

STATE OF ILLINOIS :  
COUNTY OF LIVINGSTON :  
CITY OF FAIRBURY :

Ordinance No. 2019- 12

AN ORDINANCE AMENDING CHAPTER 8  
OF THE MUNICIPAL CODE OF THE CITY OF FAIRBURY OF 1982  
IN RELATION TO LIQUOR AND TOBACCO

WHEREAS, the State of Illinois has passed the Illinois Video Gaming Act (*230 ILCS 40/1 et seq.*) regulating video gaming within the State of Illinois; and

WHEREAS, a non-home rule Municipality may charge a licensing fee pursuant to the Illinois Video Gaming Act (*230 ILCS 40/1 et seq.*); and

WHEREAS, Section 11-5-1 of the Illinois Municipal Code empowers the City of Fairbury, Livingston County, Illinois, to regulate and suppress gaming and gambling; and

Whereas, the City Council of the City of Fairbury, Livingston County, Illinois, has determined that the adoption of such a licensing fee will be in the best interest of the citizens of the City of Fairbury.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIRBURY, COUNTY OF LIVINGSTON, ILLINOIS, AS FOLLOWS:

SECTION I

Chapter 8 shall be amended to read:

**LIQUOR, TOBACCO AND GAMING**

**.01 DEFINITIONS.**

Terms used in this chapter mean as follows:

*Alcohol* means the product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, and includes synthetic ethyl alcohol. It does not include denatured alcohol or wood alcohol.

*Alcoholic Liquor* includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and capable of being consumed as a beverage by a human being. The provisions of this chapter shall not apply to alcohol used in the manufacture of denatured alcohol produced in accordance with Acts of Congress and regulations promulgated thereunder, nor to any liquid or solid containing one-half of one percent, or less of alcohol by volume. No tax provided for in Illinois Revised Statutes 35 ILCS 5/Article VIII shall apply to wine intended for use and used by any church or religious organization for sacramental purposes, provided that such wine shall be purchased from a licensed manufacturer or importing distributor under provisions of the Illinois "Liquor Control Act" (235 ILCS 5/1-1, *et seq.*).

*Beer* means a beverage obtained by the alcoholic fermentation of an infusion or concoction of barley, or other grain, malt, and hops in water, and includes, among other things, beer, ale, stout, lager, beer, porter and the like.

*Club* means a corporation organized under the laws of this state, not for pecuniary profit, solely for

the promotion of some common object other than the sale or consumption of alcoholic liquors which conforms to the definition of a club, as provided by Illinois Revised Statutes, 235 ILCS 5/1-3.24, commonly known as "Liquor Control Act" as amended.

*Manufacturer* means every brewer, fermenter, distiller, rectifier, wine maker, blender, processor, bottler or person who fills or refills an original package, whether for himself or for another, and others engaged in brewing, fermenting, distilling, rectifying or bottling alcoholic liquors.

*Person* means Natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, limited liability company, trust or organization, or the manager, lessee, agent, servant, officer or employee of any of them.

*Retailer* means a person who sells, or offers for sales, alcoholic liquor for use or consumption and not for resale in any form.

*Sale* means any transfer, exchange or barter in any manner, or by any means whatsoever, including the transfer of alcoholic liquors by and through the transfer or negotiation of warehouse receipts or certificates, and includes and means all sales made by any person, whether principal, proprietor, agent, servant or employee. The term "sale" includes any transfer of alcoholic liquor from a foreign importer's license to an importing distributor's license even if both licenses are held by the same person.

*Sell at retail* and *Sale at retail* refer to and mean sales for use or consumption and not for resale in any form.

*Spirits* means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with alcohol or other substances.

*Wine* means any alcoholic beverage obtained by the fermentation of the natural contents of fruits, or vegetables, containing sugar, including such beverages when fortified by the addition of alcohol or spirits, as above defined.

