



REQUEST FOR COUNCIL ACTION

To: Honorable Mayor and Members of the City Council
From: Patrick Urich, City Manager

AGENDA DATE REQUESTED: February 26, 2013

ACTION REQUESTED: ADOPT THE ATTACHED REVISED ORDINANCE AMENDING CHAPTER 3 OF THE CODE OF THE CITY OF PEORIA PERTAINING TO LIQUOR LICENSE REGULATION, AS REVISED FROM AGENDA ITEM 13-057.

BACKGROUND: Based on the suggestions and input from the February 12th City Council meeting, the attached ordinance is a revised version of the amendments to Chapter 3 of the Code of the City of Peoria to: 1) streamline the multitude of liquor license classes for sale of packaged liquor while delineating and defining a grocery store license; 2) clean up sidewalk café subclass license to reflect the current process of administrative approval of sidewalk café; 3) add a subclass (11) license to allow a Class B (restaurant) licensee to hold two outdoor events per year on an adjacent off-street parking lot or an adjacent city-owned public right of way; 4) require an inspection prior to the issuance of a liquor license; and 5) shorten the period of lapse of site approval.

Attached as Exhibit A is a memorandum dated June 26, 2012 to the Liquor Control Commission that contains various ordinances utilized by other municipalities to try to define and delineate a grocery store versus a liquor store. At its February 12th meeting, Council members as well as the Mayor voiced concerns that the 50% public selling space for sale of grocery items was not sufficient to define a grocery store, so the attached revised ordinance adds the emphasis that a grocery store should be a public place kept, used, maintained, advertised and held out to the public primarily as a grocery store. In addition, the revised ordinance requires that an establishment seeking site approval as a grocery store must have no less than 75% of its public selling space devoted to grocery items and no more than 25% of its gross sales be from the sale of alcoholic liquors.

There were no concerns voiced regarding the simplification structure of Class "Cs" by merging the various liquor classes for packaged liquor sales, so no revisions were made in this area. But attached as Exhibit B is a flow chart that illustrates how the classes would be merged. Again, the proposed amendment to merge Class "Cs" will not result in the elimination of any of the privileges enjoyed by the current packaged license holders.

In response to the concern that not all Class B (restaurant) liquor licensees will be able to utilize the new proposed Subclass 11 to allow two outdoor events because some restaurants are located in an area where there is no available adjacent adjoining off-street parking lot, the revised ordinance allows these restaurants to hold two outdoor events on a city-owned right of way area if approved by the local liquor commissioner. In addition, amplification for live entertainment will be allowed as long as live entertainment ends by 10 p.m. and no objections are made by surrounding occupants. The licensee is still subject to full compliance with the City's noise restriction ordinance and will have to adhere to the same requirements for a Class "H" license except that the holder of the Class B license does not have to be a civic, patriotic, fraternal, religious or benevolent organization.

There were no objections voiced to the proposed amendments to Sections 3-63 and 3-97 regarding an inspection being required prior to the issuance of a new liquor license and the shortening of the time period for the lapse of site approval, respectively. Attached as Exhibit C is a flow chart that illustrates the process of obtaining City's approval for the privilege of selling or serving alcoholic liquors.

FINANCIAL IMPACT: None except for a minor decrease in the license fee of one establishment from \$2,450.00 to \$1,650.00 due to the merge into another class of license.

NEIGHBORHOOD CONCERNS: None expressed at the Liquor Control Commission meetings.

IMPACT IF APPROVED: Simplifies the packaged liquor licensing system while addressing the problem of granting site approval to a grocery store that later converts into a liquor store and ensuring that license establishments are being checked for compliance with the City Code after obtaining site approval.

IMPACT IF DENIED: Continue the overly cumbersome and complex system of packaged liquor licensing without addressing the problem of granting site approval to a grocery store that later converts into a liquor store and the problem of liquor license establishments not being checked for compliance with the City Code after obtaining site approval.

ALTERNATIVES: N/A.

EEO CERTIFICATION NUMBER: N/A.

WHICH OF THE GOALS IDENTIFIED IN THE COUNCIL'S 2011 - 2026 STRATEGIC PLAN DOES THIS RECOMMENDATION ADVANCE?

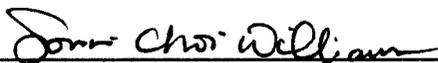
1. Grow Businesses
2. Responsive, Efficient City Organization

WHICH CRITICAL SUCCESS FACTOR(S) FROM THE COMPREHENSIVE PLAN DOES THIS RECOMMENDATION IMPLEMENT?

1. Keep taxes and fees competitive.
2. Have an efficient government.

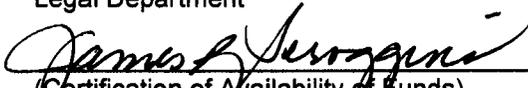
REQUIRED SIGNATURES

Department Director



Legal Department

Finance Director

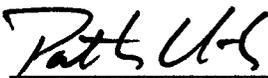


(Certification of Availability of Funds)

Corporation Counsel



City Manager



TO: The City of Peoria Liquor Commission
FROM: Sonni C. Williams, Senior Staff Attorney
DATE: June 26, 2012
SUBJECT: Continued Discussion on Packaged Liquor Stores

As discussed at the Commission's last meeting, the following information was gathered from other communities that differentiated between a grocery store with packaged liquor sale and a straight packaged liquor store.

In gathering this information from other municipal attorneys, it came to light that there are problems with enforcement on percentage sales. For instance, Village of Downers Grove used to distinguish the two stores by percentage of sales, but that created the problem of obtaining accurate information of sales since the numbers were provided by the business owners with no ability to check the accuracy of such numbers and the Village faced the problem of storing the large quantity of documents. The Village then switched to square footage differentiation which seems to work better, but there is still an issue with 7-11 stores versus a Jewel or Dominick-size store since many 7-11 convenient stores are as large as liquor stores.

