

ORDINANCE NO. 2011- 10
AMENDING ORDINANCE NO. 99-34

AN ORDINANCE REGULATING THE RETAIL SALE OF ALCOHOLIC LIQUORS
OUTSIDE THE CORPORATE LIMITS OF ANY CITY, VILLAGE OR
INCORPORATED TOWN IN KENDALL COUNTY, ILLINOIS

To the end that the health, safety and welfare of the People of Kendall County shall be protected and temperance in the consumption of alcoholic liquors shall be fostered and promoted by sound and careful control and regulation of the sale of alcoholic liquor in Kendall County:

BE IT RESOLVED by the Kendall County Board, State of Illinois that hereafter the sale, keeping for sale, or offering for sale of alcoholic liquors in all of the territory which lies outside of the corporate limits of any City, Village or Town and lying within the corporate limits of said Kendall County, Illinois shall be subject to the following regulations:

ARTICLE I

Section 1: Whenever reference is herein made to the "State Law" it shall mean and refer to an Act of the General Assembly of the State of Illinois, entitle "Liquor Control Act of 1934", approved January 31, 1934, as amended.

Section 2: Unless the context otherwise required all other words and phrases used herein shall have the same meaning as the same or similar words or phrases defined and used in said Act entitled, "Liquor Control Act of 1934", approved January 31, 1934, as amended.

ARTICLE II
LICENSES REQUIRED

Section 1: No person shall sell, furnish, deliver, solicit or receive orders for, keep or expose for sale at retail, or keep with intent to sell, or furnish any alcoholic liquor for beverage purposes for sale at retail in any of the territory lying outside of the corporate limits of any City, Village or Town lying within the corporate limits of said County of Kendall, State of Illinois without first having a valid license issued by the Liquor Control Commissioner of Kendall County, as hereinafter provided and a valid license issued by the Illinois Liquor Control Commissioner.

ARTICLE III
LICENSE CLASSIFICATION

Section 1: The classification of licenses authorized to be issued under this Ordinance shall be as follows:

a) Class "A" License which shall authorize the retail sale, on the premises specified, of all kinds of alcoholic liquor for consumption on the premises and retail sales of alcoholic liquors by original package for consumption off the premises.

b) Class "B" License which shall authorize the retail sale on the premises specified of all kinds of legalized alcoholic liquor for consumption on the premises, and the retail sale of package beer only to members of the licensee. Class "B" licenses shall be issued only to Clubs as defined in "Liquor Control Act of 1934", approved January 31st, 1934, as amended, and as provided in this Ordinance, as amended.

c) Class "C" License which shall authorize the retail sale, on the premises specified, of alcoholic liquors by original package for consumption off the premises.

d) Class "D" License which shall authorize the retail sale, on the premises specified, of beer and wine by original package for consumption off the premises.

e) Class "E" License which shall authorize the retail sale, on the premises specified, of all kinds of legalized alcoholic liquor for consumption on the premises requiring service, thereof, at tables in conjunction with the primary function of serving food to the public in said premises.

f) Class "F" License which shall authorize the retail sale, on the premises specified, of beer and wine for consumption on the premises, requiring service, thereof, at the tables in conjunction with the primary function of serving food to the public in said premises.

g) Class "G" Licenses which authorize the retail sales on the premises specified of beer and wine only for a limited time, which shall be identified on the license as valid for either 24, 48, or 72 hours by such not for profit corporations or organizations which provide adequate proof to the Commissioner of the following:

1. Continuous existence in the community for a period of 5 years preceding the application.
2. Internal Revenue reports or such other information as requested by the Commissioner to verify the not for profit status of the corporation or organization.

Such licenses when issued shall be issued within 7 days of its authorized commencement date, and shall automatically expire 24-48-72 hours thereafter as noted on the license. A not for profit corporation or organization shall not receive more than four (4) Class "G" licenses during a 12 month period. For purposes of this subsection, the 12 month period shall begin on January 1 and end on December 31 of each calendar year. (Amended 5/18/2010)

Applicants for a Class "G" License must file the application for said license no less than 30 days prior to the anticipated effective date of said license. Despite the provisions of

this Ordinance, no public hearing shall be required prior to the issuance of a Class "G" License.

h) Class "H" Licenses which authorize the retail sale, on the premises specified, of beer and wine only for consumption on the premises and retail sales of beer and wine only by original package for consumption off the premises.

i) Class "I" Licenses which shall authorize the retail sale of alcoholic liquor within the County by a "caterer" as defined in the Liquor Control Act of 1934 as amended on that premises owned by the Kendall County Forest Preserve District commonly known as "Ellis House" for consumption within 250 feet of any building owned by the Forest Preserve District during times when food is dispensed for consumption within 250 feet of the building from which food is dispensed and only as an incidental part of food service that serves prepared meals which excludes the serving of snacks as the primary meal for private and public functions. Licensee shall provide proof of general and liquor liability insurance which shall name the Kendall County Forest Preserve District as an additional insured. Sale of alcoholic liquor to the licensee shall only be made at the registered office of the licensee.

