

CHAPTER 33

LIQUOR CONTROL AND LIQUOR LICENSING

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33.01 DEFINITIONS

Terms used in this Chapter 33 are defined in Appendix A of this Code. In addition, any reference to Liquor Commission shall mean the Local Liquor Control Commission and any reference to Commissioner shall mean the Local Liquor Control Commissioner.

33.02 LICENSE REQUIRED

It shall be unlawful to sell or offer for sale at retail in the City any alcoholic liquor without having a retail liquor dealer's license, or in violation of the terms of such license.

33.03 APPLICATION

Applications for such license shall be made to the Commissioner in writing, signed by the applicant, if an individual, or by a duly authorized agent thereof if a group or corporation, verified by oath or affidavit, and shall be addressed to the Mayor and City Council, and shall further contain a statement and information as found in Exhibit A of this Chapter 33.

33.04 DISPOSITION OF FEES *Amended, 08-5-4*

All license fees shall be paid to the Commissioner at the time the application is made, and shall be forthwith turned over to the Treasurer.

If the license applied for is denied, the license fee shall be returned to the applicant. If the license is granted, the fee shall be deposited in the General Corporate Fund or in such other fund as designated by the City Council. License fees are separate and apart from the application fee required pursuant to Section 33.05-F herein.

33.05 APPLICATION REQUIREMENTS: *Amended, 25-7-2, 16-9-2, 16-5-3, 12-5-5, 10-6-3, 08-5-4, 07-2-1, 06-1-3*

A. CONTENTS OF APPLICATION: Application for a liquor license shall be filed with the Commissioner, in writing, signed by the applicant if an individual, or by a duly authorized agent thereof, if a club, corporation or other legally recognized entity, verified by oath or affidavit, and shall contain full and complete responses to the requested statements and information which shall be immediately updated if any of said statements or information changes during the term of any license. In the event the applicant is a corporation, limited liability company, general partnership or limited partnership, said application shall be signed by any member, officer, manager, director, partner (silent and limited) or stockholder owning more than five percent interest in the corporation, limited liability company, general partnership or limited partnership, as the case may be. Each applicant must submit acceptable proof of ownership when the applicant is the property owner of the premises, or a copy of a fully-executed lease of premises when the applicant is not the property owner of the premises for which he or she is seeking a license. Such lease must have coverage period equal to, or longer than, the duration of the applicant's liquor license. Said lease must name the applicant as lessee. Applications shall contain the following information and statements:

1. The name, birth date, social security number and address of the applicant in

the case of an individual; in the case of a partnership, the name, birth date and social security number of each partner owning more than five percent interest and a copy of the partnership agreement; and, in the case of a corporation or other legally recognized entity, the articles of organization, the names, birth date, social security number and address of the officers, directors and/or members owning five percent or more interest in the corporation.

2. The citizenship of the applicant, his or her place of birth, and if a naturalized citizen, the time and place of his or her naturalization.
3. The character of business of the applicant.
4. The length of time said applicant has been in business of that character, or in the case of a corporation, the date when its charter was issued.
5. The amount of goods, wares and merchandise on hand at the time application is made.
6. The location and legal description of the premises or place of business which is to be operated under such license. Each application shall contain a diagram of the premises which depicts the location of any service bars and the location of one designated dancing area.
7. A statement whether applicant has made application for a similar or other license on premises other than described in this application, and the disposition of such application.
8. A statement that applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this Section 33.05, laws of this State or the ordinances, rules or resolutions of the City.
9. Whether a previous license by any state or subdivision thereof, or by the federal government has been revoked, and the reasons thereof.
10. A statement that the applicant will not violate any of the laws of the state, or of the United States, or any ordinance, rule or resolution of the City in the conduct of his or her place of business.

B. INVESTIGATION OF APPLICANT: No license shall be issued hereunder until the applicant shall have been investigated by the Liquor Commission and a report filed in the records of said Commission approving the issuance of such license. As a part of this investigation, the Liquor Commission shall have the right to require fingerprints of all new and renewal applicants. For purposes of obtaining fingerprints under this Section 33.05, the Liquor Commission shall collect a fee in the amount specified on the application and forward the fee to the Police Department. A copy of fingerprints shall be held on record by the Chief of Police or his or her designee. In addition, the

applicant shall sign a release authorizing the Police Department to conduct a criminal background check.

C. AMENDMENTS: Any and all licenses issued pursuant to this Chapter 33 shall be subject to any and all changes or amendments which may be hereafter made, and any and all rules adopted by the Commissioner or Liquor Commission. Any and all licenses shall be subject to any restrictions or conditions deemed desirable by the Liquor Commission or the Commissioner.

D. INSURANCE: No license shall be issued to any person or entity that cannot produce a policy of insurance by a solvent and responsible company authorized to do business in the state insuring said person or entity against liability for any injury or death which said parties may incur while operating under the provisions of the Liquor Control Act as follows:

1. \$500,000 per person and \$1,000,000 per occurrence for bodily injury liability; \$100,000 for loss of means of support; \$100,000 for property damage liability; or
2. A \$1,000,000 single limit dram shop policy.
3. No license shall be issued to any person or entity that cannot produce a policy of insurance by a solvent and responsible company authorized to do business in the State insuring said person or entity against general liability in the amount of \$500,000.
4. The City shall be named on the licensee's liquor liability insurance as an additional insured. Said policy cannot be cancelled without first giving the City 30 days' prior written notice of said cancellation.