Any changes to the City Code's classification structure of Class "Cs" would have to be effective at the next liquor license renewal cycle and would have to be drafted to ensure that every current packaged liquor licensee will fit into the re-classed "C" structure. In addition, the purpose of this discussion is to look to ways to eliminate the problem of a grocery store becoming a straight liquor store and not to increase any of the current liquor license fees.

Bloomington: (population: 72,416)

Definition:

Retail Grocery Convenience Store. Any place kept, used, maintained, advertised and held out to the public as a place where at least five (5) of the following seven (7) categories of products can be purchased at retail: dairy products, baked goods, frozen foods, groceries, snack foods, health and beauty aids, and where a maximum of fifteen percent (15%) of the total public selling space is devoted to the display of alcoholic beverages offered for sale. "Public selling space" includes all of the area between the floor and ceiling of the premises which is open, accessible, and/or visible to members of the general public, including the interior of any cooler or other refrigeration units or storage cases accessible and/or visible to the general public and any area with restricted public access, such as the area behind sales counters, from which sales are made to members of the general public. (Bloomington)

Classification:

"GPA" (Convenience Store - All Types of Alcohol) primary licenses authorize the retail sale of all types of alcoholic liquor only in the original package for consumption off of the premises at retail grocery convenience stores, as those premises are defined in Section 1(g) of this Code, at which motor vehicle fuels are sold.

"GPB" (Convenience Store - Beer and Wine Only) primary licenses authorize the retail sale of beer and wine only in the original package for consumption off of the premises at retail grocery convenience stores, as those premises are defined in Section 1(j) of this Code, at which motor vehicle fuels are sold.

Class "PA" (Package Sales - All Types of Alcoholic Liquor) primary licenses authorize the retail sale on the specified premises of all types of alcoholic liquor only in original packages for consumption only off of the premises and for consumption of beer and wine on the premises in conjunction with a beer and wine tasting as defined in Section 1. (Ordinance No. 2006-89)

Class "PB" (Package Sales - Beer and Wine Only) primary licenses authorize the retail sale on the specified premises only of beer and wine in the original packages for consumption only off of the premises and for consumption on the premises in conjunction with a beer and wine tasting as defined in Section 1. (Ordinance No. 2006-89)

Decatur: (76,122)

Definition:

"GROCERY STORE." A business where more than 50% of the gross sales are derived from the sales of groceries, produce, meat, and associated products.

"PACKAGE LIQUOR STORE." A business where retail sales of alcoholic liquor in its' original package constitutes more than 50% of the gross sales of all the products available within the building, or a permanently separated section of a building as described in § 96.26, and where alcoholic liquor is not generally available by the drink.

Classification:

Class B, under which alcoholic liquors may be sold only in packages for consumption off the licensed premises, which said Class B license shall not be issued for any premises located within One Thousand (1,000) feet of any church, school, park or subsidized disabled adult and elderly multi-story housing facility, unless the sale of alcoholic liquors is not the principal business carried on at any such location by such licensee, nor shall such Class B license be issued for any premises situated in any Residence, Office or Park Mobile Home District established by the Zoning Ordinance. The prohibition regarding distance from churches, schools, parks, or subsidized disabled adult and elderly multi-story housing facilities shall not apply to premises licensed on October 4, 2004, and continuously so licensed since that date. The restriction of off-premise sales shall not apply to sampling or test marketing. (there is a limit on the number of Class A – bars – and Class B Licenses combined)

Class J, under which alcoholic liquor may be sold only in packages for consumption off the licensed premises, and under which the licensed premises may only be a retail establishment which derives more than 50% of its gross income from the sale of goods other than alcoholic liquors and in which the licensee has invested, after January 1, 1991, not less than \$1,000,000 (which may include the capitalized value of the first ten years only of a leasehold interest), and, which establishment employs a minimum of 50 full-time employees, or the equivalent thereof, at the licensed premises, which said Class J license shall not be issued for any premises situated in any Residence, Office, Park Mobile Home or Neighborhood Shopping District established by the Zoning Ordinance unless the licensed premises are a club house connected with a golf course.

[Note: Convenience stores usually have to get a Class B since they cannot meet the minimum number of employees.]

Downers Grove: (47,833)

Definition:

Convenience Store. A building in which the sale of food, non-alcoholic beverages, household products, cosmetic items and reading materials is provided.

Drug Store. A retail store where medication and miscellaneous articles (food, cosmetics and film) are sold.

Grocery Store. A building where the primary business consists of the direct retail sale of items such as meats, cereals, grains, produce, baked goods, dairy products, canned and frozen prepared food products, beverages, cleaning supplies, pet food and supplies, over the counter medicines, personal products, household goods and similar items are available to be purchased by the consumer.

Retail sales square footage area. The area or space in a building devoted for the retail sale of goods or products offered for consumer purchase and shall not include storage freezers, storage coolers, warehouse, office areas or areas that are not open to the general public.

Classification:

Class "P" Off Premise Consumption Licenses

"P-1" Packaged liquor licenses shall authorize the retail sale on the premises specified, which shall not include premises of less than three thousand six hundred (3,600) square feet, of alcoholic liquor in packages with the seals unbroken, only, and not for consumption on the premises, except that tastings shall be permitted on such premises in accordance with State law. Such licenses shall be only authorized in locations where the sale of packaged liquor is the primary business and/or in locations where the primary business is that of a drug store, grocery store or convenience store as defined herein.