Section 2: All licenses shall be signed by the Liquor Control Commissioner of Kendall County, and shall thereon the class or classification for which issued, and shall state thereon the name of the licensee, the address and description of the premises for which granted, together with the date of issuance and expiration thereof. Every renewed license shall be in all respects identical with the original or first license.

Section 3: A retailer's license shall allow the licensee to sell and offer for sale at retail, on the premises specified in such license, alcoholic liquor for use or consumption, but not for resale.

Section 4: All licenses issued hereunder are limited in use to the premises specified in said licenses and upon cessation in possession thereof, by the licensee, said license shall immediately be rendered null and void.

ARTICLE IV LICENSE FEES

Section 1: The annual license fees for each of the classes of licenses authorized by this Ordinance to be issued are hereby fixed in the following amounts:

Class "A"	\$2,000.00
Class "B"	\$ 300.00
Class "C"	\$2,000.00
Class "D"	\$2,000.00
Class "E"	\$2,000.00
Class "F"	\$1,300.00
Class "G"	\$ 100.00

Class "H"	\$2,000.00
Class "I"	\$100.00

Section 2: Unless otherwise provided herein, all licenses issued hereunder shall be valid for a period of one (1) year from the date of issuance. No refunds shall be made for cancelled or surrendered licenses, nor shall any license issued hereunder be transferred, except as provided by the provisions of this Ordinance, or the Liquor Control Act of 1934, as amended.

Section 3: On application for a license hereunder, the applicant shall deposit with the Liquor Control Commissioner of Kendall County at the time he submits his application for a license hereunder, the fee as is in this Ordinance provided. This shall be by certified check, bank draft or money order made payable to the Liquor Control Commissioner of Kendall County.

ARTICLE V NUMBER OF LICENSES

Section 1: At the date of the adoption of this Ordinance, the maximum number of licenses for retail sale of alcoholic beverage is as follows:

- Class "A" – 6
- Class "B" – 3
- Class "C" – 1
- Class "D" – 2
- Class "E" – 0
- Class "F" – 0
- Class "G" – No more than 4 during a 12 month period per qualified organization as outlined in Art. III Sec. 1(g).
- Class "H" – 1
- Class "I" – 10

In the event any license issued hereunder is surrendered, for any reason whatsoever, the maximum number of licenses authorized in that class is accordingly reduced by the number of licenses surrendered. No further licenses may be issued until action of the Kendall County Board appropriately increases the maximum number allowed.

ARTICLE VI APPLICATION FOR LICENSES AND RENEWALS

Section 1: Forms of application for a license under this Ordinance shall be furnished by the Liquor Control Commissioner of Kendall County, and applicants for a license under this Ordinance shall secure the necessary forms from said Liquor Control Commissioner and such application or applications shall be in writing and under oath and shall be filed

with the Liquor Control Commissioner of Kendall County and shall contain the following information, viz:

- a) The names, date of birth, and address of residence of the applicant or any agent or manager who conducts the business in the case of an individual; in the case of a co-partnership, the names of all partners together with their ages and addresses; and in the case of a corporation or club, the corporate name, the date of incorporation, place of incorporation, the object for which the corporation was organized, the names and addresses of the officers and directors thereof; the name, age and address of any officer, manager, director or any stockholder of said corporation owning more than 5% of the stock in the said corporation and the exact percentage of stock so owned.
- b) The citizenship of the applicant or any agent or manager who conducts the business, his place of birth and if naturalized citizen, the time and place of his naturalization.
- c) The location and description of the place of business where the applicant intends to conduct his business which shall include the legal description and mailing address thereof.
- d) Statement whether applicant or any agent or manager who conducts the business has made similar application for a similar other license on premises other than that described in his application and the disposition of such application.
- e) A statement whether applicant or any agent or manager who conducts the business has made any other application for liquor license in any other County in the State of Illinois, and if so, the disposition of such application.
- f) A statement whether a previous license by any state or subdivision thereof or by the Federal Government has been revoked and if so the reason therefore.
- g) A statement that the applicant or any agent or manager who conducts the business will not violate any of the laws of the State of Illinois or of the United States or of the laws or regulations set forth in this Ordinance in the conduct of his business.
- h) A statement that he has not received or borrowed money or anything of value and that he will not receive or borrow money or anything of value other than merchandising credit in the ordinary course of business for a period not to exceed thirty days as expressly permitted under 235 ILCS 5/6-5, directly or indirectly from any manufacturer, importing distributor or distributors, representatives of any such manufacturer, importing distributor or distributors nor to be a party in any way, directly or indirectly, to any violation by a manufacturer, distributor or importing distributor as set forth in 235 ILCS 5/6-5.
- i) If such, application is made on behalf of a partnership, firm, association, club or corporation then the same shall be signed and sworn to be at least two members of such partnership or the President and Secretary of any such corporation. In the event that the applicant seeks a Class "B" license, the applicant shall provide, at the time of application

for the original license and any renewal thereof, written current verification the tax-exempt status of the applicant, a copy of the applicant's application for tax exempt status filed with the Internal Revenue Service, and the most recently filed tax return filed by the applicant. An applicant for a Class "B" license which is itself not a tax-exempt organization may still qualify for a Class "B" license if it proves, to the reasonable satisfaction of the Kendall County Liquor Commissioner, that the applicant is wholly owned by a tax-exempt organization which meets the qualifications for a Class "B" license.