### **.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.

### **.03 APPLICATION.**

Applications for such license shall be made to the local Liquor Control Commissioner in writing, signed by the applicant, if an individual, or by a duly authorized agent thereof, if a corporation, verified by oath or affirmation, and shall be addressed to the Mayor and City Council. Before granting a new license or reviewing a current license, the Liquor Control Commissioner shall place in a newspaper of general circulation in the City of Fairbury a Notice stating the date, time and location of hearing on such license application or review. A Notice containing the same information shall also be posted at City Hall in an area of general public access. Notice of the same Information shall also be given to adjacent property owners in a manner to be determined by the Alcohol/Tobacco Committee. The applications for license shall contain the following statements and information: (2001-3)

1. The name, age, and address of the applicant in the case of any individual; in the case of a corporation, the objects for which organized, the names and addresses of the officers and directors, and if a majority interest of the stock of such corporation is owned by one person or his nominee, the name and address of such person; in the case of a co-partnership, the person entitled to share in the profits thereof.
2. The citizenship of the applicant, his place of birth, and if a naturalized citizen, the time and place of his naturalization.
3. The character of business of the applicant, and in the case of a corporation, the objects for

which it was formed.

4. The length of time the 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 description of the premises or place of business which is to be operated under the license.
7. A statement whether applicant has made application for a similar or other license on premises other than described in the application, and the disposition of the application.
8. A statement that applicant will not allow gambling devices on the premises except for video gaming devices for which the applicant obtains a license or permit from the Illinois Department of Revenue pursuant to the Illinois Video Gaming Act, 230 ILCS 40/1 *et seq.* so long as such video gaming is conducted in compliance with all requirements of said Act and all rules and regulations of the Illinois Department of Revenue.(2012-6)
9. 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 chapter, the laws of this state, or of the United State of America, or the ordinances of this City.
10. Whether a previous license by any state or subdivision thereof, or by the federal government has been revoked, and the reasons therefore.
11. A statement that the applicant will not violate any of the laws of the State of Illinois, or of the United State, or any ordinance of the City in the conduct of his place of business.
12. A statement that he has not received or borrowed money or anything else of value, and that he will not receive or borrow money or anything else of value directly or indirectly from any manufacturer, importing distributor or distributor or representative of any of them except as may be provided by the Illinois Revised Statutes, 235 ILCS 5/1-1, *et seq.*

#### **.04 RESTRICTION ON LICENSES.**

(a) No such license shall be issued to:

1. A person who is not a resident of the City of Fairbury.
2. A person who is not of good character and reputation in the community in which he resides.
3. A person who is not an adult citizen of the United States.
4. A person who has been convicted of a felony under any federal or state law.
5. A person who has been convicted of being the keeper or is keeping a house of ill-fame.
6. A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality.
7. A person whose license under this chapter has been revoked for cause.
8. A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application.
9. A co-partnership, unless all of the members of such co-partnership shall be qualifiedly to obtain a license.
10. A corporation, if any officer, manager, or director thereof, or any stockholder or stockholders owning in the aggregate more than five percent of the stock of such corporation, would not be eligible to receive a license hereunder for any reason other than citizenship and residence within the political subdivision.
11. A person whose place of business is conducted by a manager or agent unless the manager or agent possesses the same qualifications required of the licensee.
12. A person who has been convicted of a violation of any federal of state law concerning the manufacture, possession or sale of alcoholic liquor or who shall have forfeited his bond to appear in court to answer charges for any such violation.
13. A person who does not own the premises for which a license is sought, or does not have a lease thereon for the full period for which the license is to be issued.
14. Any law enforcing public official, any Mayor or member of the City Council; and no such official

shall be interested in any way, either directly or indirectly, in the manufacture, sale or distribution of alcoholic liquor.

15. Any person, firm or occupation not eligible for a state retail liquor dealer's license.

16. A person who is not a beneficial owner of the business to be operated by the license.

(b) Each person desiring a license under this Chapter shall execute a penal bond in form and with a security satisfactory to the Mayor and City Council, conditioned on the faithful observance of the provisions of laws of the State of Illinois, and of this Code. Said bond shall be in the penal sum of \$1,000.00 and shall, upon approval, be filed with the City Clerk. Said bond shall be maintained in effect as long as the person has a retail liquor dealer's license, unless the bond is waived as herein provided. At any time that a retail liquor dealer's license is renewed, the Mayor may waive the requirement for said penal bond if the license holder has not committed any violation of his license or of the provisions of the laws of the State of Illinois or of this Code during the year immediately preceding the license renewal. If the requirement for said bond has been waived at any time for the license holder, and such license holder shall thereafter violate the terms of his license or the provision of laws of the State of Illinois or of this Code, then the Mayor shall, at the next license renewal, require the license holder to again execute the bond required by this Section. Said bond shall thereafter be maintained in effect unless it is later waived as provided above. (1989-2)

**.05 TERM: PRORATING FEE.**

A retail liquor dealer's license shall terminate on April 30 next following its issuance. The fee to be paid shall be reduced in proportion to the full calendar months which have expired in the year prior to the issuance of the license.