"P-2" Packaged liquor licenses shall authorize the retail sale on the premises specified, of beer and wine in original packages, unopened only, and not for consumption on the premises. Such licenses shall be only authorized in locations where the primary business is that of a drug store, grocery store or convenience store as defined herein. No more than twenty-five percent (25%) of the retail sale square footage area shall be devoted to the sale of beer/wine and tobacco products.

"P-3" Packaged liquor licenses shall authorize the retail sale of beer and wine in original packages, unopened only, and not for consumption on the premises, except that wine tastings, classes or seminars shall be permitted on such premises in accordance with State law. Such licenses shall be only authorized in locations where the sale of wine is the primary business, commonly referred to as "wine shops", as defined herein.

Moline: (43,977)

**SEC. 4-3304. CLASS C PACKAGED SALES ONLY- PRIMARY LICENSE;
CLASS CC PACKAGED SALES ONLY- SECONDARY LICENSE
AND CLASS CCC PACKAGED SALES BEER AND WINE ONLY SECONDARY.**

(a) A Class C Packaged Sales Only-Primary license, a Class CC Packaged Sales Only-Secondary license, and a Class CCC Packaged Sales Beer and Wine Only- Secondary license issued pursuant to this chapter shall entitle the licensee to make the following sales of alcoholic liquor only:

(1) Package sales of alcoholic liquor in sealed packages of fifty one milliliters (51 ml) or larger.

(b) A Class C, Class CC and Class CCC licensee may maintain the following hours of business:
Day Hours Sunday 10:00 a.m. until 1:00 a.m. the next day Monday through Thursday For each day: 6:00 a.m. until 1:00 a.m. the next day Friday and Saturday For each day: 6:00 a.m. until 2:00 a.m. the next day.

(c) A Class C, Class CC or Class CCC license may not be located within three hundred (300) feet of any church, school, other than an institution of higher learning, hospital, home for aged or indigent persons or for veterans, their spouses or children, any military or naval station. The distance of three hundred (300) feet shall be measured from the nearest part of the licensee's building to the nearest part of a church, school, other than an institution of higher learning, hospital, home for aged or indigent persons or for veterans, their spouses or children, or any military or naval station.

(d) A Class C Packaged Sales Only-Primary license shall be issued when the sale of alcoholic liquors is the primary business of the licensee. "Primary business" shall mean that twenty-five percent (25%) or more of the square footage of the store available for sales is dedicated to the displays or promotion of alcoholic liquors.

(1) Minors are not allowed in a Class C licensed premises.

(2) There shall be no more than three (3) Class C licenses issued at any one time within the City.

(e) A Class CC Packaged Sales Only-Secondary license shall be issued when less than twenty-five percent (25%) of the square footage of the store available for sales is dedicated to the displays or promotion of alcoholic liquors.

(1) Minors are allowed in a Class CC licensed premises except that where a Class CC licensee has a specific section or department dedicated to the sale of alcoholic liquor, no minor shall be permitted in said section or department unless accompanied by an adult aged twenty-one (21) or older.

(2) There shall be no more than thirty (30) Class CC licenses issued at any one time within the City.

(f) A Class CCC Packaged Sales Beer and Wine Only-Secondary license shall be issued when less than twenty-five percent (25%) of the square footage of the store available for sales is dedicated to the displays or promotion of alcoholic liquors and the licensee sells only beer and wine.

(1) Minors are allowed in a Class CCC licensed premises except that where a Class CCC licensee has a specific section or department dedicated to the sale of alcoholic liquor, no minor shall be permitted in said section or department unless accompanied by an adult aged twenty-one (21) or older.

(2) There shall be no more than five (5) Class CCC licenses issued at any one time within the City."

Naperville: (141,857)

Classification:

Class D—Package Store:

- 4.1. Authorizes the retail sale, on the premises specified, of alcoholic liquor in its original package, not for consumption on the premises.
 - 4.1.1. No class D license shall be issued to a premises which is not located within a shopping center of at least sixty thousand (60,000) square feet of gross building floor area unless such premises having been previously grandfathered from this square footage requirement.
 - 4.1.1.1. In shopping centers of at least one hundred thousand (100,000) square feet of gross building floor area, an additional class D license may be permitted if such license is located in a premises which primary business is other than the sale of alcoholic liquor. For purposes of this Subsection, a primary business other than the sale of alcoholic liquor, if not more than twenty-five percent (25%) of the annual gross revenues from the premises is derived from the sale of alcoholic liquor.
- 4.2. If the sale of alcoholic liquor is conducted on premises which are utilized primarily for other retail sales activity, the display of liquor shall be confined to a liquor display area as approved by the Liquor Commissioner. The liquor display area shall generally be a designated portion of the premises which includes all liquor. In particular, but without limitation, there shall be no aisle displays, or stocking of liquor in any public area of the establishment except in the approved liquor display area. Any changes to the location or size of the liquor display area shall be approved by the Liquor Commissioner. The licensee shall cause a sign advising that the area is closed to be conspicuously posted within the liquor display area during those hours that liquor sales are prohibited.
- 4.3. Liquor tasting may be permitted by a class D licensee as a promotional procedure once a month for a period of not to exceed three (3) consecutive days. This privilege is subject to an annual fee of one hundred dollars (\$100.00) in addition to the prescribed fee, except that no licensee shall give or offer to give away alcoholic liquors as a gift, gratuity, or tie in with the sale of nonalcoholic products or to induce the purchase of or promote the sale of nonalcoholic products. Liquor tasting under this Subsection shall be limited to beer, wines and alcoholic liquors only and shall be limited to the approved liquor display area.
- 4.4. Liquor tasting may be permitted by a class D licensee as a promotional procedure each week for a period not to exceed two (2) consecutive days. This privilege is subject to an annual fee of two hundred dollars (\$200.00) in addition to the prescribed fee, except that no licensee shall give or offer to give away alcoholic liquors as a gift, gratuity or tie in with the sale of nonalcoholic products or to induce the purchase or promote the sale of nonalcoholic products. Liquor tasting under this Subsection shall be limited to beer, wines and alcoholic liquors only and shall be limited to the approved liquor display area. A class D licensee may secure either the privilege allowed by this Subsection 3-3-11.4.4 or Subsection 3-3-11.4.3 of this Section, but not both.