j) A statement that said applicant or any co-partner, except in the case of a club or corporation, is a resident of the County of Kendall stating the date the applicant acquired residence in the County of Kendall.

k) A statement as to whether or not the applicant, or in the event that the applicant is a partnership or corporation, any entity in which the applicant currently or previously held a 5% or more interest, has any unpaid fines in any court of the State of Illinois, for any violation of any law.

l) A statement that the applicant, or any agent or any manager who conducts the business is qualified to receive a license under the laws of the State of Illinois and that he will not violate nor permit any of his employees to violate any of the laws of the State of Illinois or of the United States or of this Ordinance in the conduct of his business and shall also state the name and address of the agent or manager in charge of any licensed premises if there be one.

m) A statement whether or not the proposed place of business is within 100 feet of any church, school (other than an institution of higher learning), hospital, home for aged or indigent persons or for veterans, their wives, or children or any military or naval station.

n) A statement as to whether or not the proposed location is within one-half mile of the territorial limits of any city, village or incorporated town in Kendall County.

o) If applicant does now own the premises for which a license is sought he shall exhibit a true copy of the lease for said premises for the full period for which the license is to be issued. Applicant shall also submit with his application the type of bond he proposed to furnish as is hereinafter required if granted a license.

p) A statement that no law enforcing public official, mayor, alderman, member of a city council or commission, president of a village board of trustees, or president or member of a county board has any interest in any way, directly or indirectly, in the operation of the business for which the license is sought.

q) A statement that the applicant is the beneficial owner of the business to be operated by the license.

r) A statement that the applicant, any partner, if a co-partnership, any officer, manager, director or shareholder, owning 5% or more of the stock in said corporation, has not:

1. Been convicted of:
 - a) a felony under any State or Federal laws:
 - b) keeping a house of ill fame:
 - c) pandering or other crime or misdemeanor opposed to decency and morality;
 - d) violation of any Federal or State law concerning the manufacture, possession or sale of alcoholic liquor, subsequent to Jan. 31, 1934 or has forfeited his bond to appear in court to answer for any such violation;
 - e) gambling offense as prescribed by any subsection of Section 28 of the Illinois Criminal code of 1961, as amended.
2. had a license issued under the Dram Shop Act revoked for cause;
3. been issued a federal gaming device stamp or a federal wagering stamp by the Federal Government for the current tax period.

s) Statement that the premises in which the license is to be used has not had a federal gaming device stamp or a federal wagering stamp issued for the current tax period.

t) Statement if the applicant is a corporation, that no officer, manager, director of stockholder owning more than 20% of the stock in the corporation has been issued a federal gaming stamp or a federal wagering stamp for the current tax period.

u) In the event that any of the information required to be provided pursuant to this Article should change during the duration of the said license, the Licensee shall notify the Commissioner of such change as soon as practicable, but in any event no later than 72 hours after the said change takes effect.

v) In the event that the premises for which the license is proposed to be issued is licensed by any state or local health department, proof of said valid license and current health inspection results shall be provided at the time of application. In the event that said licensure by the local or state health department should lapse or terminate for any reason, the licensee shall immediately notify the Commissioner of the same, and in no event shall said notice be delayed form more than 24 hours.

Section 2: All applications to the Liquor Control Commission shall be filed in duplicate in the Office of Administrative Services of Kendall County, Illinois and shall be

accompanied by the full amount of the license fee required to be paid for the class of license applied for. All checks or money orders shall be made payable to the Liquor Control Commissioner of Kendall County, Illinois.

Section 3: At the time of the filing of any application for a license under this Ordinance, except Class “G” Licenses, the applicant shall file a Notice of Intent to Seek Liquor License, on a form to be provided to the applicant by the Commissioner, which Notice shall be published, in a paper of general circulation in Kendall County, at least once, and which Notice shall contain the date, time and location of the public hearing required prior to the issuance of said license. Said publication shall take place no less than 7, or more than 15 days prior to the date of the scheduled public hearing required by the terms of this Ordinance. Said publication cost shall be paid by the applicant.

Section 4: Every renewal license shall be in all respects identical with the original or first license and applications for renewal licenses shall be made in the same manner except that a statement shall be endorsed on the face of the renewal application that such application is for renewal and the hearing process shall be excused upon such renewal application. (amended May, 2006) Submittal of renewal applications must be received in the office of Administrative Services no less than 30 days prior to the expiration of the license. Failure to meet submittal deadlines could result in a lapse of liquor license, failure to renew the liquor license and/or a fine pursuant to statute.

Section 5: Prior to the determination to grant or deny the issuance of any new license, or the determination as to whether to permit the transfer of a license to a different location, except Class “G” Licenses, a public hearing shall be held by the Commissioner, at a date, time and location as identified by the Commissioner. Public notice of said hearing shall be given by means of the publication required in Section 3 herein. The applicant shall also give notice of said public hearing by mailing a copy of said Notice to the owners of all property located within 250 feet of the subject premises, which notice shall be mailed certified mail, return receipt requested. At the time of said hearing, the applicant shall provide proof of the mailing of said notices to the Commissioner, as well as a listing of all persons so notified. For the purposes of this paragraph, the mailing of a notice to the individual receiving the current real estate tax bill, as shown by the records of the Kendall County Supervisor of Assessments shall constitute notice to the “owner” of each premises.