**.06 CLASSIFICATION; FEES.**

(a) There shall be only one class of retail liquor dealer's licenses issued by the City of Fairbury, namely Class A. (2014-4)

(b) 1. Class A retail liquor dealer's licenses shall authorize the retail sale, on the premises specified in said license, of any and all alcoholic liquors for consumption on or off the premises where sold. The annual fee for such licenses shall be \$700.00. There shall be no more than twelve Class A retail liquor dealer's licenses. (2014-4)

2. Each Class A retail liquor dealer license shall authorize retail sales of any and all alcoholic liquors either (1) for consumption on the premises where sold only, or (2) for consumption on the premises where sold or as packaged goods for consumption off the premises where sold. Every applicant for a Class A license shall designate whether he desires a license (1) authorizing sale for consumption on the premises where sold only or (2) for consumption on the premises where sold or as packaged goods for consumption off the premises where sold. Once issued, a Class A retail liquor dealer's license cannot be changed from one category to another without filing an application requesting such change in the same manner as an application for a new license. (2014-4)

(c) All currently authorized Class B retail liquor dealer's licenses are hereby reauthorized as Class A retail liquor dealer's licenses. The two Class B retail liquor dealer's licenses which are currently issued shall be reissued to the holders thereof as Class A retail liquor dealer's licenses. (2014-4)

(d) A holder of a current liquor license from the City of Fairbury may apply to the Alcohol/Tobacco Committee for a special use permit to sell at retail at a location in the City of Fairbury other than the location shown on his license, any alcoholic liquor permitted under his current license subject to the following conditions:(2001-3)

1. He must have a valid and current license from the State of Illinois for special events. (2001-3)
2. He must have in effect special events insurance and dram shop insurance which would cover

- sales other than on the premises permitted under his current license. (2001-3)
3. Such special use permit shall be valid only for specific dates and hours as show thereon. (2001-3)
  4. Such special use permit shall be valid only for the specific location described thereon. (2001-3)
  5. Such special use permit shall be subject to all the requirements of the liquor ordinances of the City of Fairbury. (2001-3)
  6. Application for such special use permit must be submitted to the Liquor Control Commissioner at least fourteen days before the date for which it shall be valid. (2001-3)
  7. The Alcohol/Tobacco Committee may condition the granting of a special use permit subject to such conditions and restrictions as the Committee believes to be in the best interest of the public. (2001-3)
  8. The fee for a special use permit shall be \$25.00 per event. (2001-3)

(e) In addition to the fee for retail liquor dealer's license, each applicant shall also pay the cost of notice required in Section .03 of this ordinance including but not limited to costs of publication in newspaper and costs of certified mail, if used. (2001-3)

#### **.07 PREMISES.**

Except in the case of 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 does 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.

#### **.08 DISPOSITION OF FEES.**

All license fees shall be paid to the Local Liquor Control Commissioner at the time application is made, and shall be forthwith turned over to the Treasurer. In the event that the application is denied, the fee shall be returned to the applicant. If the license is granted, the fee shall be deposited in the general corporate fund in a specific line item for drug, alcohol, and tobacco education and shall be used for said purposes as approved by the Alcohol/Tobacco Committee subject to approval by the City Council. (2001-3)

#### **.09 DRINKING ON PUBLIC STREETS.**

- (a) No person shall openly drink or furnish to others any alcoholic liquors 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.
- (b) Persons shall be allowed to openly sell or consume alcohol upon any street, public place, or vacant lot within the City upon the following conditions: (2016-3)
  - (1) Such sale and consumption shall be allowed only at an event where alcohol is sold by a business holding a liquor license issued by the City of Fairbury or a business holding a liquor license issued by the State of Illinois. (2019-10)
  - (2) The liquor license holder must apply for a permit to be issued by the City Council for such event and for the sale and consumption of alcohol at such event at least 30 days before the event is to be held. (2016-3)
  - (3) To receive such permit the liquor license holder must provide the following information to the City Council: (2016-3)



