the kind of alcoholic content thereof.

No licensee under this Article shall sell or have in his possession or use any package or container of alcoholic liquor which does not comply herewith at the time same was delivered to him.

L. No person after purchasing or otherwise obtaining alcoholic liquor shall sell, give, or deliver such alcoholic liquor to another person under the age of 21 years except in the performance of a religious ceremony or service and except as herein provided.

M. The consumption of alcoholic liquor by any person under 21 years of age is forbidden except the consumption of alcoholic liquor by such person in the performance of a religious service or ceremony or except under the direct supervision of the parent or parents of such person in the privacy of the home is not prohibited.

N. No person under the age of 21 years (including a person in pursuance of an

order of his parents) shall have any alcoholic beverage in his possession or on any street or highway or in any public place or any place open to the public unless he is making a delivery of an alcoholic beverage in pursuance of his employment; this prohibition shall not apply to waiters and waitresses within the licensed premises of his or her employer.

O. No person under 21 years of age shall draw, pour, or mix any alcoholic liquor within or upon any licensed premises. Waiters and waitresses must be at least 18 years of age within all licensed premises, except that waiters and waitresses within a premises licensed as a tavern must be at least 21 years of age.

P. No room or place where alcoholic liquor is sold or dispensed, or any room adjacent thereto, shall be connected by any elevator, lift, dumb waiter, or similar device for carrying, transporting, or elevating food or alcoholic liquor within any room or rooms upon any upper floor of the same premises; provided this provision shall not apply to hotels.

Q. No person except a manufacturer or distributor or importing distributor holding a federal license therefor shall fill or refill in whole or in part any original package of alcoholic liquor with the same or any other kind of quality of alcoholic liquor, and it shall be unlawful for any person to have in his possession for sale at retail any bottles, casks, or other containers containing alcoholic liquor except in original packages.

R. No person shall transport, carry, possess, or have any alcoholic liquor in or about any motor vehicle except in the original package and with the seal unbroken.

S. Any person who shall knowingly possess, sell, ship, transport, or in anywise dispose of any alcoholic liquor under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the package or other containers of said alcoholic liquor, or who shall cause any such act to be done, shall forfeit said alcoholic liquor and said packages and containers and shall be subject to the punishment and penalties provided for violation of this Article.

T. No licensee shall permit any illegal, disorderly, or immoral practices upon the control premises.

U. No Licensee shall unlawfully discriminate against any person, either with regard to the services that it offers or with regard to its employment practices, and each licensee shall comply fully with all applicable state and federal laws relating to discrimination.

V. Each and every part of "An Act Relating to Alcoholic Liquors" enacted by the General Assembly of the State of Illinois approved January 31, 1934 as amended and regulations promulgated thereunder which relate in any manner to the sale at retail of alcoholic liquors is hereby adopted by reference and made a part of this Article to the same extent and with the same legal effect as if fully set forth herein except where otherwise specifically changed or amended in this Article. Any violation of such applicable and adopted

provisions of said Act shall be deemed a violation of this Article and be subject to the penalties herein provided.

W. Bottle clubs and set-up establishments are prohibited. For purposes of this Section, a set-up establishment means any public or private premises not holding a liquor license pursuant to this Ordinance which sells, gives away, serves, pours, stores, or otherwise dispenses and/or glasses mix, ice, water, and soft drinks for the purpose of consumption of alcoholic liquors on the premises.

No individual, partnership, corporation or other person operating as a public accommodation shall permit the consumption of alcoholic liquor on its premises unless licensed under Article 6 of the Revised Code of Ordinances. No person shall possess or consume alcoholic liquor at a public accommodation unless said public accommodation is licensed under Article 6 of the Revised Code of Ordinances. For purpose of this subsection “Public Accommodation” means a refreshment, entertainment, or recreation facility of any kind whose goods, services, facilities, privileges or advantages are extended, offered, sold or otherwise made available to the public. This subsection specifically, but without limitation, prohibits all establishments generically known or referred to as “BYOB” (bring your own booze/bottle/beer) or “Brown Bag” establishments. Each the person who possesses or consumes the alcoholic liquor and the person in control of the public accommodation who knowingly permits the consumption or possession of alcoholic liquor in a public accommodation not licensed under Article 6 of the Revised Code of Ordinances shall be in violation of this subparagraph.