Section 6: The Liquor Control Commissioner of Kendall County shall grant or refuse to grant the application within forty-five days after the required public hearing has been held, and all required documentation has been received by the Commissioner, including any required background or fingerprint checks. The costs of any required background check, including fingerprint checks, shall be paid by the applicant.

Section 7: All original or renewal applications for liquor licenses shall be accompanied with proof of completion of a state certified beverage alcohol sellers and servers education and training (BASSET) program for all persons who sell or serve alcoholic liquor, all management personnel working on the premises, and anyone whose job

description entails the checking of identification for the purchase of alcoholic liquor, pursuant to that license. Class I licensees must have a BASSET trained person on the premises during an event and must provide the name and proof of BASSET training for that person when applying for a class I license.

Section 8: A “state certified BASSET program” shall be defined as a BASSET program licensed by the State of Illinois Liquor Commission as required by 235 ILCS 5/3-12(11.1). All licensed BASSET providers shall be required to have on file all licenses and certificates to prove current qualifications and provide a certificate of course completion and a card to participants as proof of completion. A photocopy of certificates of completion for all owners, managers, employees, or agents required to have BASSET training shall be maintained on the premises in a manner that will allow inspection, upon demand, by any designee of both the State of Illinois or County of Kendall.

Section 9: Any new owner, manager, employee or agent requiring BASSET training, shall within ninety (90) days from the beginning of their employment with that licensee, complete an Illinois Liquor Control Commission BASSET approved seller/server training program and shall until completion of the BASSET program work under the supervision of a person who has completed BASSET training.

ARTICLE VII LICENSE PROHIBITIONS

Section 1: No license under this Ordinance shall be issued to:

- a) a person who is not a resident of the County of Kendall;
- b) a person who is not a good character and reputation in the community in which he resides;
- c) a person who is not a citizen of the United States;
- d) a person who has been convicted of a felony under any Federal or State law, unless the State Liquor Control Commission, after investigation, determines that said applicant has been sufficiently rehabilitated to warrant public trusts;
- e) a person who has been convicted of being the keeper of, or is keeping a house of ill fame;
- f) a person who has been convicted of pandering or other crime or misdemeanor opposed to decency or morality;
- g) a person who license issued under this Ordinance, or any prior similar Ordinance of Kendall County, has been revoked for cause;
- h) a person who at the time of application for renewal of a license issued hereunder

would not be eligible for such license upon a first application;

- i) a partnership, unless all of the members of such partnership shall be qualified to obtain a license, except that only one of the partners shall be required to meet the residency requirement imposed by this ordinance;
- j) a corporation, of 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 and residence with the County of Kendall;
- k) 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;
- l) a person who has been convicted of a violation of any Federal or State law concerning the manufacture, possession or sale of alcoholic liquor, or shall have forfeited his bond to appear in court to answer charges for any such violation;
- m) 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;
- n) any law enforcing public official, any mayor, alderman or member of a city council or commission, any president of the village board of trustees, any member of a village board of trustees or any presiding officer or member of a County Board; and no such official shall be interested in any way either directly or indirectly in the manufacture, sale or distribution of alcoholic liquor, pursuant to any license issued under this Ordinance;
- o) any person who is not a beneficial owner of the business to be operated by the licensee;
- p) any person to who a Federal gaming device stamp or a Federal wagering stamp has been issued by the Federal Government for the current tax period;
- q) a co-partnership to which a Federal gaming device stamp or 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 gaming device stamp or Federal wagering stamp by the Government for the Current tax period;
- r) a corporation, if any officer or manager or director thereof or any stockholder owning on the aggregate more than twenty (20) percent of the stock of such corporation has been issued a Federal gaming device stamp or a Federal wagering stamp;

- s) any premises for which a Federal gaming device stamp or a Federal wagering stamp has been issued by the Federal Government for the current tax period;
- t) any person who has not furnished a bond as is required by this Ordinance;
- u) a person who has been convicted of a gambling offense as prescribed by any subsection of Section 28 of the Illinois Criminal Code of 1961.

Section 2: No license shall be issued for the sale at retail of any alcoholic liquor within one hundred (100) feet of any church, school (other than an institution of higher learning), hospital, home for aged or indigent persons or for veterans, their wives or children, or any military or naval station; provided, that this prohibition shall not apply to the renewal of a license for the sale at retail of alcoholic liquor on the premises within one hundred (100) feet of any church where such church has been established within such a one hundred (100) feet since the issuance of the original license.

Section 3: 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 and drinks for such minors.