- (i) The location where the event will be held, the time that it will take place, the time during which alcohol will be sold and consumed (which must be times allowed for the general sale and consumption of alcohol by the Fairbury Municipal Code), the time when patrons must finish consuming alcohol and leave the location of the event, provisions for cleaning up after the event and, the time that the street, public place, or vacant lot will be reopened for public use. (2016-3)
  - (ii) The means by which the liquor license holder intends to keep the sale and consumption of alcohol confined to the location of the event and to assure that patrons of the event shall not go on to private property adjacent to the event location. (2016-3)
  - (iii) The liquor license holder must have a current liquor license from the City of Fairbury or the State of Illinois and must also purchase a special use permit under Section 8.06(d). (2019-10)
  - (iv) If the event is held at a location other than the current location of the liquor license holder, the liquor license holder must contact neighbors of the event location and advise them of the date, times, and nature of the event. The liquor license holder must advise the City of the opinions of the neighbors about the date, times, and nature of the event. (2016-3)
  - (v) The security measures that will be taken to assure that only persons of legal age purchase and consume alcohol during the event and that no alcohol be consumed except that which is sold at the event. (2016-3)
  - (vi) The security measures that will be taken to assure that order will be maintained at the event. (2016-3)
  - (vii) The number of porta-potties to be provided. (2016-3)
- (4) The liquor license holder must provide special event insurance satisfactory to the City and name the City of Fairbury as an additional insured. (2016-3)
- (5) The liquor license holder must agree to hold the City of Fairbury harmless from and indemnify the City of Fairbury against any damages, injuries, and claims of damage and injury which may arise from the event and the sale and consumption of alcohol at the event whether under the Dram Shop Act or any other means of civil liability. (2016-3)
- (6) The granting of permits for such events and for sale or consumption of alcohol upon any street, public place, or vacant lot within the City at such events shall be discretionary, shall be granted on a per diem basis only, and may be denied by the City Council for any reason. (2019-10)

## **.10 RECORDS.**

The Local Liquor Control Commissioner shall keep a complete record of all such licenses issued by him, and shall furnish the City Clerk and Treasurer each with a copy thereof. Upon the issuance of any new license, or the revocation of any old license, the Local Liquor Control Commissioner shall give written notice of such action to each of these officers within forty-eight (48) hours of such action.

## **11. TRANSFER OF LICENSE.**

(A) A liquor license shall be a purely personal privilege good for not to exceed one year after issuance unless sooner revoked, and shall not constitute property, nor shall it be subject to

attachment, garnishment, or execution, nor shall it be alienable or transferable, except as provided in section .11(B) hereof, 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 licensee after the death of such decedent or such insolvency or bankruptcy, 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 the license in accordance with the provision of this section. (2001-3)

(B) Any licensee desiring to transfer a license in good standing may be permitted so to do upon the specific approval of the Mayor and City Council, provided however that the proposed transferee shall make application for transfer and be bound by this chapter as though he were the original applicant for such license and shall, in addition thereto, pay a transfer fee in the amount of \$50.00 to the Liquor Control Commissioner at the time of submission of his application. The transfer of the license shall in no way affect the annual termination date for the license issued hereunder. (2001-3)

(C) Any sale, transfer, or assignment of more than fifty percent (50%) of the ownership of a business or partnership shall terminate licenses pursuant to this chapter. In the event that the license is held in the name of a corporation, the sale, transfer or assignment of fifty percent (50%) of the stock shall terminate licenses issued pursuant to this section.

#### **.12 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 written permit of the Mayor. No change of location shall be permitted unless the proposed new location is in compliance with the provisions and regulations of this chapter.

#### **.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 provided for 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.

#### **.14 PEDDLING.**

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

#### **.15 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 or ordinances regulating the condition of premises used for the storage or sale of food for human consumption.