- 4.5. The annual fee for a class D license shall be two thousand dollars (\$2,000.00).
- 4.6. The square footage requirements for class D licenses are not applicable to renewal of existing class D licenses, and shall not preclude the issuance of a liquor license to the purchaser of an established premises for which a liquor license has been previously issued.

New Lenox 24,394

Definition:

Convenience store. A store engaged primarily in the retail sale of groceries, sundries, and convenience items, i.e., milk, bread, packaged and fresh-prepared fast food items, bottled drinks, fountain drinks, and periodicals; the retail sale of alcoholic liquors being incident thereto.

Classification:

Class B1 (Package - Gas Station - Convenience Store). Issued to authorize the sale on the specified licensed premises of alcoholic liquor in its original package not for consumption on the licensed premises. This class shall not permit entertainment, tasting or sampling on the property.

Any areas used to store alcoholic liquor not on display shall also be divided in such a manner so as to allow the liquor inventory to be secured from the remainder of the storeroom during any hours of operation when alcoholic liquor cannot be sold. No alcoholic beverages may be stored or displayed outside of any licensed premises.

City of Peoria's Current Packaged Liquor Licensees:

CLASS "C-1" PACKAGE GOODS – UNDER \$500, 000 WHOLESALE PURCHASES

<u>TRADE NAME</u>	<u>ADDRESS</u>
Tony's Market	2621 N.E. Adams
Aldi, Inc. #70	9129 N. Allen Road
Big Hollow Convenient	6023 N. Big Hollow
Stan's Wine & Spirits	1108 W. Glen
Walgreen's #03181	2515 N. Knoxville
Big Kmart #9335	901 W. Lake
CVS/Pharmacy #6447	9315 N. Lindbergh Drive
Cornerstore on Main	401 Main
Main Street Liquor	615 W. Main
CVS/Pharmacy #6455	1200 W. Main
CVS/Pharmacy #7797	6820 N. Pear Tree Lane
Walgreens #06604	1919 W. Pioneer Parkway
Walgreens #06079	4814 N. Sheridan Road
South Metro Market	2421 W. Starr
CVS/Pharmacy #6445	3015 N. Sterling
Aldi #10	3116 N. Sterling
Sterling Liquors	3801 N. Sterling
Walgreen's #02166	3524 N. University

Aldi #42	603 E. War Memorial
Walgreens #06408	2324 W. War Memorial
Huck's Convenient Food Store #260	3819 W. War Memorial
Willett's Wine at Grand Prairie	5201 War Memorial
Kroger J-863	2321 N. Wisconsin

CLASS "C" - \$500,000 OR MORE WHOLESALE PURCHASES & UNLIMITED PRODUCT TASTINGS

U.F.S. Savings Center	1800 S.W. Adams
Wal-Mart Supercenter #3460	8915 N. Allen
Shop 'N Save	5001 N. Big Hollow
Forrest Hill Liquors	2009 W. Forrest Hill
Short Stop Frye Food and Liquor	1302 E. Frye
Friar Tuck Beverage	1401 W. Glen, Suite C
Griswold Food & Liquor	1814 S. Griswold
Kroger J-917	801 W. Lake
The Fresh Market of Illinois, Inc.	2601 West Lake, Suite A1-B
Campustown Liquors	1200 W. Main
Hy-Vee #1519	4125 N. Sheridan, #20
Kroger J-942	3311 N. Sterling
Schnucks	4800 N. University
In-N-Out Grocery & Liquor	305 Wayne
Super Saver Liquors	525 N. Western
Western Liquors	712 S. Western
Sam's Club #8128	4100 W. Willow Knolls

CLASS "C-2" PACKAGE GOODS-GROCERY STORE/GAS STATIONS

<u>TRADE NAME</u>	<u>ADDRESS</u>
Kroger J-918	9219 N. Lindbergh Drive

CLASS "C-4" PACKAGE GOODS-BEER/WINE - CONVENIENCE STORE/GAS STATIONS

Hucks #249	7225 N. Allen Road
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CLASS "C-5" BEER/WINE PACKAGE GOODS - CONVENIENCE STORES/GAS STATIONS

MacDonald Shell #4	9109 N. Allen Road
Hucks Food & Fuel #358	1415 Alta Road
Super Pantry #36	1514 W. Hickory Grove
Circle-K #123	2427 W. Northland
Circle-K #136	7815 N. University

**Packaged-Sale
Current Classifications**

License Fee

Proposed Classification

"C": Packaged Sale
-Unlimited product tasting
-Full products: wine, distilled spirits, beer
-Default license

\$2,450.00

C (Grocery):
Fee: \$2,450.00
-Unlimited product tasting
-Full products
-Must meet definition of grocery store
-Prior license "grandfathered"

"C-1":
-No product testing
-Gross purchase of alcohol must be less than \$500,000

\$1,650.00

"C-1" (Liquor Store):
Fee: \$1,650.00
-Default license
-Does not meet definition of grocery store

"C-2": Gas Station attached as secondary business (1)
-Gross purchase of alcohol over \$500,000
-Product tasting included