ARTICLE VIII BOND AND INSURANCE REQUIREMENTS

Section 1: Every licensee hereunder shall furnish a bond to the County of Kendall executed by such licensee and by good and sufficient corporate surety to be approved by the Local Liquor Control Commissioner, which bond shall be in the same amount as the License Fee imposed for the issuance of said license as identified in Article IV herein, and conditioned that the licensee shall faithfully observe and conform to the State law and to all of the provisions of this Ordinance and any and all amendments hereafter passed during the period of said license, and conditioned further for the payment of any and all fines or penalties levied or assessed against such licensee for the violation of any of the terms and conditions of this Ordinance and of any amendments thereto or of the State law and shall be further conditioned that the licensee will pay all the necessary costs and charges incurred by reason of any complaint filed for the revocation of a license herein by the Local Liquor Control Commissioner or by anyone person entitle to file such complaints before the Local Liquor Control Commissioner,, as provided for in this Ordinance where the same is occasioned by any violation under the terms and provisions of this Ordinance or of the State law by said licensee, and no license shall be issued by the Local Liquor Control Commissioner until such bond has been fully executed by the principal and surety or sureties and duly approved by such Local Liquor Control Commissioner. The amount of bond required for a Class "G" or "I" License shall be a minimum of \$500.00.

Section 2: No license shall issue, nor be renewed, to any applicant unable to furnish evidence of dram shop liability insurance, in the form of a certificate of insurance, issued

by an insurance company that is authorized to do business in the State of Illinois, insuring the applicant, and the owner or lessor of the premises in at least the amount of \$500,000 per occurrence.

ARTICLE IX HOURS OF PROHIBITED SALE

Section 1: No licensee hereunder shall sell or offer for sale at retail any alcoholic liquor or furnish or give away or allow or permit the same to be consumed on the licensed premises or any other premises under the control directly or indirectly of the licensee during the following hours:

- a) One o'clock A.M. and Six o'clock A.M. Central Standard time on each and every day from Monday to Saturday of every week between the last Sunday of October and the first Sunday of April of each and every year hereafter.
- b) One o'clock A.M. and Six o'clock A.M. Central Daylight saving time on each and every day from Monday to Saturday inclusive of every week between the first Sunday of April and the last Sunday of October of each and every year hereafter.
- c) One o'clock A.M. and Ten o'clock A.M. Central Standard time on each and every Sunday from the last Sunday of October inclusive and the first Sunday of April exclusive of each and every year hereafter.
- d) One o'clock A.M. and Ten o'clock A.M. Central Daylight Saving time on each and every Sunday from the first Sunday of April inclusive and the last Sunday of October exclusive of each and every year hereafter.

Section 2: The local Liquor Control Commissioner may on special occasions extend the time during which a licensee may remain open. Said extensions shall be at the sole discretion of the local Commissioner.

ARTICLE X GENERAL REGULATIONS

Section 1: It shall be unlawful for licensee hereunder to directly or indirectly receive any financial aid or assistance or to receive as a loan or lease of otherwise any furnishing, fixture, or equipment on the premises of a place of business from any manufacturer, distributor or importing distributor of alcoholic liquors and it shall be equally unlawful for any such licensee to allow any manufacturer, distributor or importing distributor or alcoholic liquors, directly or indirectly, to be interested in the ownership, conduct or operation of the business of any licensee under this Ordinance, and it shall be, also equally unlawful for any licensee hereunder to permit or allow any manufacturer, distributor or importing distributor to be interested directly or indirectly or as owner or part owner of said premises described in the license or as lessee or lessor thereof.

Section 2: It shall be unlawful for any licensee hereunder to allow or permit any person engaged in the business of manufacturing importing or distributing alcoholic liquors to pay for or advance, furnish, or lend money, directly or indirectly, for the payment of such license.

Section 3: It is unlawful for any person including but not limited to any licensee or any associate, member, representative, agent, or employee of such licensee to sell, give, deliver or serve any alcoholic beverage to any person under the age of 21 years or to any intoxicated person or to any person known to be a spendthrift, insane, mentally ill, mentally deficient or a habitual drunkard.

Section 4: It shall be unlawful for any person under the age of 21 years to purchase, accept or procure or to attempt to purchase accept or procure any alcoholic beverage from any liquor dealer or from any other person.

Section 5: It shall be unlawful for any person to order, to purchase or to in any manner to obtain any alcoholic beverage for another person under the age of 21 years. It shall be illegal for any person to sell, give or deliver any alcoholic liquor to another person under the age of 21 years. It shall be illegal for any person to directly or indirectly have any alcoholic beverage sold, given or delivered to another person less than 21 years of age or to permit the sale, gift or delivery of any alcoholic beverage to another person less than 21 years of age.

Section 6: It shall be unlawful for any person to who the sale, gift, delivery or service of any alcoholic liquor is prohibited because of age to consume or to possess in any manner, including by consumption, any such alcoholic liquor, except as otherwise provided by law. The violation referred to in this Section which relates to the possession of alcohol after it has been consumed may be identified as the "Illegal Possession of Alcohol by Consumption" or by the number of the Chapter and Section of this Ordinance. This violation may be proven by evidence which indicates that the breath of the person charged with such offense has a smell associated generally or specifically with any alcoholic liquor and no additional evidence relating thereto shall be necessary to find the Defendant to be in violation of this Ordinance. It shall not be necessary to show that the person charged with an offense hereunder was at the time in question under the influence of any alcoholic liquor in any manner, but such evidence shall be admissible to prove a violation of this Ordinance.