#### **.16 EMPLOYEES.**

It shall be unlawful to employ in any premises used for the retail sale of alcoholic liquor any person who is afflicted with, or who is a carrier of, any contagious, infectious, or venereal disease; and it shall be unlawful for any person who is afflicted with or 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 distribution of such liquor.

### **.17 LOCATION RESTRICTIONS.**

No liquor license shall be issued for the sale at retail of any alcoholic liquor within 100 feet of any church, school, hospital, or home for the aged; provided that this prohibition shall not apply to regularly organized clubs, or to restaurants, food shops, or other places where the sale of alcoholic liquors is not the principal business carried on, if such place of business so exempted shall have been established for such purposes prior to the effective date of this code.

### **.18 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 minors of school age or where the principal business transacted consists of school books, school supplies, food, lunches, or drinks for such minors.

### **.19 CLOSING HOURS.**

(a) It shall be lawful to sell or offer for sale any liquor between the hours of 6:00 am on any day and 1:00 am on the next day, except liquor may be sold until 2:00 am on New Year's Eve. All liquor retailers shall ascertain that their patrons have vacated the premises no later than one-half hour after sales are legally prohibited on any day. (2008-18)

(b) It shall be unlawful to keep open for business or to admit the public to, or permit the public to remain within, or to permit the consumption of alcoholic liquor in or upon any premises in 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 establishments which make substantial retail sales to the general public of goods other than alcoholic liquors and also in case of restaurants, and clubs, such establishments, restaurants and clubs may be kept open for business during such hours, but no alcoholic liquor may be sold to, or consumed by, the public during such hours. (2008-18)

### **.20 VIEW FROM THE STREET.**

In premises upon which the sale of alcoholic liquor for consumption on the first floor or street level of the premises is licensed, other than a restaurant or club, no screen, blind, curtain, partition, article or thing shall be permitted in the windows or upon the doors of such licensed premises nor inside such premises, which shall prevent a clear view into the interior of such licensed premises from the street, road, or sidewalk at all times; and no booth, screen, partition, or other obstruction nor any arrangement of lights or lighting shall be permitted in or about the interior of such premises which shall prevent a clear view of the entire interior of such premises from the street, road, or sidewalk; in premises upon which the sale of alcoholic liquor for consumption upon other than the first floor or street level of the premises is licensed, other than as a restaurant or club, the entrance doors shall in no way be obstructed so as to prevent a full view of the interior of the premises at all times, and the lighting within the premises shall be sufficient so as to permit a clear view of, and into the premises. All rooms where liquor is sold for consumption on the premises shall be continuously lighted during business hours by natural light or artificial white light so that all parts of the interior of the premises shall be clearly visible. In case the view into any such licensed premises required by the foregoing provision shall be willfully obscured by the licensee or by him willfully permitted to be obscured or in any manner obstructed, then such license shall be subject to revocation in the manner herein provided. In order to enforce the provisions of this section, the Liquor Commissioner shall have the right to require the filing with him of plans, drawings, and photographs showing the clearance of the view as above required.

### **.21 SALE TO MINORS.**



(a) It shall be unlawful for any person under the age of 21 years to purchase or obtain any alcoholic liquor in any tavern or other place in the City where alcoholic liquor is sold.

(b) It shall be unlawful for any minor in subsection (a) of this section to misrepresent his age for the purpose of purchasing or obtaining alcoholic liquor in any tavern or other place in the City where alcoholic liquor is sold.

(c) 1. It shall be unlawful for any holder of a retail liquor dealer's license, or his or her agent or employee, to suffer or permit any minor to be or remain in any room or compartment adjoining or adjacent to or situated in the room or place where such licensed premises is located; provided that this paragraph shall not apply to any minor who is accompanied by his or her parent or guardian, or to any licensed premises which derives its principal business from the sale of services or commodities other than alcoholic liquor.

2. In addition to all other fines and penalties, the Mayor may suspend or revoke the retail liquor dealer's license for any violation of this subsection.

(d) It shall be unlawful for any parent or guardian to permit any minor child of which he or she may be the parent or guardian, to violate any of the provisions of this section.

(e) It shall be unlawful to sell, give, or deliver alcoholic liquor to any minor.