E. LIQUOR LIABILITY INSURANCE: Each applicant shall show by evidence satisfactory to the Liquor Commissioner, the issuance of a policy of the appropriate liquor liability insurance. In the event of cancellation, the Liquor Commissioner shall be notified immediately of such cancellation.

F. APPLICATION FEE: A non-refundable application fee in the amount of \$500 shall be payable upon the initial application for liquor license classifications A, B, and C. No initial application fee shall be required from liquor classification D. The renewal of liquor licenses as provided in Section 33.13 herein shall not be subject to this application fee.

G. STATE LIQUOR LICENSE: At the time a license is approved the City will provide a copy of the license to the licensee. The original City license will be issued when the licensee provides a copy of the license issued by the State of Illinois Liquor Control Commission.

H. OUTSTANDING DEBTS: An applicant or holder of a liquor licenses shall not be indebted to the City. Any indebtedness in excess of 30 days shall constitute the basis for the denial and/or revocation of a liquor license.

33.06 TERM, PRORATING FEES *Amended, 11-11-1*

A license is purely a personal privilege and, except for daily permits, shall expire one year from the date of issuance. The one-year period shall be from the 1st day of May of each year to the 30th day of April of each following year, unless sooner revoked or suspended. The fee for licenses issued after the 1st day of May of any year will be prorated.

The fee for licenses issued after the 1st of May but before September 1st of any year shall pay the full amount, licenses issued after September 1st but before January 1st of any year shall pay two-thirds (2/3) of the full amount, and licenses issued after January 1st but before May 1st of any year shall pay one-third (1/3) of the full amount.

All licenses, regardless of the date of issuance, shall terminate on the 30th day of April of each year following the date of issuance.

33.07 LICENSE CLASSIFICATION AND FEES; APPROVAL AUTHORITY; LIMITATION ON NUMBER OF LICENSES *Amended 25-11-1, 25-14-4, 22-11-1, 22-7-2, 22-6-6, 20-12-4, 20-8-1, 19-6-1, 19-3-1, 19-3-3*

A. **LICENSES:** Licenses required by this Chapter shall be divided into the following classes. The approval and authority to issue liquor licenses is the responsibility of the Liquor Control Commissioner with the approval of the City Council. The Liquor Control Commissioner or appointed designee may issue Class D "Special Event" licenses without prior Council approval when the license does not involve the use of additional City services or public property.

Upon approval by the City Council of an increase in liquor licenses, the City Clerk is hereby directed to amend this Section of the City Code to increase the number of liquor licenses accordingly. Any time a license is revoked or voluntarily surrendered, the maximum number of authorized licenses of that class will reduce by one, and the City Clerk is hereby directed to amend this Section of the Code to reflect that reduction.

1. **Class A ("Full Bar") license.** Issuance of a Class A license shall authorize the sale of Alcoholic liquor for consumption on premises and the retail sale of packaged liquor, where alcohol is the primary sale, and accounts for more than 51% of sales. For the purpose of this subsection

(a), the term sales shall not include revenue from gaming activity. The annual fee for such licenses shall be \$1,750.

2. **Class B ("Table Service") license.** Issuance of a Class B license shall authorize the sale of Alcoholic liquor for consumption on the premises only, as an incidental part of food service. Food sales must account for more than 51% of sales. The annual fee for a Class B license shall be \$1,500. A Class B licensee shall be eligible to apply for a Catering Endorsement for an additional fee of \$500, which shall permit the service of Alcoholic liquor for off-site consumption as an incidental part of food service, sold at a package price, as agreed upon under contract.

3. **Class C ("Packaged Retail") license.** Issuance of a Class C license shall authorize the Retail sale of packaged Alcoholic liquor only. No consumption of Alcoholic liquor shall be permitted on the premises. The annual fee for a Class C license shall be \$1,500.

4. **Class D ("Special Event") license.** Issuance of a Class D license shall only authorize the Retail sale of Alcoholic liquor for consumption on the premises during a designated special event to any not-for-profit organization or club, such as a church, order or lodge, veteran's organization or other civic organization, business or local liquor license holders in good standing. No such license shall be issued for a license period in excess of four days nor shall any private premises be eligible for more than four such licenses during any calendar year. Commissioner reserves the right to limit the sale of liquor to particular times during the day of the permit. The fee for such license shall be \$50 per day for current license holders and \$300 per day for non-license holders.

a. The following information shall be submitted regarding the event:

- i. Date, time and location of the event;
- ii. Type of alcohol to be served, which cannot exceed the type of alcohol a licensee already sells pursuant to its license;
- iii. Description of the security measures to be utilized for both liquor service and the event;
- iv. Description of the area in which alcoholic liquor will be available for service and consumption; and v. Sales and delivery of alcohol liquor shall be conducted pursuant to the requirements of this Chapter, the Illinois Liquor Control Act and the Illinois Liquor Control Commission Rules and Regulations.

b. Unless specifically provided otherwise, all requirements of this Chapter shall apply to permits granted under this Section including insurance requirements in Sections 33.05-D and E. To the extent that any such event may take place on public property and outside of the licensed premises, the applicant shall name the City as an additional insured and provide the City with the appropriate insurance endorsement.

c. Application for a daily permit must be submitted a minimum of 30 days in advance of the event.