The possession and dispensing or consumption by a person under the age of 21 years of an alcoholic beverage in the performance of a religious service or ceremony or the consumption of alcoholic liquor by a person under the age of 21 years under the direct supervision and direct approval of the parents or parent of such person in the privacy of a home is not prohibited by the Ordinance, and this provision shall be considered only as a defense for which the burden of proving that it applies to and was reasonably relied upon in a particular case shall be on the person charged with an offense under this Section.

Section 7: It shall be unlawful for any intoxicated persons or any person under the age of 21 years to be or remain in any premises which are licensed hereunder except that any person under the age of 21 years may be or remain on the premises.

- 1) If accompanied by his or her parents(s) or legally appointed guardian; or
- 2) if more than 50% of the gross business income received therein results from the sale of services or commodities other than alcoholic liquor; or
- 3) if legally employed by the license holder of the premises and if the person is actively performing his/her duties as a legal employee at the time in question. Employees of the licensee under age 21 shall not draw, mix, pour, nor sell alcoholic beverages, but may carry and deliver said beverages to the patron for consumption.

Section 8: The Defendant/Respondent in any court or administrative hearing shall have the burden of proving as a defense that subparagraphs (1), (2), or (3) of the preceding Section 7 apply to the case and the prosecutor shall have no responsibility to prove that any of said exceptions do not apply herein.

Section 9: If a licensee or any officer, associate member, representative, agent or employee of such licensee believes or has any reason whatsoever to suspect or believe that the sale, gift, delivery or service to a prospective recipient of any alcoholic liquor is prohibited by this Ordinance because of the age of such person, he/she shall demand written evidence, and may not rely on oral evidence, of the prospective recipient's age and identity before making such sale, gift, delivery or service.

Any person from whom such written evidence is demanded shall forthwith display his/her motor vehicle operator's license, federal selective service card, federal armed forces identification card or other written and photographic evidence of age and identity issued by a public officer in the performance of his official duties.

If any person fails to present such written evidence, he/she shall be considered to be an under age person who is not entitled to any such alcoholic liquor. However, if such written and photographic evidence of age and identity is produced and shows the prospective recipient to be of the age required to purchase such alcoholic liquor and if such a sale, gift, delivery or service of alcoholic liquor is made in reasonable reliance thereon, the licensee and his representatives shall not be subject to the penalty provision of this Ordinance.

The burden of proving that a demand of written and photographic evidence of the age and identity was made, that such written and photographic evidence was shown, the content of the written photographic evidence presented, and the reasonableness of the reliance thereon shall be on the person charged with an offense under this Ordinance.

Section 10: It shall be unlawful for any person whomsoever to present or offer to any licensee or to any officer, associate, member, representative, agent, or employee of a licensee or to any other person any written, printed or photo static evidence of his/her age and identity or that of any other person which is false or fraudulent, for the purpose of ordering, purchasing, attempting to purchase, or otherwise procuring or attempting to procure any alcoholic liquor of any kind or description in violation of this Ordinance, or to have in his/her possession any false or fraudulent written, printed or photo static evidence of age and identity.

Section 11: No person shall sell or furnish alcoholic liquor at retail to any person on credit, or order on a store, or in exchange for any goods, wares or merchandise, or in payment for any services rendered, provided, that nothing herein contained shall be construed to prevent any club receiving a license under this Ordinance, from permitting checks or statement for alcoholic liquor to be signed by members or bona fide guests of members and charged to the account of such members or guests in accordance with the by-laws of said club; and provided further, that nothing herein contained shall be construed to prevent any hotel from permitting checks or statement for liquor to be signed by regular guests residing at said hotel and charged to the accounts of said guests.

Section 12: It shall be unlawful for any licensee to sell, offer for sale or furnish any alcoholic liquor to any person or persons or patron or patrons in what is generally know as curb service. Free dispensing of alcoholic liquor by any licensee is hereby prohibited and unlawful.

Section 13: It shall be unlawful to keep open for business or to admit the public or patrons or customers or persons to any premises licensed under this Ordinance for the retail sale of alcoholic liquor during the hours within which sale of such liquor is prohibited, or to permit or allow person, patrons, or customers to remain in or about the licensed premises during the hours designated within which the sale and consumption of alcoholic liquors is prohibited on the licensed premises; provided however, that restaurants, clubs, drug stores and hotels may keep their places of business open, subject only to the provisions that no sale at retail of alcoholic liquors or the consumption by patrons or customers or by the public of alcoholic liquors shall be permitted or allowed on said licensed premises during the hours prohibited.

Section 14: Whenever any licensee hereunder shall sell or otherwise dispose of the business conducted on the licensed premises, said licensee shall, with 5 days thereafter, cause a notice in writing of such fact to be delivered to the Local Liquor Control Commissioner of said Kendall County. Said statement shall contain full information concerning the same, including the date of such date or disposal of said business and the name of the purchaser, if any. Upon the occurrence of any of the foregoing the license issued hereunder shall be surrendered to the Liquor Control Commission, providing that the Liquor Control Commissioner in his discretion may permit the licensee to maintain said license upon the following circumstances, viz: remodeling, casualty act of God or other business interruption deemed by the Commissioner to be beyond the control of the licensee. The commissioner is further authorized to approve assignment of said license to

a qualifying purchaser. Failure on the part of the licensee to comply with the provisions of this shall subject said licensee to a fine of not less than One Hundred Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00) or by imprisonment in the County Jail for not less than Thirty (30) days nor more than four (4) months and such penalties as herein provided in this Section shall be in addition to any such penalties mentioned in this Ordinance for violation of any of the term and provisions thereof.