## **.22 PURCHASE OR ACCEPTANCE OF GIFT OF LIQUOR BY PERSONS OF NON-AGE.**

(a) Any person to whom the sale, gift or delivery of any alcoholic liquor is prohibited because of age shall not purchase or accept a gift of such alcoholic liquor or have such alcoholic liquor in his possession.

(b) If a licensee or his agents or employees believes or has reason to believe that a sale or delivery of any alcoholic liquor is prohibited because of the non-age of the prospective recipient, he shall, before making such sale or delivery, demand presentation of some form of positive identification, containing proof of age, issued by a public officer in the performance of his official duties.

(c) No person shall transfer, alter, or deface such an identification card; use the identification card of another; carry or use a false or forged identification card; or obtain an identification card by means of false information. No person shall purchase, accept delivery or have possession of alcoholic liquor in violation of this section. The consumption of alcoholic liquor by any person under 21 years of age is forbidden.

(d) The possession and dispensing, or consumption by a minor of alcoholic liquor in the performance of a religious service or ceremony, or the consumption by a minor 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.

(e) Any person convicted of violating any of the provision of this chapter shall be deemed guilty of a Class C Misdemeanor as provided in Illinois Revised Statutes, and penalized accordingly.

## **.23 EMPLOYEE RESTRICTIONS (MINOR).**

(a) It shall be unlawful for any person younger than eighteen years of age to draw, pour, or mix any alcoholic liquor as an employee of any retail licensee; and no person younger than eighteen years of age shall at any time attend any bar or draw, pour, mix or sell any alcoholic liquor for consumption on or off the premises, in any licensed retail premises. (2010-10)

(b) It shall be unlawful for any licensee under this chapter to suffer or permit any person younger than eighteen years of age in subsection (a) of this section to draw, pour, mix or sell any alcoholic liquor for consumption on or off the premises, in any licensed retail premises. (2010-10)

#### **.24 SALES TO INTOXICATED PERSONS.**

No holder of license under this chapter or any of his employees shall sell alcoholic liquor to any intoxicated person. Nor shall a holder of a license under this chapter or any of his employees permit any such person to loiter on the premises described in the license or permit any conduct which shall tend to disturb the peace or quiet of the neighborhood or the premises. (2001-3)

#### **.25 ENFORCEMENT.**

(a) Any law enforcing officer may enter at any time upon any premises licensed hereunder to determine whether any of the provisions of this chapter, 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 may receive complaint from any citizen within the jurisdiction of the City that any of the provisions of this chapter or any rules or regulation adopted pursuant hereto have been or are being violated, any may act upon such complaints in the manner provided.

(b) The Liquor Control Commissioner shall have the authority by and with the consent and approval of the City Council, to make and establish rules and regulations of procedure concerning notice of hearing and all such matters as may be from time to time necessary.

(c) The Mayor shall be the Liquor Control Commissioner. The Alcohol/Tobacco Committee shall review the alcohol ordinances of the City of Fairbury, violations of said ordinances, applications for liquor licenses, recommend to the City Council the disposition of the moneys from the drug/alcohol/tobacco education line item, perform such other matters as the Liquor Control Commissioner may request of the Alcohol/Tobacco Committee, and establish procedures as to other relative operations of the Committee. The Alcohol/Tobacco Committee shall make appropriate recommendations to Liquor Control Commissioner in regards to all such matters. (2001-3)

#### **.26 REVOCATION.** (renumbered in 2001-3)

The Liquor Control Commissioner, with the advice and consent of the Alcohol/Tobacco Committee, may revoke any retail liquor dealer's license for any violation of any provision of this chapter or for any violation of any state law pertaining to the sale of alcoholic liquor, or any applicable rule or regulation established by the State Liquor Control Commission which is not inconsistent with law. (2001-3)

#### **.27 PENALTY.** (renumbered in 2001-3)

(a) Whenever any licensee shall have been convicted by any court of a willful violation of any provision of this chapter, or of the state law, he shall, in addition to the penalties for such offense, incur a forfeiture of his local license and all monies that have been paid therefor. The Local Liquor Control Commissioner shall thereupon revoke his license.