5. **Class E License.** A class E Liquor License shall permit the retail sale of alcoholic liquor, wine, and beer for consumption only on the registered premise to a business offering classes such as art, crafting, painting, scrapbooking etc. and shows. The sale of alcoholic liquor, wine, and beer are to be sold only to patrons assembled on the premises for the purpose of attending classes and shows. The service of alcoholic liquor,

wine, and beer are to be sold and consumed only during times that classes and shows are scheduled. No window or any other signage visible from outside the establishment shall be permitted on the premises or the surrounding property that indicates that alcoholic liquor, wine, or beer is available for sale on premises. Class E licenses shall not be allowed to apply or receive video gaming endorsement. (No Gaming) Yearly Fee: \$500

B. **CONSUMPTION PERMITS:** Consumption permits required by this Chapter shall be divided into the following classes. The approval and authority to issue consumption permits is the responsibility of the Liquor Control Commissioner with the approval of the City Council.

Upon approval by the City Council of an increase in consumption permits, the City Clerk is hereby directed to amend this Section of the City Code to increase the number of consumption permits accordingly. Any time a consumption permit is revoked or voluntarily surrendered, the maximum number of authorized consumption permits of that class will reduce by one, and the City Clerk is hereby directed to amend this Section of the Code to reflect that reduction.

1. Bring Your Own Bottle ("BYOB") permit. Issuance of a Bring Your Own Bottle permit shall allow a customer to bring unopened/sealed beer or wine only, to be consumed on premises only as a compliment to classes such as art, crafting, painting, scrapbooking, and shows of the aforementioned nature. No permit holder, agent, staff, or employee may open or pour the beer or wine. No on-site storage of beer or wine is permitted. The permit holder is permitted to provide glasses and other amenities for the consumption of beer and wine only. A certificate of insurance naming the City of Marengo as certificate holder and additional insured in the amount of \$500,000 per person and \$1,000,000 per occurrence for bodily injury liability; \$100,000 for loss of means of support; \$100,000 for property damage liability. The annual fee for a BYOB permit shall be \$200.00.

It shall be unlawful to allow the consumption of alcoholic liquor in any business premises in the City except as set forth in Section 33.02 and this subsection. A BYOB permit shall have the same requirements as set forth in this Chapter for a liquor license, including, but not limited to revocation, suspension, and fine, except: i) a non-refundable application fee in the amount of \$500 shall be payable upon the initial application for a BYOB permit; ii) no State of Illinois Liquor Control Commission license is required; and iii) at least one person who has completed the BASSET program shall be required to be present on the permitted premises during hours when alcoholic liquor may be consumed.

2. Class Z ("On-Site Consumption") permit. Issuance of a Class Z permit shall allow a customer to bring alcoholic beverages, purchased from an adjoining premises (with no alcoholic liquor crossing any City streets, sidewalks, or alleys) holding a Class A license or Class B license from the City, into the permitted premises of a restaurant for on-site consumption only as a compliment to food. For the purposes of this Class Z permit, a restaurant must derive more than seventy-five percent (75%) of its gross

revenue (on an annual basis) from the sale of food. The records used to determine whether said seventy-five percent (75%) standard has been met shall include, but not be limited to, audited financial statements, corporate financial reports, tax return information or any other form deemed acceptable by the City. No Class Z permit holder, agent, staff or employee may open or pour alcoholic beverages. No on-site storage of alcohol is permitted. The annual fee for a Class Z permit shall be \$200.00

It shall be unlawful to allow the consumption of alcoholic liquor in any Business premises in the City except as set forth in Section 33.02 and this Subsection. A Class Z permit shall have the same requirements as set forth in this Chapter for a liquor license, including, but not limited to revocation, suspension, and fine, except: i) a non-refundable application fee in the amount of \$500 shall be payable upon the initial application for a Class Z permit; ii) no State of Illinois Liquor Control Commission license is required; and iii) at least one person who has completed the BASSET program shall be required to be present on the permitted premises during hours when alcoholic liquor may be consumed.

C. NUMBER OF LICENSES AND PERMITS ISSUED:

1. **Licenses Issued.** There shall be issued in the City not more than:

Class A: 12 Licenses
Class B: 7 Licenses
Class C: 6 Licenses
Class E: 0 Licenses

2. **Permits Issued.** There shall be issued in the City not more than:

Class BYOB: 1 Permit
Class Z: 2 Permits

33.08 RECORDS

The Commissioner shall keep a complete record of all licenses issued, and shall furnish the Clerk, Treasurer and Chief of Police each with a copy thereof. Upon the issuance of any new license, or the suspension or revocation of any old license, the Commissioner shall give written notice of such action to each of these officers.