Section 15: It shall be the duty of every person licensed hereunder to keep complete and accurate records of all sales of liquor, wine or beer, which said records shall be produced by the person holding such a license at the request of the Local Liquor Control Commissioner.

Section 16: All premises and equipment and utensils or paraphernalia used for the retail sales of alcoholic liquor, or for the storage of such liquor for sale purposes, shall be kept in a clean and sanitary condition and shall have running water at any service bar for the purpose of washing and cleaning dishes and glasses and other utensils used in and about the serving of alcoholic liquors, and every licensee hereunder shall install and maintain clean and sanitary toilets or toilet rooms for both sexes and shall keep the licensed premises in full compliance with the State law regulating the conditions or premises used for the storage or sale of food for human consumption. The provisions of this paragraph may be modified by the Commissioner as deemed appropriate by the Commissioner for Class "G" Licenses.

Section 17: It shall be unlawful to employ in any premises used for the retail sale of alcoholic liquor any person who is afflicted with, or who is a carrier of, any contagious, infectious or venereal disease, and it shall be unlawful for any person who is afflicted with or a carrier of any such disease to work in or about any premises or to engage in any way in the handling, preparation or distribution of such liquor.

Section 18: It shall be unlawful for any licensee hereunder to permit or allow any lewd persons or any prostitutes to remain in and about any licensed premises or to allow or permit any soliciting to prostitution or lewdness, idleness, gaming, gambling, fornication or other misbehavior to be conducted on said licensed premises, or to permit or allow any slot machines or other devices used for gambling purposed, to be or to remain in or on or about the licensed premises.

Section 19: It shall be unlawful for any licensee to allow person in a drunken condition to remain upon or loiter in and around any licensed premises or to harbour, conceal, aid or assist any person who has committed any criminal offense against the laws of the State of Illinois, or to refuse to aid or assist the law enforcing officers of Kendall County in the apprehension of person accused of or suspected of crime.

Section 20: All places where alcoholic liquor is sold in violation of any of the provisions of this Ordinance shall be taken and held to be and are hereby declared to be common nuisances and may be abated as such.

Section 21: All license fees received by the Local Liquor Control Commission shall be paid over to the County Treasurer and credited to the general fund of the County.

Section 22: It shall be unlawful to permit the following kinds of conduct on the premises:

- a) The performance of act, or simulated act of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts;
- b) The actual or simulated exhibition, touching, caressing or fondling of the breast, buttocks, pubic hair, anus, vulva, or genitals.

Section 23: In the event of the death of the named license holder, said license shall lapse, and be of no further effect. Any license which is not used for a period of sixty (60) consecutive days shall be deemed to have lapsed due to such non-use. Any license which has lapsed as defined by this paragraph will be of no further effect unless written waiver of such lapse is granted by the Commissioner, after a hearing held to evaluate the reason for such lapse.

Section 24: A record of any hearing held pursuant to this Ordinance shall be made by audio recording and shall be kept and preserved by the County Clerk. Any appeal taken from a decision of the Commissioner pursuant to the terms of this Ordinance shall be reviewed on the record of the hearing at which the decision was rendered as recorded by the verbatim audio recording.

Section 25: Any license issued pursuant to this Ordinance shall specifically identify the location of the authorized premises for the license, and such premises shall be sufficiently identified on the license to make such premises readily identifiable.

Section 26: The Kendall County State's Attorney shall be authorized to prosecute any violations of this Ordinance.

Section 27: No applicant will be entitle to a refund for an unused license for any reason once a license has been issued.

ARTICLE XI FINES AND PENALTIES

Section 1: Whoever violates any of the provision of this Ordinance shall, upon conviction, be punished by a fine of not less than One Hundred (\$100.00) Dollars, nor more than Five Hundred (\$500.00) Dollars or by imprisonment in the County jail for not less for not less than Thirty (30) days nor more than Six (6) months or by both such fine and imprisonment; and a separate offense shall be deemed committed on each day during, or on which, a violation occurs, or continues to occur. In addition to the foregoing, to the extent permitted by the "State Law", whoever violates the provisions of this Ordinance

may be required to pay reasonable reimbursement to Kendall County for the expenses of investigating and prosecuting such violation.

ARTICLE XII ADMINISTRATION

Section 1: The Chairman of the Kendall County Board shall be the Local Liquor Control Commissioner of said County, and he shall be charged with the administration of this Ordinance. Provided, however, that the authority and jurisdiction of said Local Liquor Control Commissioner shall extend only to that area of Kendall County which lies outside of the corporate limits of the cities, villages and incorporated towns therein, and shall, under no circumstances, extend to any area where the people of any local political subdivision have voted to prohibit the sale of alcoholic liquors in accordance with the terms and provisions of the State law governing the same.