(b) Any person convicted of violating any of the provisions of this chapter shall be deemed guilty of a Class C Misdemeanor as provided in Illinois Revised Statutes, and penalized accordingly.

#### **.28 PROHIBITION ON SALE OF TOBACCO PRODUCTS TO PERSONS UNDER 21.** (2019-6)

(a) Definitions:

1. The term "tobacco products" means any cigar, cigarette, electronic cigarette, smokeless

tobacco, tobacco, or any alternative nicotine product in any of its forms. (2019-6)

2. The term "smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity.
3. The term "electronic cigarette" means any device that employs a battery or other mechanism to heat a solution or substance to produce a vapor or aerosol intended for inhalation; any cartridge or container of a solution or substance intended to be used with or in the device or to refill the device. (2019-6)
4. The term "alternative nicotine product" means a product or device not consisting of or containing tobacco that provides for the ingestion in to the body of nicotine, whether by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing, or by any other means. (2019-6)

(b) Prohibition on sale or distribution of tobacco products to persons under 21 years of age and the use and possession of tobacco products by persons under 21 years of age:

1. No person under 21 years of age shall buy or possess any tobacco products.
2. No person shall sell to, buy for, distribute samples of, or furnish or give any tobacco products to any person under 21 years of age.
3. No person under 21 years of age may sell any tobacco products at a retail establishment selling tobacco products. This subsection does not apply to a sales clerk in a family-owned business which can prove that the sales clerk is in fact a son or daughter of the owner.

(c) Tobacco products may be sold through a vending machine only in the following locations:

1. Places to which persons under 21 years of age are not permitted access. (renumbered 2019-6)
2. Places where alcoholic beverages are sold and consumed on the premises.
3. The term "vending machine" means any mechanical device used or intended to be used for retail sales of any tobacco products, the operation of which is governed or controlled by the deposit of currency, a coin, or a token. (2019-6)
4. The term "vending machine" means any mechanical device used or intended to be used for retail sales of any tobacco products, the operation of which is governed or controlled by the deposit of currency, a coin, or a token.

(d) The sale of tobacco products or the distribution at no charge of tobacco products from a lunch wagon engaging in any sales activity within 1,000 feet of any public or private elementary or secondary school grounds is prohibited. For the purpose of this Section, "lunch wagon" means a mobile vehicle designed and constructed to transport food and from which food is sold to the general public.

(e) Use of identification cards. No person in the furtherance or facilitation of obtaining tobacco products shall display or use a false or forged identification card or transfer, alter, or deface an identification card.

(f) Penalty. Any person who violates any provision of sub-sections (a) – (e) of this Section .28 is guilty of a petty offense and for the first offense shall be fined \$200 if his or her employer has a training program that facilitates compliance with minimum-age tobacco laws. For the second offense in a 24-month period, the person shall be fined \$400, the third offense in a 24-month period, the person shall be fined \$600, and fined \$800 for the fourth or any subsequent offense in a 24-month period. (2019-6)

(g) Display of Warning Signs.

1. No person may sell cigarettes at retail using a cigarette vending machine unless a sign with the

message "SURGEON GENERAL'S WARNING: SMOKING BY PREGNANT WOMEN MAY RESULT IN FETAL INJURY, PREMATURE BIRTH, AND LOW BIRTH WEIGHT" is displayed in plain view on the machine.

2. No person may sell or offer to sell cigarettes at retail unless a sign with the message "SURGEON GENERAL'S WARNING: SMOKING BY PREGNANT WOMEN MAY RESULT IN FETAL INJURY, PREMATURE BIRTH, AND LOW BIRTH WEIGHT" is posted in a conspicuous place upon the premises. This subsection (b) does not apply to sales of cigarettes through cigarette vending machines to which subsection (a) applies.
3. Specifications Regarding Signs. All signs required under this Act shall be printed on white cards in red letters at least one-half inch in height.
4. Penalties for failure to display warning signs. Failure to display a warning sign as required by this Section is a business offense for which a fine not to exceed \$1,000 may be imposed. Each day of failure to display a warning sign as required by this Section constitutes a separate offense.