X. No driver or operator of a cab or other vehicle for hire shall stop, stand, or park at any drive-up window or any premises where alcoholic liquor is sold, nor shall any driver or operator of a cab or other vehicle for hire make any purchase of alcoholic liquor while driving or operating said cab (whether on duty or off) unless the cab or vehicle for hire is actually occupied by a fare or customer making a purchase of package liquor for the personal use of said fare or customer.

Y. Except as otherwise provided herein, any person who violates or refuses to comply with the provisions of this Subsection shall be subject to the provisions of Section 22.6 of the Revised Code. In addition, licensees shall be subject to the authority of the Local Liquor Commissioner.

SECTION 6.18: GIFTS OF ALCOHOL FOR COMMERCIAL PURPOSES

No licensee nor any other individual, partnership or corporation or other person shall give away any alcoholic liquor for commercial purposes or in connection with the sale of nonalcoholic products or to promote the sale of non-alcoholic products.

No licensee nor any other individual, partnership or corporation or other person shall advertise or promote in any way, whether on or off licensed premises, any of the practices

prohibited under the subsection above. This includes, but is not limited to, advertisements using the word “free” or “complimentary” and includes sampling, test marketing or tasting.

This subsection does not prohibit a licensee from giving a “sampling” to patrons or customers at the licensed premises of the licensee; and this subsection does not prohibit an individual, partnership, corporation or other person from serving invited guests alcoholic liquor without charge or other consideration at an open house or other social event for purposes of commemorating a special event or occasion during a time that the site of the event is not otherwise held out to the public for commercial purposes and no sales nor promotions of sale of non-alcoholic products are occurring; provided no individual, partnership, corporation or person shall have more than one (1) open house or social event during any calendar year and said open house or social event shall not advertise either prior to or during the event any licensee nor any alcoholic liquor.

SECTION 6.19: LIABILITY OF LICENSEE FOR ACTS OF MANAGER EMPLOYEES AND OTHER NAMED PERSONS

Every act or admission of whatsoever nature constituting a violation of any provision of this Article or of the Illinois Liquor Control Act by any officer, director, manager, or other agent or employee of the licensee shall be deemed to be the act of the licensee. The licensee shall be punishable in the same manner as if the act or admission had been done or admitted by the licensee personally.

SECTION 6.20: LIQUOR ADVISORY BOARD

A. Establishment. There is hereby established within the City of Mt. Vernon a Liquor Advisory Board which shall have the powers and functions set forth herein.

B. Members. The Board shall consist of three (3) voting members, one of whom shall be designated by the Board as Chairman and one as Secretary. All members shall be residents of the City of Mt. Vernon for at least one (1) year prior to appointment and during all periods of appointment. No member, nor any relative of a member, shall be employed by, own stock in, be a partner in, have an interest directly or indirectly in or own personally any business entity which has a license for the sale or distribution of liquor by retail or wholesale; “related” means the following relationships by blood or marriage: spouse, parent, step-parent, grand-parent, step-grandparent, child, step-child, grandchild, step-grandchild, brother, step-brother, sister, step-sister, uncle or aunt.

C. Asset Statement. All members of the Liquor Advisory Board shall be required to complete an Economic Disclosure in the form required by the City which shall be filed in the Office of the City Clerk and which shall consist of an affirmative statement that the affiant meets the requirements of subsection B above and that the affiant has no disqualifying interests or relationships as described within subsection B above.

D. Terms. All members shall be appointed by the Mayor with the advice and

consent of the City Council. The original appointment shall have terms which are staggered and which terminate on May 1, 2002, May 1, 2003, and May 1, 2004; all subsequent terms shall be for three (3) year periods from said dates.

E. Powers and Duties of Board. The Board shall have the following powers and duties:

1. To review all applications for a new liquor license except applications for a Temporary License or a Temporary Sunday Sales Permit.
2. To review such applications for renewal of a liquor license as may be referred to the Advisory Board by the Local Liquor Control Commissioner.
3. To review all applications and requests for transfer of a liquor license to another premises.
4. To receive written complaints from citizens, to preliminarily and informally investigate said complaints, and to refer to the Liquor Control Commissioner complaints which the Board determines should be brought to the attention of the Commissioner.
5. To perform such other acts as may be directed by the Mayor of the City or by a majority of all members of the City Council.
6. To make recommendations to the Mayor and/or City Council from time to time concerning Article 6 of the Revised Code and the regulation of the sale of alcoholic liquor within the City.