Section 2: Said Local Liquor Control Commissioner of said County may appoint a person or persons to assist him in the exercise of the powers and the performance of the duties herein provided for such Local Liquor Control Commissioner or he may appoint members of the Kendall County Board on a committee to be known as the Local Liquor Control Committee which Committee may assist him in the exercise of the powers and the performance of the duties provided for by this Ordinance.

Section 3: Said Local Liquor Control Commissioner shall have the power to appoint or employ such clerks and other employees as may be necessary to carry out the provisions of this Ordinance, or to perform the duties and exercise the powers conferred by this Ordinance upon the Local Liquor Control Commissioner.

Section 4: Said Local Liquor Control Commissioner shall not appoint or employ any clerks or other employees who have been convicted of any violation or any Federal or State law concerning the manufacture or sale of alcoholic liquor prior to or subsequent to the passage of this Ordinance or who has paid a fine or penalty in settlement of any prosecution against him for any violation of such laws, or shall have forfeited his bond to appear in court to answer charges for any such violation, nor shall any person be appointed who has been convicted of a felony.

Section 5: No person shall be appointed to act on said Local Liquor Control Commission who may directly or indirectly, individually or as a member of a partnership, or as a shareholder or a corporation, have any interest, whatsoever, in the manufacture, sale or distribution of alcoholic liquor, nor receive any compensation or profit there from, nor have any interest, whatsoever, in the purchases or sales made by the persons authorized by this Ordinance, or to purchase or to sell alcoholic liquor as provided for in the State law governing the same.

Section 6: The office of the Local Liquor Control Commissioner shall be in the Office of Administrative Services, in the Kendall County Office Building, Yorkville, Illinois or in such other place as the County Board shall designate.

Section 7: The Local Liquor Control Commissioner of said County of Kendall shall keep a record of the proceedings, transactions, communications and official acts of himself and any commission appointed by him, which said books and records shall be kept and maintained in the office of the Liquor Control Commissioner of Kendall County.

Section 8: The Local Liquor Control Commissioner shall be paid the sum of One Thousand Two Hundred (\$1200.00) Dollars per annum and mileage as provided by ordinance for county officers. The members or members of any committee or person or persons appointed by the said Commissioner to assist him in the exercise of the powers and performance of the duties herein provided for, shall receive the sum of Twenty Five (\$25.00) Dollars, and mileage as aforesaid for each day actually spent in the performance of duties.

Section 9: The Local Liquor Control Commissioner and all clerks and employees of said Local Liquor Control Commissioner shall be reimbursed for any disbursements incurred or made by them in the discharge of their official duties.

Section 10: All charges or expenses or claims or demands incurred either by or against or in behalf of the Local Liquor Control Commissioner by reason of any thing or matter in this Ordinance contained, shall be claims against Kendall County, and shall be presented and paid or disallowed in the same manner as other claims against Kendall County are allowed and paid or disallowed.

ARTICLE XIII POWERS OF LOCAL LIQUOR CONTROL COMMISSIONER

Section 1: The Liquor Control Commissioner of Kendall County, Illinois shall have all the powers and authority granted and delegated to Local Liquor Control Commissioners in the "State Law."

ARTICLE XIV REVOCATION OR SUSPENSION OF LICENSE, FINES: APPEALS

Section 1: The Liquor Control Commissioner may suspend for not more than thirty days, or may revoke, any liquor license issued by him, or may impose a monetary fine as permitted as provided under Illinois law, if he determines that the licensee has violated any of the provisions of this Ordinance or any of the provisions of the State Law, or of any rule or regulation established by the Illinois State Liquor Control Commission which is not inconsistent with law.

Section 2: All proceedings for revocation or suspension of licenses issued by the Liquor Control Commissioner, and appeals there from shall be in conformance with the applicable provisions of State Law and this Ordinance.

ARTICLE XV

MISCELLANEOUS

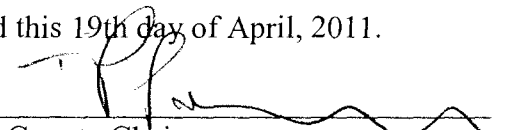
Section 1: The articles, provisions and sections of this Ordinance shall be deemed to be separable and the validity of any portion of this Ordinance shall not affect the validity of the remainder.

Section 2: That all Ordinances or parts of Ordinances heretofore passed and adopted by the County Board of the County of Kendall and State of Illinois, relating to the retail sale, keeping the sale, or offering for sale of alcoholic liquors in all of the territory lying outside of the corporate limits of any city, village or town and lying within the corporate limits of said Kendall County, Illinois be, and the same are hereby repealed.

Section 3: This Ordinance, which shall be known as "Rules of the Liquor Control Commission, Kendall County, Illinois," which comprise and are the rules of the said Liquor Control Commission, or any part thereof may be amended by Ordinance of the Kendall County Board by adoption thereof, at any regular or special meeting of said Board.

Section 4: This Ordinance and the regulations contained therein shall be in full force and effect on and after.

Adopted the 19th day of October, 1999 and amended this 19th day of April, 2011.



County Chairman

Attest: 

County Clerk

- Adopted: October 19, 1999
- Amended: January 27, 2004
- November 15, 2005
- May 16, 2006
- July 18, 2006
- May 18, 2010
- March 1, 2011
- April 19, 2011