\$2,450.00

"C-3": Gas Station attached as secondary business(0)
-Gross purchase of alcohol under \$500,000

\$1,650.00

Eliminated

"C-4": Gas Station (1)
-Gross purchase of alcohol over \$500,000
-No single serve
-Limited to beer and wine

\$2,450.00

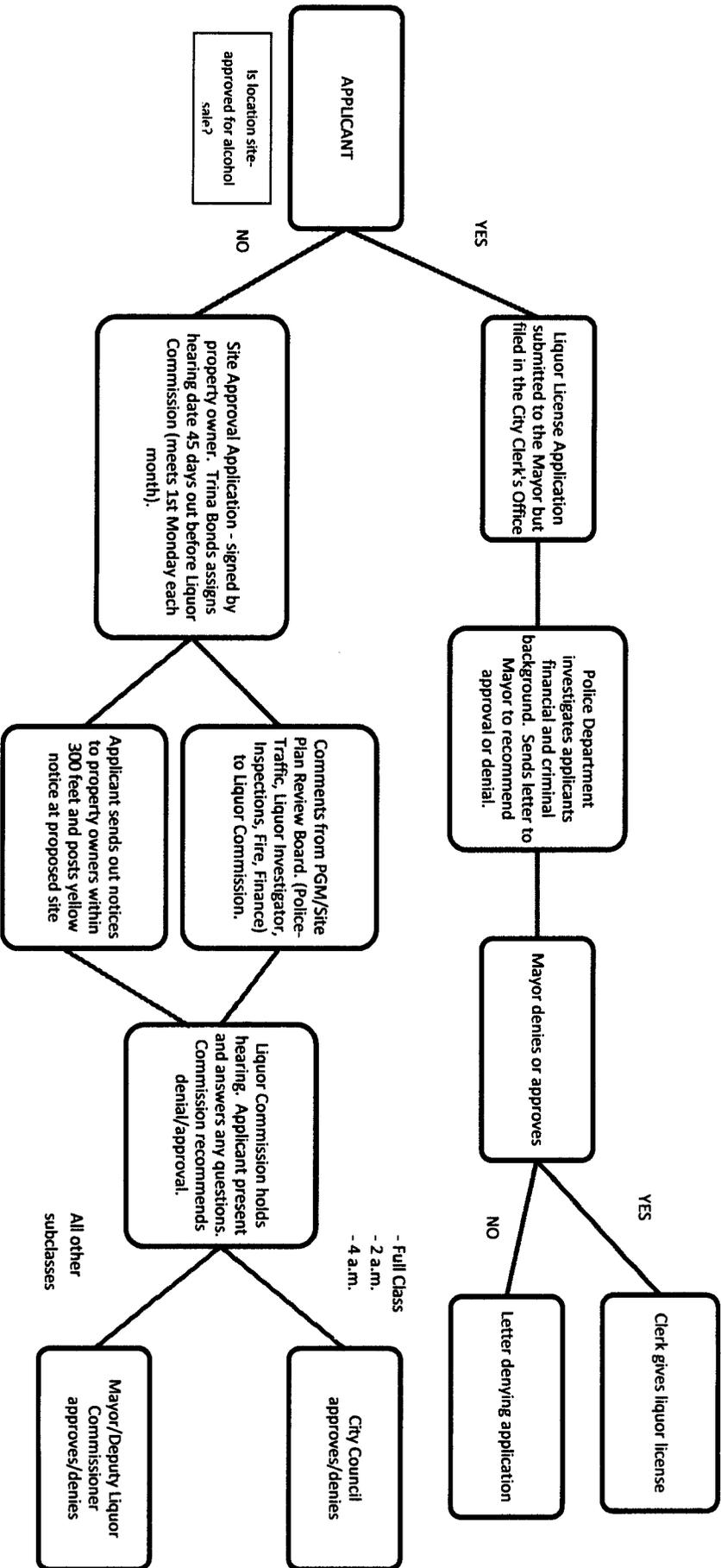
To C-G (Gas Station):
Fee: \$1,650.00
-Premise under 10,000 square feet
-Maximum of 15 square feet for alcohol
-limited to beer and wine only
-No single serve less than 750mm (25.35 oz)

"C-5": Gas Station
-Gross purchase of alcohol under \$500,000
-No single serve
-limited to beer and wine

\$1,650.00

EXHIBIT B

OVERVIEW OF CITY'S LIQUOR LICENSE AND SITE APPROVAL PROCESS



A REVISED ORDINANCE AMENDING
CHAPTER 3 OF THE CODE OF THE CITY OF PEORIA
PERTAINING TO LIQUOR LICENSE REGULATION

WHEREAS, the City of Peoria is a home rule unit of government pursuant to Article VII, Section 6 of the Constitution of the State of Illinois 1970, and may exercise any power and perform any function pertaining to its government and affairs including regulating and licensing the retail sale and service of alcoholic liquors;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS, as follows:

Section 1: Chapter 3 of the Code of the City of Peoria is hereby amended by deleting the following stricken words and by adding the following underlined words.

Sec. 3-1. Definitions.

Unless the context otherwise requires, the following terms, as used in this chapter, shall be construed according to the definitions given below:

Grocery Store is a public place kept, used, maintained, advertised and held out to the public primarily as a grocery store where direct retail sale of grocery items such as meats, cereals, grains, produce, baked goods, dairy products, canned and frozen prepared food products, beverages, cleaning supplies, pet food and supplies, over the counter medicines, personal products, household goods and similar items are available to be purchased by the consumer.

Public selling space includes all of the area between the floor and ceiling of the premises which is open, accessible and/or visible to members of the general public, including the interior of any cooler or other refrigeration units or storage cases accessible and/or visible to the general public and any area within restricted public access, such as the area behind sales counters, from which sales are made to members of the general public.