33.09 DEATH, TRANSFER OR BANKRUPTCY OF LICENSEE

A license shall be a purely personal privilege, not to exceed one year after issuance unless revoked

sooner, and shall not constitute property, nor shall it be subject to attachment, garnishment or execution nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated.

Such license shall cease upon the death of the licensee and shall not descend by the laws of testate or intestate devolution, provided that the executors or administrators of the estate of any deceased licensee, and the trustee of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale or manufacture of alcoholic liquor under order of the appropriate court, and may exercise the privileges of the deceased or insolvent or bankrupt, until the expiration of such license, but not longer than six months after the death, bankruptcy or insolvency of such licensee.

A refund shall be made of that portion of the license fee paid for any period in which the licensee shall be prevented from operating under the license in accordance with the provisions of this Section 33.09.

33.10 CHANGE OF LOCATION

A liquor license shall permit the sale of alcoholic liquor only in the premises described in the application and license. Such location may be changed only upon the receipt of written permission from the Commissioner. No change of location shall be permitted unless the proposed new location is in compliance with provisions and regulations of this Chapter 33.

33.11 CHANGE OF OWNERSHIP

A liquor license shall be purely a personal privilege and shall be valid for the time specified therein, unless sooner revoked or suspended and shall not constitute property nor shall it be subject to attachment, garnishment or execution; nor shall it be alienable or transferable, voluntarily or involuntarily or subject to be encumbered or hypothecated.

33.12 ABANDONMENT

If the licensee to which a license has been issued discontinues operations at the premises described in the application and license for 90 consecutive days, or whenever there is evidence of a clear intent of the licensee to abandon the premises, said license shall be subject to revocation.

33.13 RENEWAL OF LICENSE

Any licensee may renew his liquor license at the expiration thereof, provided that he is then qualified to receive a license and the premises for which such renewal license is sought are suitable for such purpose; provided further, that the renewal privilege herein shall not be construed as a vested right which shall in any case prevent the reduction of the number of licenses to be issued within the City.

33.14 MANDATORY MEETING, LIST OF OWNERS, MANAGERS AND EMPLOYEES *06-1-3; Amended, 09-5-4*

A. **MANDATORY LICENSEE MEETING:** All liquor license holders or their representatives shall be required to attend a mandatory meeting hosted by the Commissioner in March of each year to discuss changes in this Chapter 33, identify/address issues and concerns and provide for open communication between the licensees and Commissioner. The City will provide notice of the date, time and location for this meeting no less than 14 days in advance. Failure to attend the mandatory meeting could result in the revocation of the renewal privileges upon the expiration of the liquor license.

B. **LISTING OF OWNERS, MANAGERS AND EMPLOYEES:** All licensees shall by May 1 of each year submit to the Marengo Police Department a listing of all owners and managers of the licensed premises, as well as a list of any and all employees who prepare, dispense, sell or serve alcoholic beverages at the licensed premises. The listing shall include the names, home addresses, date of birth and indicate whether they have received BASSET training. The licensee shall have 10 days in which to update this listing with new managers or employees once they have been hired.

33.15 DISPLAYING LICENSE

Every licensee shall cause his license or licenses to be framed and hung in plain view in a conspicuous place on the licensed premises.

33.16 RESTRICTIONS UPON SOUND AMPLIFICATION

It shall be unlawful for any licensee to permit or allow any noise or sound to be amplified outside the bounds of a structure on the premises if a residence is within 500 feet of the premises.

33.17 SANITARY CONDITIONS

All premises used for the retail sale of alcoholic liquor, or for the storage of such liquor for sale, shall be kept in full compliance with the laws and ordinances regulating the condition of premises used for the storage or sale of food for human consumption.

33.18 EMPLOYEE RESTRICTIONS *Amended, 19-11-1, 09-5-4*

It shall be unlawful for a licensee to permit any person under the age of 21 years to dispense, draw, pour or mix any alcoholic liquor, or in any way tend bar. This shall not prevent persons 18 years of age and over, as employees, from delivering alcoholic liquor for consumption on the premises. Employees selling, delivering, checking out or receiving payment for packaged alcoholic liquors must be 21 years of age or older.

It shall be unlawful to employ in any premises used for 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 is a carrier of any such disease to work in or about any premises or to engage in any way in the handling, preparing or distributing of such liquor.

33.19 LOCATION RESTRICTIONS, NOTIFICATION *Amended, 18-9-1, 09-9-1, 08-5-4*

Except as provided herein, no liquor license shall be issued for the sale at retail of any alcoholic liquor within 100 feet of any church, school, hospital, undertaking establishment or mortuary, home for the aged or indigent persons or for veterans, their spouses or children, or any military or naval station. This prohibition shall not apply to hotels offering restaurant service, regularly organized clubs, or to restaurants, food shops or other places where the sale of alcoholic liquors is not the principal business carried on at the place of business. Notwithstanding any provision of this section to the contrary, the City local liquor control commission may, in his discretion, based on the circumstances, grant an exemption to the prohibition in this paragraph.