F. Meetings. The Advisory Board shall meet on the fourth Monday of each month unless not less than forty-eight (48) hours prior to the regularly scheduled meeting date public notice shall be given of cancellation by the posting of a notice upon the public bulletin board at City Hall and at the location of the meeting if other than at City Hall. Minutes of each meeting shall be recorded by the Secretary in the manner required by law.

G. Procedure. The Advisory Board shall not be required to meet and consider any application unless the application, bond, licensing fee and other required information and a written request to be placed upon the agenda of the Advisory Board are filed with the City Clerk seven (7) days prior to the meeting date of the Advisory Board. If an application for a new license, an application for transfer of a license to a new location or an application for renewal of a license is scheduled upon the agenda for consideration by the Advisory Board, the applicant must attend in person to answer questions the Board may have concerning the application; failure to attend or failure to submit information shall result in denial of the application. The Advisory Board may, but is not required to make a recommendation upon the application at the first meeting and the Board may continue consideration and decision on the application until the next regularly scheduled meeting or special meeting of the

Advisory Board. If the Board fails to make a recommendation within two (2) regularly scheduled meeting dates of the Advisory Board, then the application shall be forwarded to the Local Liquor Control Commissioner without a recommendation. Any recommendation of the Advisory Board shall be in writing and may consist either of a recommendation for approval or recommendation for denial or no recommendation.

The recommendation or non-recommendation of the Advisory Board shall be forwarded to the Local Liquor Control Commissioner who shall then preliminarily or tentatively grant or deny, in writing, the license or the renewal or the transfer without any hearing; provided that if the applicant, within ten (10) days from date of the notice of the preliminary or tentative decision of the Local Liquor Control Commissioner shall file a written request with the City Clerk for hearing upon the application, then a hearing de novo shall be conducted by the Local Liquor Control Commissioner within thirty (30) days from date of the written request, which hearing shall be conducted in accordance with the procedures set forth in Section 6.21 herein. The decision of the Local Liquor Control Commissioner shall be served by certified mail to the address stated within the application; the date of mailing the decision of the Local Liquor Control Commissioner in a properly addressed envelope shall be the date of the notice, regardless of whether the applicant actually receives the notice.

SECTION 6.21: LOCAL LIQUOR CONTROL COMMISSIONER

A. **AUTHORITY.** The Mayor of the City of Mt. Vernon shall be the Local Liquor Control Commissioner and shall be charged with the administration of the applicable provisions of the Illinois Liquor Control Act of this Article and of Ordinances, Resolutions, rules and regulations relating to alcoholic liquor as may be adopted. The Local Liquor Control Commissioner shall have such powers and duties as provided within the Illinois Liquor Control Act and shall have such powers and duties as hereinafter specified:

1. To receive applications; investigate applications; and grant, renew or deny liquor licenses.
2. To enter or to authorize any law enforcing officer to enter at any time upon any premises licensed under this Article to determine whether any of the provisions of this Article, the Ordinances of the City of Mt. Vernon, laws of the State of Illinois, or the Illinois Liquor Control Act, or any rules or regulations adopted by it, have been or are being violated and at such time to examine the premises of the licensee in connection herewith.
3. To receive complaints from any citizen of the City that any of the provisions of this Article or any rules or regulations adopted pursuant thereto have been or are being violated and to act upon such complaints in the manner hereinafter provided.
4. To receive local license fees and pay the same forthwith to the City Treasurer.