Sec. 3-52. Classes.

Licensee to sell alcoholic liquor at retail are hereby divided into 23 classes as follows:

- (3) Class C. Class "C" (grocery) licenses shall authorize the retail sale of alcoholic liquors in packages and not for consumption of the premises where sold and such establishment for a grocery store or a grocery store where a gasoline station is attached as a secondary business operation and has no less than 75% of its total public selling space devoted to items listed in the definition of a grocery store as defined under section 3-1 of the Code and no more than 25% of the gross revenue in any month from the operation of the establishment be from the retail sale of alcoholic liquors. has annual gross wholesale purchases of alcoholic beverage of \$500,000.00 or more the previous calendar year. The

Class C grocery store requirement shall not apply to a Class C retail liquor license establishment which has been site approved prior to March 1, 2013 as long as there is no lapse of such site approval as prescribed under section 3-97. An establishment with a site approval for a Class C-2 retail liquor license approved prior to March 1, 2013 shall be deemed to be site approved for the same class as a Class C retail liquor license as long as there is no lapse of such site approval as prescribed under section 3-97. This license shall authorize the licensee to conduct unlimited product tasting of wine, distilled spirits or beer on the licensed establishment as authorized under ~~section 3-53(a)(8) of the~~ by this Code without obtaining a subclass 6 supplemental license. ~~This shall be the default license for any packaged alcohol retailer who fails or chooses not to submit the required affidavit as outlined in subsection 3.1 below.~~ The annual fee for such license shall be \$2,450.00.

- (3.1) ~~Class C-1. Class "C-1" licenses shall authorize the retail sale of alcoholic liquors in packages and not for consumption on the premises where sold and shall be the default license for any packaged liquor establishment which does not meet the definition of a grocery store as defined under section 3-1 of the Code, and such establishment has annual gross wholesale purchases of alcoholic beverage of less than \$500,000.00 the previous calendar year. To be eligible for C-1 license, the applicant or licensee shall file with the city clerk a sworn affidavit indicating that the previous annual gross wholesale purchases of alcoholic beverage to be less than \$500,000.00 or be a new license applicant. In addition, commencing with the license year which begins March 1, 2005, an applicant for a Class C-1 license must also submit copies of its Form ST-1 filings with the Illinois Department of Revenue, showing previous annual gross wholesale purchases. The annual fee for such license shall be \$1,650.00.~~
- ~~(3.2) Class C-2. Class "C-2" licenses shall authorize the retail sale of alcoholic liquors in sealed containers or packages in a grocery store where gasoline stations are attached as a secondary business operation. The authorization to sell such alcoholic liquor shall not include an authorization to consume alcoholic liquor on the premises where sold. For purposes of this section, a grocery store is defined as a premises of at least 10,000 square feet that primarily displays and offers for sale, at retail, all of the following products: snack; soft drinks; health and beauty aids; magazines, newspapers and books.~~

~~For purposes of this section, a gasoline station is defined as an establishment where motor fuel is sold or offered for sale from approved pumps, whether through an attendant or by self service. Motor fuel, as used herein, shall include all volatile and inflammable liquids which are produced, blended or compounded, or which are suitable or practicable for operating motor vehicles.~~

~~Additionally, this license shall authorize the licensee to conduct unlimited product tasting of wine, distilled spirits or beer on the licensed establishment as authorized under section 3-53(a)(8) of the Code without obtaining a Subclass 6 supplemental license.~~

~~An establishment which has annual gross wholesale purchases of alcoholic beverages of \$500,000.00 or more in the previous calendar year shall be required to have a Class C-2 license. This shall be the default license for any~~

~~grocery store which fails or chooses not to submit the required affidavit, as outlined in subsection (3.3) below. The annual fee for this Class C-2 license shall be \$2,450.00.~~

- ~~(3.3) Class C-3. Class "C-3" licenses shall authorize the retail sale of alcoholic liquors in sealed containers or packages in a grocery store where gasoline stations are attached as a secondary business operation. The authorization to sell such alcoholic liquor shall not include an authorization to consume alcoholic liquor on the premises where sold. For purposes of this section, a grocery store is defined as a premise of at least 10,000 square feet that primarily displays and offers for sale, at retail, all of the following products: dairy products; baked goods; frozen foods, groceries; snacks; soft drinks; health and beauty aids; magazines, newspapers and books.~~

~~For purposes of this section, a gasoline station is defined as an establishment where motor fuel is sold or offered for sale from approved pumps, whether through an attendant or by self-service. Motor fuel, as used herein, shall include all volatile and inflammable liquids which are produced, blended or compounded, or which are suitable or practicable for operating motor vehicles.~~

~~An establishment which has annual gross wholesale purchases of alcoholic beverage of less than \$500,000.00 the previous calendar year shall be eligible for a Class C-3 license. To be eligible to a C-3 license, the applicant or licensee shall file with city clerk a sworn affidavit indicating that the previous annual gross wholesale purchases of alcoholic beverage is less than \$500,000.00 or be a new license applicant. In addition, commencing with the license year which begins March 1, 2005, an applicant for a Class C-3 license must also submit copies of its Form ST-1 filings with the Illinois Department of Revenue, showing previous annual gross wholesale purchases. The annual fee for this Class C-3 license shall be (\$1,650.00).~~

- ~~(3.4) Class C-4. Class "C-4" licenses shall authorize the retail sale of alcoholic liquors in packages and not for consumption on the premises where sold in conjunction with the operation of a gasoline station. In order to qualify for this license, the applicable premises must be under 10,000 square feet and kept, used, maintained, advertised and held up to the public as a place where at least five of the following seven categories of products can be purchased at retail: dairy products, baked goods, frozen foods, groceries, snack foods, health and beauty aids, and where a maximum of 15 percent of the total public selling space is devoted to the display of alcoholic beverages offered for sale.~~