33.20 PREMISES

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

33.21 BOOKS AND RECORDS OF LICENSEE

It shall be the duty of every retail licensee to make books and records available upon reasonable notice for the purpose of investigation and control by the Illinois Liquor Control Commission or any Commissioner having jurisdiction over the licensee. Such books and records need not be maintained on the licensed premises, but must be maintained in the State of Illinois. However, all original invoices covering purchases of alcoholic liquor must be retained on the licensed premises for a period of 90 days after such purchase.

33.22 STORES SELLING SCHOOL SUPPLIES, LUNCHES, ETC.

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 persons under the age of 21 or where the principal business transacted consists of school books, school supplies, food, lunches or drinks for such persons.

33.23 CLOSING HOURS *Amended, 08-5-4, 04-8-4*

A. It shall be unlawful to sell or offer for sale at retail, or to give away, in or upon any licensed premises, any alcoholic liquor:

Between the hours of 1:01 a.m. and 6 a.m. Monday through Friday; and
Between the hours of 2 a.m. and 6 a.m. Saturday; and
Between the hours of 2 a.m. and 8:30 a.m. on Sunday.

B. SUNDAY HOURS: It shall be unlawful to sell or offer for sale at retail, or to give away, in or upon any licensed premises, any alcoholic liquor between the hours of 2 a.m. and 8:30 a.m. on Sunday.

C. HOLIDAYS: On the eve of New Year's Day, Memorial Day (observed), Independence Day (4th of July), Labor Day and Thanksgiving Day it shall be lawful to sell alcoholic liquor in the City until 2 a.m. in licensed premises.

D. The hours stated herein shall be Central Standard Time when Daylight Savings Time is in effect and then said hours shall be Central Daylight Savings Time.

E. It shall be unlawful to keep open for business, to admit the public to, to permit the public to remain within, or to permit the consumption of alcoholic liquor in, or upon, any premises in, or on, which alcoholic liquor is sold at retail during the hours within which the sale of such liquor is prohibited; provided, that in the case of restaurants and clubs, such establishments may be kept open, but no alcoholic liquor may be sold to or consumed by the public during the hours prohibited.

33.24 CONSUMPTION ON PREMISES, DRINKING ON PUBLIC STREETS

A. CONSUMPTION ON PREMISES: It shall be unlawful for anyone having a Class C license to sell or offer for sale any alcoholic liquor for consumption on the premises where sold, or to permit the same to be consumed on the premises where sold.

B. DRINKING ON PUBLIC STREETS: No person shall openly drink or furnish to others any alcoholic liquor to be drunk upon any street, public place or vacant lot within the City and no person shall connive at or assist in or procure others to violate any provision of this Chapter 33.

33.25 PEDDLING

It shall be unlawful to peddle alcoholic liquor in the City.

33.26 PURCHASE OR ACCEPTANCE OF GIFTS OF LIQUOR BY PERSONS UNDER THE AGE OF 21; IDENTIFICATION CARDS, PUNISHMENT; EXCEPTIONS

A. PURCHASE OR ACCEPTANCE: It shall be a violation of this Section 33.26 for any person under the age of 21 to purchase, obtain, accept deliver of, accept a gift of, consume, or have in his or her possession alcoholic liquor.

B. WARNING PLACARD: In every place in the City where alcoholic liquor is sold, there shall be displayed at all times, in a prominent place, a printed card, which shall be supplied by the Clerk, and which shall read substantially as follows:

Warning to Persons Under 21 Years of Age

You are subject to a fine up to Five Hundred Dollars (\$500.00) under the Liquor Control Ordinance of the City of Marengo if you purchase alcoholic liquor, or misrepresent your age for the purpose of purchasing or obtaining alcoholic liquor.

C. EXEMPTIONS: The possession and dispensing or consumption of alcoholic liquor by a person under 21 years of age in the performance of a religious service or ceremony, or the consumption by a person under 21 years of age under the direct supervision and approval of the parents or parent of such minor in the privacy of a home, is not prohibited by this Chapter 33.

D. PENALTY: Whoever violates any provision of this Section 33.26 shall be fined not less than \$100 nor more than \$500.

33.27 SALE TO PERSONS UNDER 21 YEARS OF AGE

A. SALE BY LICENSEE: It shall be a violation of this Section 33.27 for the licensee or any officer, associate, member, representative, agent or employee of such licensee, to sell, give or deliver alcoholic liquor to any person under the age of 21 years.

B. SALE BY OTHER PERSONS: It shall be a violation of this Section 33.27 for any person, after purchasing or otherwise obtaining alcoholic liquor, to 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.

C. PROOF OF IDENTITY AND AGE: To prevent the violation of this Section 33.27, any licensee, or his officer, associate, member, representative, agent or employee, may refuse to sell or serve alcoholic beverages to any person who is unable to produce adequate written evidence of identity and of the fact that he or she is over the age of 21 years. Adequate written evidence of age and identity of the person is a document issued by a federal, state, county or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act or an identification card issued to member of the Armed Forces.