5. To examine, or cause to be examined, under oath any applicant for a local license or for a renewal thereof or any licensee under this Article upon whom notice of suspension or revocation of license has been served; to examine or cause to be examined the books and records of any applicant or licensee under this Article; to authorize any law enforcing officer to require any applicant or licensee to furnish said officer with a complete, current list of all employees of said applicant or licensee including the names and addresses of all employees; and to hear testimony and take proof for their information in the performance of their duties and for such purposes to issue subpoenas. For the purpose of obtaining any of the information desired by the Commissioner under this Article, he may authorize his agent to act in his behalf.
6. To require fingerprints of any applicant for the local license or for a renewal thereof (except as prohibited by law): for purposes of obtaining fingerprints under this Subsection, the Local Liquor Control Commissioner shall collect a fee and forward the fee to the appropriate policing body who shall submit the fingerprints and the fee to the Illinois Department of State Police.
7. Suspend or revoke any license issued by him if he determines that the licensee has violated any provisions of this Article or of any ordinance or Resolution enacted by the City of Mt. Vernon or of any provision of the State Liquor Control Act or any applicable rule or regulation issued by the Local Liquor Control Commissioner which is not inconsistent with law. Notwithstanding any other language herein, a license may be revoked for a first offense. If a suspension is imposed then said suspension may be up to thirty (30) days for each offense. In lieu of a suspension, the commissioner may impose a fine of not more than Five Thousand Dollars (\$5,000.00) for each violation, although the maximum fine that may be imposed upon any licensee for the period of the license shall not exceed Fifty Thousand Dollars (\$50,000.00) each license year. A separate offense shall be deemed to have been committed upon each day that a violation occurs or continues.
8. To issue a written order immediately and summarily closing a licensed premises for not more than seven (7) days without notice or hearing to the licensee if the Local Liquor Control Commissioner has reason to believe that the continued operation of the specified licensed premises will immediately threaten the welfare of the community, provided said written order shall state the reasons for said order and shall advise the licensee of a date and time for hearing to give the licensee an opportunity to be heard on the matter.

B. **RECORDS.** The local Liquor Control Commissioner shall cause to be maintained a complete record of all licenses issued pursuant to this Article. A copy of each license shall be maintained by the City Clerk.

C. **HEARINGS UPON APPLICATIONS.** Applicants for a license, applicants for

renewal of a license and applicants for a transfer of a license to another location shall be entitled to a public hearing before the Local Liquor Control Commissioner upon full, complete and strict compliance with all provisions of this Article relating to applications for same. The applicant shall be given written notice at least three (3) days prior to said hearing. Upon completion of the public hearing, the Local Liquor Control Commissioner shall either grant or deny the application and shall make findings of fact in support of the decision.

D. HEARINGS UPON NON-APPLICATION MATTERS. Except as hereinafter provided, no license holder shall receive a written reprimand, nor shall a license be suspended or revoked or a fine imposed except at a public hearing before the Local Liquor Control Commissioner. The licensee shall be given written notice of the charge at least three (3) days prior to said hearing affording an opportunity to appear and defend.

A licensed premises may be immediately and summarily closed for not more than seven (7) days without notice or hearing upon the issuance of a written order stating the reason(s) for closing if the Local Liquor Control Commissioner has reason to believe that the continued operation of the specific licensed premises will immediately threaten the welfare of the community. Within said seven days, a hearing shall be held giving the licensee the opportunity to be heard on the matter.

Upon completion of any public hearing, the Local Liquor Control Commissioner shall make findings of fact. If the commissioner determines that any licensee has violated any provision of this Article or any state law pertaining to the sale of alcoholic liquor, the Commissioner may impose such penalties and take such action as is authorized by this article.

If the Local Liquor Control Commissioner determines that a reprimand, suspension, fine or revocation is warranted, he shall issue a written order after the hearing stating the reasons for the determination and shall cause a copy of such order to be served upon the licensee by personal service or by certified mail to the address of the licensee appearing of record, with the date of deposit in the United States mail being the date of service. In the event a fine is imposed, the order shall specify the date by which the fine shall be paid. If the fine is not paid by the specified date, such shall constitute cause to suspend or revoke the license. A copy of each order issued by the Commissioner shall be maintained in the office of the City clerk.

In making the determination to reprimand, suspend, revoke, or impose a fine or in determining the length of a suspension imposed, the Local Liquor Control Commissioner may consider the nature of the violation, past violations of the licensee, and the facts and circumstances surrounding the violation as presented at the public hearing.

E. WRITTEN ORDER. The written order of the Local Liquor Control Commissioner required to be issued hereunder shall be issued within five (5) days after a written transcript of the public hearing is received by the Local Liquor Control Commissioner from the certified court reporter or certified shorthand reporter if either party

orders said transcript and in any event, a written order shall be issued within thirty (30) days from date of the public hearing.