~~For purposes of this section, a gasoline station is defined as an establishment where motor fuel is sold or offered for sale from approved pumps, whether through an attendant or by self-service. Motor fuel, as used herein, shall include all volatile and inflammable liquids which are produced, blended or compounded, or which are suitable or practicable for operating motor vehicles.~~

~~"Public selling space" includes all of the area between the floor and ceiling of the premises which is open, accessible and/or visible to members of the general public, including the interior of any cooler or other refrigeration units or storage cases accessible and/or visible to the general public and any area within~~

~~restricted public access, such as the area behind sales counters, from which sales are made to members of the general public.~~

~~Class C-4 licenses shall further be limited to beer and wine only. In order to prevent the sale of single servings of beer and wine in Class C-4 licensed establishments, Class C-4 licensed establishments are hereby prohibited from making sales of less than 750 milliliters (approximately 25.35 ounces) of a beer or wine beverage.~~

~~An establishment which has annual gross wholesale purchases of alcoholic beverage of \$500,000.00 or more in the previous calendar year shall be required to obtain a Class C-4 license. This shall be the default license for any gas station licensee who fails or chooses not to submit the required affidavit as outlined in subsection (3.5) below. The annual fee for such Class C-4 license shall be \$2,450.00.~~

- (3.52) Class C-5G. Class "C-5G" licenses shall authorize the retail sale of alcoholic liquors in packages and not for consumption on the premises where sold in conjunction with the operation of a gasoline station. In order to qualify for this license, the applicable premises must be under 10,000 square feet and kept, used, maintained, advertised and held up to the public as a place where at least five of the following seven categories of products can be purchased at retail: dairy products, baked goods, frozen foods, groceries, snack foods, health and beauty aids, and where a maximum of 15 percent of the total public selling space is devoted to the display of alcoholic beverages offered for sale.

For purposes of this section, a gasoline station is defined as an establishment where motor fuel is sold or offered for sale from approved pumps, whether through an attendant or by self-service. Motor fuel, as used herein, shall include all volatile and inflammable liquids which are produced, blended or compounded, or which are suitable or practicable for operating motor vehicles.

~~"Public selling space" includes all of the area between the floor and ceiling of the premises which is open, accessible and/or visible to members of the general public, including the interior of any cooler or other refrigeration units or storage cases accessible and/or visible to the general public and any area within restricted public access, such as the area behind sales counters, from which sales are made to members of the general public.~~

Class C-5G licenses shall further be limited to beer and wine only. In order to prevent the sale of single servings of beer and wine in Class C-5G licensed establishments, Class C-5G licensed establishments are hereby prohibited from making sales of less than 750 milliliters (approximately 25.35 ounces) of a beer or wine beverage.

~~An establishment that has annual gross wholesale purchases of alcoholic beverage of less than \$500,000.00 in the previous calendar year is eligible for a Class C-5 license. To be eligible for a C-5 license, the applicant or licensee shall file with the city clerk a sworn affidavit indicating that the previous annual gross wholesale purchases of alcoholic beverages to be less than \$500,000.00 or be a new license applicant. In addition, commencing with the license year which~~

~~begins March 1, 2005, an applicant for a Class C-5 license must also submit copies of its Form ST-1 filings with the Illinois Department of Revenue showing previous annual gross wholesale purchases. An establishment with a site approval for a Class C-4 or Class C-5 retail liquor license approved prior to March 1, 2013 shall be deemed to be site approved for the same class as a Class C-G retail liquor license as long as there is no lapse of such site approval as prescribed under section 3-97. The annual fee for such Class C-5G license shall be \$1,650.00.~~

Sec. 3-53. - Supplemental licenses and fees.

(a) Upon application to the local liquor commissioner by a license holder, the following supplemental licenses may be issued after approval by the local liquor commissioner and the payment of the fees set forth herein:

- (5) *Subclass (3a)*. A supplemental license may be obtained for the retail sale of alcoholic beverages in a sidewalk restaurant adjacent to the licensed premises during the hours of 11:00 a.m. to midnight, provided that in the case of a site on a public sidewalk, right-of-way, and/or plaza, a valid permit has been issued, pursuant to sections 26-286 through 26-298 of the City Code; and in the case of a site on private property, a valid zoning certificate for an outdoor restaurant use has been issued. The annual fee for this supplemental license will be \$150.00. To apply for this supplemental license, the licensee shall file its request in writing with the mayor. A nonrefundable application fee of \$50.00 shall be paid by the licensee requesting this supplemental license. The application shall include a scale drawing of the proposed area, including the locations of all tables and seating and a copy of the permit issued ~~by the city council,~~ pursuant to section 26-293, or the zoning certificate for an outdoor restaurant, including any restrictions or conditions attached to said permit or certificate.

If granted, no live entertainment shall be permitted outside, except live music performed without electronic amplification by no more than two instrumentalists, plus a vocalist.

The licensee shall be responsible to see that no customer, employee or other person removes alcoholic liquor from the area designated as the sidewalk restaurant, except for an employee carrying alcoholic liquor directly between the establishment and the sidewalk restaurant area. The licensee shall be responsible to see that no person is served or consumes alcoholic liquor in the sidewalk restaurant area unless seated in the seating which has been provided in accordance with the site plans approved with the sidewalk restaurant permit or outdoor restaurant zoning certificate.

The supplemental license may be issued only to a licensee holding a Class "B," Class "D," or Class "G" license.