D. PENALTY: Whoever violates any provision of this Section 33.27 shall be fined not less than \$200 nor more than \$500. In addition to all other fines and penalties, the Commissioner may suspend or revoke the retail liquor dealer's license for any violation of this Section 33.27.

33.28 SALE OR USE OF FALSE EVIDENCE OF AGE AND IDENTITY

A. It shall be a violation of this Chapter 33 for any person to 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/or identity of such person or to sell, give or furnish to any person under the age of 21 years evidence of age and/or identification of any other person.

B. It shall be a violation of this Chapter 33 for any person under the age of 21 to present or offer to any licensee, his agent or employee, any written, printed or photostatic evidence of age and/or identity which is false, fraudulent or not actually his or her own for the purpose of ordering,

purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any alcoholic beverage, or who has in his or her possession any false or fraudulent written, printed or photostatic evidence of age and/of identity.

C. PENALTY: Whoever violates any provision of this Section 33.28 shall be fined not less than \$100 nor more than \$500.

33.29 SALES TO INTOXICATED PERSONS, HABITUAL DRUNKARDS, SPEND-THRIFTS AND MENTAL INCOMPETENCE

No licensee, or any officer, associate, member, representative or agent or employee of the licensee, shall sell, give or deliver alcoholic liquor to any intoxicated person or to any person known by him or her to be an habitual drunkard, spendthrift, insane, feeble minded or distracted, mentally ill, mentally deficient or in need of mental treatment.

No licensee, or agent or employee of the licensee, shall harbor or permit any intoxicated persons to loiter on the premises described in the license or permit any conduct which shall tend to disturb the peace or quiet or the neighborhood or the premises.

33.30 INSPECTIONS AND ENFORCEMENT

Any law enforcing officer of the City may enter at any time upon any premises licensed hereunder to determine whether any of the provisions of this Chapter 33 or whether any of the rules or regulations adopted by the Mayor and City Council or by the State of Illinois have been or are being violated and at such time may examine the premises of the licensee in connection therewith.

Any law enforcing officer of the City may receive complaint from any citizen within the jurisdiction of the City that any of the provisions of this Chapter 33 or any rules or regulations adopted by the Mayor and City Council or by the State of Illinois have been or are being violated, and may act upon such complaints in the manner provided.

The Commissioner shall have the authority to make and establish rules and regulations of procedure concerning notice of hearings and all such other matters as may from time to time be necessary, and to appoint deputy Commissioners to the Liquor Commission.

It shall be a violation of this Chapter 33 to refuse to grant admittance to the premises for which a license has been issued at any time upon the verbal request of any police officer or any other legally authorized person.

33.31 GATHERINGS WHERE ONE OR MORE PERSONS ARE UNDER THE AGE OF 21 YEARS

A. It shall be a violation of this Section 33.31 for any person to knowingly permit a gathering at a residence which she/he occupies of two or more persons where any one or more of the persons is under 21 years of age and the following factors also apply:

1. The person occupying the residence knows that the person or persons under the age of 21 is in possession of or is consuming an alcoholic beverage; and
2. The possession or consumption of the alcohol by the person under 21 is not otherwise permitted by this Chapter 33; and
3. The person occupying the residence knows that the person under the age of 21 leaves the residence in an intoxicated condition.

B. For the purposes of this Section 33.31 where the residence has an owner and a tenant or lessee, there is a rebuttable presumption that the residence is occupied only by the tenant or lessee.

33.32 LICENSE REVOCATION AUTHORIZED *Amended, 12-5-3*

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

1. Violate or permit a violation of any federal law or state statute related to the control of liquor.
2. Violate or permit a violation of any City ordinance or resolution regulating the sale of alcoholic liquor or relating to the eligibility of the licensee to hold a liquor license.
3. Violate or permit a violation of any rule or regulation of the Illinois Liquor Control Commission as amended from time to time.
4. Permit the sale and/or consumption of any alcoholic beverages outdoors absent a specific permit issued by the City.
5. Allow fighting, disorderly conduct or excessive noise constituting a nuisance to take place on the licensed premises or on, about and/or adjacent to the property where the licensed premises are located.
6. Allow patrons to serve or distribute alcoholic beverages to minors on the licensed premises or allow minors to drink alcoholic beverages on the licensed premises.
7. Fail to call the City Police Department upon the violation of any City ordinance or state law relating to fighting, disorderly conduct or excessive noise constituting a nuisance on the licensed premises.

8. Submit to the City a liquor license application containing a false or misleading statement.
9. Violate or permit a violation of any federal, state or local law, regulation or ordinance related to video gaming.

B. Proof before the Commissioner of the facts which establish a violation of any federal law, state statute, City ordinance or resolution or rule of the Illinois Liquor Control Commission or the Illinois Gaming Board shall be sufficient cause for revocation, suspension and fine of any liquor licensee, irrespective of whether or not a conviction has been obtained in any court. In addition, the licensee shall be obligated to reimburse the City for all attorney's fees incurred as a result of the prosecution of the offending licensee.