F. HEARING PROCEDURES.

All hearings before the Local Liquor Control Commissioner shall be subject to the following procedures:

1. The licensee shall be entitled to a three (3) day written notice of the hearing.
2. Witnesses shall be sworn, but in all other respects hearings shall be informal and the strict rules of evidence shall not apply.
3. A complete record of all evidence, testimony, and comments before the commissioner shall be taken by a certified court reporter or certified shorthand reporter.
4. Review of the proceedings before the Local Liquor Control Commissioner shall be limited to a review of the official record of the proceedings. No new or additional evidence shall be admitted or considered.
5. Except as otherwise provided herein, appeals shall be in accordance with Section 7-9 of the Illinois Liquor Control Act, although no matter shall proceed to appeal to the Illinois Liquor Control Commission unless and until a hearing has been conducted by the Local Liquor Control Commissioner.
6. Initial costs and hourly fees for the certified court or shorthand reporter's attendance at the formal hearings before the Local Liquor Control Commissioner shall be paid by the City of Mt. Vernon; said costs and hourly fees shall be assessed against the licensee if a reprimand, fine, suspension or revocation is issued or imposed.
7. All costs of preparing and transcribing an official record on appeal to the Illinois Liquor Control Commission shall be borne by the licensee requesting a review of the official proceedings and shall be paid prior to the date of the appeal hearing.

SECTION 6.22: HOUSE RULES

Licensee shall be permitted to enact "house rules" regulating conduct of patrons; however, said house rules shall be reasonable, shall be consistent with the provisions of this Article, and shall be subject to the approval of the Local Liquor Control Commissioner. No house rules shall unlawfully discriminate against any individual.

SECTION 6.23: STATUS OF ANNEXED TERRITORY

- (a) The status of annexed territory within the City of Mt. Vernon relative to the sale of retail of alcoholic liquor shall remain the same notwithstanding annexation of said territory to the City of Mt. Vernon until the status of said annexed territory shall be changed in accordance with Article IX of the Illinois Liquor Control Act or in accordance with Subparagraph B herein.
- (b) The owner of an annexed area upon which no legal voters reside may file a Petition in the office of the Clerk of the City of Mt. Vernon to change the status in the annexed area relative to the sale of alcoholic liquor by either: (1) discontinuing any existing prohibition, or (2) prohibiting the sale at retail of alcoholic liquor. The Petition shall be signed by not less than 66 2/3 percent of all of the owners of record of the annexed area and the Petition shall be supported by an Affidavit made by one or more of the owners stating that the signatures represent at least 66 2/3 percent of all owners of record of the annexed area and stating that there are no legal voters residing upon the annexed area. Owner of record shall mean an individual owner, the trustee of a trust, all partners of a partnership, the authorized corporate officers of a corporation and such similar authorized persons for other legal entities. The Petition shall request the City Council of the City of Mt. Vernon to change the status of the annexed area by Ordinance enacted by the City Council. After the filing of the Petition, the City Council may consider said Petition in accordance with its usual procedures and practices and the status of the annexed area shall be changed as provided within the Petition upon approval of same by enactment of an Ordinance by a majority vote of the Council members present.
- (c) The filing of a Petition under subsections (a) or (b) above shall bar further proceedings under this Section for twenty-four (24) months thereafter from the date of the filing of the Petition.

SECTION 6.24: EFFECTIVE DATE

The provisions of this Article shall immediately be effective and applicable to all existing applicants for licenses, licensees, and licenses; and to all licensed premises; and to any proceedings or procedures affecting same. Except nothing hereunder shall revoke or alter the classifications of valid outstanding licenses on the effective date of this Article or the rights attendant to said classification; provided all licenses or renewal licenses issued after the effective date of this Article shall be in accordance with the classifications established hereunder and subject to all restrictions and regulations of such classification.

SECTION 6.25: SEVERABILITY

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this

Article or any part thereof or application thereto to any person, firm, corporation, licensee, or circumstance if for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity of effectiveness of the remaining portions of this Article or any part thereof. It is hereby declared to be the legislative intent of the City Council that this Article would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section, or part thereof not been included.