- (12) Subclass (11). A supplemental license may be obtained by a licensee currently holding a valid Class "B" (restaurant) license issued under this chapter, authorizing the retail sale of alcoholic beverages for consumption as an incidental part of a food service that serves prepared meals which excludes the serving of snacks as the primary meal for two outdoor events per liquor license year with an annual license fee of \$500.00 on an adjacent adjoining off-street parking lot of the licensed establishment or if the establishment is so located where there is no adjacent adjoining off-street parking lot, on an adjacent city-owned public right of way area approved by the local liquor commissioner.

In addition to the regulations imposed upon licenses under this chapter, a subclass (11) license holder shall comply with the requirements for a Class "H" license as prescribed under subsection 15-52(8) except to the restriction regarding the holder of the license being a civic, patriotic, fraternal, educational, religious or benevolent organization and the requirement under 15-62(8)(d).

Upon approval for such temporary use the licensee shall file with the city clerk not less than ten days prior to the function:

- a. If the adjacent and adjoining off-street parking lot is owned by any person or entity other than the requesting liquor licensee, documentary proof of consent to use the parking lot for such an outdoor event with the city clerk not less than ten days prior to the function:
- b. For outdoor live entertainment: electric amplification shall be permitted and shall end by 10 p.m. on the day of the outdoor event upon filing of an affidavit that a written notice was sent at least 30 days prior to the proposed outdoor event to all the occupants of any businesses or residences within a 300-foot radius that the licensee is requesting amplified live entertainment and no objection to the amplified outdoor live entertainment was made to the licensee at least 14 days prior to the event.

Nothing in this section shall be construed to authorizing or absolving the licensee, its agents or employees from compliance with the noise restriction ordinance as prescribed section 15-62 of the Code.

Sec. 3-63. - General restrictions upon issuance.

No license authorized by this chapter shall be issued to:

- (26) Any person not eligible for a state retail liquor dealer's license.

~~(28) Any establishment which pumps motor fuel directly into motor vehicles; provided, however, that this subsection shall not apply to any such establishment holding a valid city liquor license prior to October 14, 1986, or to any such establishment holding a valid county liquor license when such establishment is annexed to the city; provided however, that this prohibition shall not apply to Class C-2, C-3, C-4 and C-5 licenses provided for above.~~

(2028) Any establishment which has been declared a nuisance under the provisions of the Code of the City of Peoria or the Statutes of the State of Illinois unless more than 12 months has passed since the declaration of the nuisance and the applicant demonstrates that the condition which created the nuisance has been abated.

(3029) No Class B or B-1 license shall issue until an inspection confirms the existence of a kitchen as defined within section 3-1 of this ordinance.

(30) Any establishment which has not been inspected and approved as to the conformance to all applicable regulations of the Code of the City of Peoria and may be denied even if it is a legal, non-conforming use under the Zoning Code, if the site cannot be developed under current zoning regulations.

Sec. 3-92. - Suitability of site.

(a) The mayor shall not issue any license authorized under this chapter, other than temporary event licenses, unless the site for which the license is to be used has been designated by the city council as being suitable for the retail sale of alcoholic liquors under a specified class of license, as set forth in section 3-52 of this chapter, and such license to be issued conforms to the license classification approved for such site. For purposes of this section, Class B and Class B-1 shall be treated as same class of license, Class E and E-1 shall be treated as same class of license, ~~Class C and C-4 shall be treated as same class of license, C-2 and C-3 shall be treated as same class of license, C-4 and C-5 shall be treated as same class of license.~~

Sec. 3-97. - Duration of site approval; extensions.

(a) The approval for the retail sale of alcoholic liquors under a particular class of license at a particular site shall remain with that site as long as there is a continuous use of that site for the sale of alcoholic liquors under the class of license recommended and approved, or until a different class of license is actually issued for that site, whichever occurs first, and as long as no liquor license at that location has been revoked as to liquor license and the site approval at that location by the mayor or a deputy liquor control commissioner. A site approval shall be deemed to be continuously used as long as there is not a lapse, not related to the suspension of the liquor license at the site of more than ~~42~~ 3 months in the regular conduct of the business of the retail sale of alcoholic liquors under that particular class of license. Upon the application for a liquor license pursuant to Section 3-54 of this Code submitted to the mayor prior to the lapse, the site approval shall be extended to no more than 3 additional months. For any site in

which the lapse in the regular conduct of the business of the retail sale of alcoholic liquors under that particular class of license occurred prior to March 1, 2013, 12-month time period will be used in the determination of lapse of site approval.

(b) If the regular conduct or the business of the retail sale of alcoholic liquors has not commenced at a particular site within first 12 6 months of the approval of that site by the city council, such approval shall automatically expire, unless prior to such expiration date the liquor commission has extended the period of time to commence the regular conduct of the business of the retail sale of alcoholic liquors, as provided in this section. The liquor commission shall have the authority, without approval of the city council, to extend the time for commencing the service of alcoholic liquors for a period not to exceed 12 6 months. In determining whether to grant an extension, the liquor commission may consider the following factors, among others:

- (1) That demolition, construction, remodeling or repair of a structure has been unexpectedly delayed;
- (2) That tenants or other occupants of the premises have failed to timely relinquish possession in spite of diligent effort by the applicant;
- (3) That a liquor license application is pending and has not been approved;
- (4) That circumstances regarding the suitability of the site under section 3-92 of this Code have not materially changed since site approval was granted.

Section 2. This ordinance shall be in full force and effect from March 1, 2013, after its passage and publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS this _____ day of _____, 2013.

APPROVED:

Mayor

ATTEST:

City Clerk

EXAMINED AND APPROVED:

Corporation Counsel