C. Pursuant to Resolution 00-8-C passed by the City Council and pursuant to 235 ILCS 5/7-9, all appeals from the decision of the Commissioner shall be limited to a review of the official record of proceedings.

33.33 REVOCATION, SUSPENSION OR FINE

A. **REVOCATION:** Licenses granted hereunder may be revoked by the Commissioner for the violation of any part or portion of this Chapter 33, or of the Liquor Control Act, or of any valid resolution or ordinance enacted by the City, or of any applicable rule or regulation established by the Commissioner or any violation of the Criminal Code, which occurs on the licensed premises or any violation of the Criminal Code which occurs off the licensed premises where said violation involves or relates to the sale or consumption of alcoholic beverages on the licensed premises. Licenses granted hereunder may be revoked upon the conviction of licensee under the Criminal Code. Should any applicant for license make a false or fraudulent statement in such application, the same shall be cause for revocation by the Commissioner of such license.

B. **SUSPENSION:** Licenses granted hereunder may be suspended by the Commissioner for a period of not exceeding 30 days for the violation of any part or portion of this Chapter 33, or of the Liquor Control Act, or of any valid resolution or ordinance enacted by the City, or of any applicable rule or regulation established by the Commissioner or by the State Liquor Control Commission or any violation of the Criminal Code which occurs on the licensed premises or any violation of the Criminal Code which occurs off the licensed premises where said violation involves or relates to the sale or consumption of alcoholic beverages on the licensed premises. During such period of suspension, no alcoholic liquor shall be sold on said licensed premises.

C. **FINE:** In addition to revocation or suspension of the liquor license by the Commissioner, the Commissioner may fine any licensee up to \$1,000, plus the City's cost of prosecution including reasonable attorney fees, for each violation of any part or portion of this Chapter 33, or of the Liquor Control Act, or of any valid resolution or ordinance enacted by the City, or of any applicable rule or regulation established by the Commissioner or by the State Liquor Control Commission or any violation of the Criminal Code which occurs on the licensed premises or any violation of the Criminal Code which occurs off the licensed premises where said violation involves or relates to the sale or consumption of alcoholic beverages on the licensed premises.

33.34 PROHIBITED ACTS AND CONDITIONS *02-8-5; Amended, 08-5-4*

A. **ADULT BUSINESS PROHIBITED:** It shall be unlawful for any person maintaining, owning or operating a commercial establishment located within the City at which alcoholic beverages are offered for sale for consumption on the premises, to permit or allow the following activity to be conducted on the premises of such a commercial establishment, all of which activity is defined in Chapter 44 of this Code: Adult Business; Adult Entertainment Center; Adults-Only Activity, Bookstore, Motion Picture Theater, Nightclub, Sauna; Nudity; Obscene Activity; Rap Parlor; Sadomasochistic Activity; or Sexual Conduct Activity.

B. **BEER, ALCOHOLIC BEVERAGES PROHIBITED:** It shall be unlawful for any establishment defined as an Adult Business pursuant to the Marengo Zoning Code to sell, distribute or permit beer or alcoholic beverages on the premises.

33.35 COMPLIANCE CHECK PROCEDURES CONCERNING ALCOHOL/TOBACCO RETAILERS *02-9-1*

The following guidelines are to be followed when members of the Marengo Police Department conducts investigations into suspected abuses of alcohol and/or tobacco being sold to Minors, commonly referred to as a “Compliance Check.” These investigations are conducted on retail establishments or businesses operating within the City limits which sell or distribute alcohol or tobacco products.

Compliance checks are defined as a controlled buy type operation, wherein a minor will attempt to purchase either alcohol or tobacco from the respective retailer.

1. **ALCOHOL/TOBACCO PROCEDURES:** Effective immediately, the following procedures shall be followed by members of the Marengo Police Department, when conducting said compliance checks:
 - a. A compliance check operation will involve investigating those retail establishments and businesses that sell either tobacco or alcohol. The operations shall be specific in nature, in that they will target either tobacco or alcohol, and not be conducted simultaneously.
 - b. Tobacco and alcohol enforcement operations will be conducted at a minimum of one time per year, or more as deemed necessary, or as manpower and resources are available.
 - c. Alcohol related compliance checks, when possible, will involve targeting every establishment within the City that holds a liquor license, to the extent, that a member of the general public has ready access to purchase alcoholic beverages at the location of business for the liquor license holder.
 - d. Tobacco operations will target every retailer or business that sells tobacco within the

City, with the exemption of those tobacco retailers or businesses which are adult in nature, i.e. bars.

- e. Subjects used for the tobacco operations will be between 16-17 years of age and have their parent or guardians consent to participate in the operation. A parental consent form will be completed prior to the operation.
- f. Subjects used for the alcohol operations will be between 17-20 years of age. Subjects 18-20 years of age will sign a consent form, and those subjects 17 years of age will have their parent or guardian sign a consent form.
- g. Minors enlisted to aid in the operation will be approved by the Chief of Police or his/her designee.
- h. The minors will be of good character and have no record of tobacco or alcohol related violations.
- i. Prior to the operation, the minor will provide the operations supervisor with proof of age, such as birth certificate or valid, State of Illinois photo driver's license or State of Illinois photo identification card, for proof of birth verification and age.
- j. Minors involved in the operation will dress appropriately and make no attempt to alter their appearance, for the purpose of age enhancement.
- k. Minors involved in the operation, if asked by the merchant or employee of the merchant, shall provide an accurate Illinois driver's license to the requesting merchant or employee of the merchant.

2. OPERATION AND TRANSACTION GUIDELINES

- a. On the date of the operation, the minor will arrive at the department or other designated location for a briefing. At that time, the minor will be photographed and instructed in what they are to do and not do. They will also be instructed to remove all personal effects from their pockets, with the exception of their photo driver's license.
- b. The minor will be issued the money for the transaction prior to entry into the establishment.
- c. The officers enlisted to aid in the operation will make an attempt to view the sale of the item, when and where possible.
- d. If there is a successful transaction, the minor or the observing officer will notify the operations supervisor or their designee and advise of the sale.
- e. Every effort will be made to preserve all evidence of the transaction.

- f. The operations supervisor or their designee will then immediately enter the establishment and make contact with the employee who conducted the transaction, unless authorization from the Chief of Police has been approved for multiple transactional purchases. In the instance of alcohol transactions, the employee will be issued a “Notice to Appear” for the violation. For tobacco violations, the employee will be issued either a “Written Warning” for the first violation or “Notice to Appear” for any second or subsequent violation. If warranted, enforcement actions may be sought and/or taken against the liquor license holder.
- g. All evidence related to the operation will be taken into custody, if practical and processed and secured as evidence.
- h. At no time during the operation, will the minor ingest alcoholic beverages or tobacco products.
- i. Initial and possible subsequent reports will be generated for the operation itself. Subsequent reports will be generated when a violation occurs, specific to the establishment in violation.
- j. Upon completion of the operation, the Chief of Police or their designee will be notified of those establishments that were in violation.

33.36 BASSET PROGRAM 09-5-3

A. For purposes of this Section, BASSET is defined as the state-certified Beverage Alcohol Sellers and Servers Education and Training program licensed by the State of Illinois Liquor Control Commission, as required by 235 ILCS 5/3-12 (11.1) and 6-27 and Title 77 of Illinois Administrative Code, Chapter XVI, Section 3500.

B. All original or renewal applications for a liquor license shall be accompanied with proof of completion of a State certified BASSET program for all persons who sell or serve alcoholic beverages, all management personnel working on the premises and anyone whose job description entails checking identification for the purchase of alcoholic beverages pursuant to that license.

C. 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 (a picture type identification is optional), to participants as proof of completion.

D. At least one person who has completed the BASSET program shall be required to be on the licensed premises during hours when alcoholic beverages may be purchased.

E. Any new owner, manager, employee or agent requiring completion of the BASSET program shall, until completion of the BASSET program, work under the supervision of a person who has successfully completed the BASSET program.

F. LIQUOR VIOLATIONS: In the event a licensed premises is found to be in violation

of any provision of this Chapter or the Liquor Control Act of 1934 (235 ILCS 5/1-1 *et seq.*), the Commissioner, within his sole discretion, may require all persons who sell or serve alcoholic liquor and/or all management personnel working in a licensed premises and/or anyone whose job description entails the checking of identification for the purchase of alcoholic liquor pursuant to the license to re-apply, attend and successfully complete a BASSET program.

33.37 **PENALTY** *Amended, 08-5-4*

Any person, firm, corporation or other legally recognized entity who violates any provision of this Chapter 33, for which a specific penalty is not stated, shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$750 per offense, and be responsible for the City's cost of prosecution including reasonable attorney fees, for each offense or the revocation of his or her liquor license, or to both such fine and revocation of such license. Each day that a violation continues shall be considered a separate offense.

33.38 **VIDEO GAMING TERMINALS** *23-01-01, 12-5-3*

A. No gambling of any sort shall be permitted in the City except as authorized by this Section.

B. Video gaming terminals shall be permitted in and upon the premises used or occupied as a place where alcoholic liquor is sold or given away if each of the following conditions is first met:

1. The use and placement thereof is in compliance with the provisions of the Video Gaming Act (230 ILCS 40/1 *et seq.*), as amended; and
2. The use and placement thereof is in compliance with the provisions of all rules promulgated by the Illinois Gaming Board pursuant to the Illinois Administrative Procedures Act; and
3. The licensee or agent of the licensee:
 - (a) Files with the City Clerk a copy of the licensee's written use agreement with the terminal operator for placement of the video gaming terminals and a copy of the license issued by the Illinois Gaming Board; and
 - (b) Pays to the City an annual fee of \$250 for each video gaming terminal upon the premises.

C. No video gaming terminal that is permitted under the provisions of Section may be played except during the legal hours of operation allowed for the consumption of alcoholic beverages on the licensed premises.

D. If a licensee violates any provision of the Video Gaming Act, or rules and regulations

of the Illinois Gaming Board or any provision related to video gaming terminals contained in this Section, such violation shall be deemed a violation of the licensee's liquor license.