## **.29 VIDEO GAMING.**

### **(a) DEFINITIONS:**

1. *BOARD*. The Illinois Gaming Board.
2. *LICENSED ESTABLISHMENT*. Any licensed retail establishment where alcoholic liquor is drawn, poured, mixed, or otherwise served for consumption on the premises.
3. *LICENSED FRATERNAL ESTABLISHMENT*. The location where a qualified fraternal organization that derives its charter from a national fraternal organization regularly meets.
4. *LICENSED VETERANS ESTABLISHMENT*. The location where a qualified veterans' organization that derives its charter from a national veterans' organization regularly meets.
5. *VIDEO GAMING ACT*. Gaming (230 ILCS 40/)
6. *VIDEO GAMING TERMINAL*. Any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game, including but not limited to video poker, line up, and blackjack, as authorized by the board utilizing a video display and microprocessors in which the player may receive free games or credits that can be redeemed for cash. The term does not include a machine that directly dispenses coins, cash, or tokens or is for amusement purposes only.

## **.30 VIDEO GAMING TERMINALS ALLOWED.**

(a) Video gaming terminals are permitted within the corporate limits of the City of Fairbury only if licensed and registered by the Illinois Gaming Board under the Video Gaming Act.

(b) The number of video gaming terminals permitted to be operated in each establishment licensed by the Illinois Gaming Board at any time is the number established by the Video Gaming Act.

(c) Regulations of the Illinois Video Gaming Act, 230 Illinois Compiled Statutes 40/1 et seq., as amended, and title 11 of the Administrative Code, subtitle D, Video Gaming, chapter 1, Illinois Gaming Board, article 1800, Video Gaming (General) (11 Ill. Adm. Code 1800.110 et seq., as amended) be and are hereby adopted and incorporated by reference herein. Such laws and regulations relating to video gaming, as amended, are referred to in this chapter collectively as video gaming regulations.

### **.31 PERMIT REQUIRED.**

- (a) It shall be unlawful to operate any video gaming terminal in any licensed establishment, licensed veterans' establishment, or licensed fraternal establishment within the corporate limits of the City of Fairbury without having first obtained a video gaming terminal permit signed by the Mayor of the City of Fairbury. Maximum number of video gaming terminals at such establishment is six.
- (b) Each video gaming terminal shall require a separate permit.

### **.32 FILING OF APPLICATION AND FEE PROVISIONS.**

- (a) Every applicant for a permit to place a video gaming terminal in a licensed establishment, licensed veterans' establishment, or licensed fraternal establishment shall file an application with the Municipal Clerk upon a form provided by the Clerk.
- (b) There is hereby established a \$25 annual fee for the operation of each video gaming terminal located in the City pursuant to the provisions of the Illinois Video Gaming Act.
- (c) The annual video gaming terminal fee, as established hereby, shall be paid to the City on or before the initial date of terminal operation, and for terminals then in operation, on or before April 30th of each year thereafter. The annual video gaming terminal fee shall not be prorated for periods of less than 12 months.

### **.33 DISPLAY OF PERMIT.**

Every permit issued shall be hung in a conspicuous place in the permitted premises.

### **.34 RIGHT OF ENTRY.**

The Chief of Police, or his designee, has the power to and shall inspect any licensed establishment, licensed veterans' establishment, or licensed fraternal establishment within the corporate limits of the City of Fairbury at such times and intervals as he may deem necessary for the proper enforcement of this Ordinance.

### **.35 CONDITIONS OF VIDEO GAMING PERMIT.**

- (a) In addition to any other conditions or regulations contained in this chapter, each and every video gaming terminal shall be licensed by the State of Illinois and the license of each and every video gaming terminal shall be maintained at the licensed premises where the video gaming terminal is operated.
- (b) Video gaming terminals shall be placed and every video gaming terminal licensee shall be responsible to ensure that video gaming terminals are placed and operated in strict compliance with video gaming regulations, the requirements of this chapter, and any other applicable requirements of law.

### **.35 VIOLATIONS AND PENALTY.**

Persons violating the provisions of this Section will be accountable to the same provisions set forth in regard to liquor licenses as set forth in this Chapter 8.

## SECTION II

All ordinances or resolutions or parts thereof in conflict with the provisions of this ordinance

are to the extent of such conflict hereby repealed.

This ordinance shall be effective after passage by the City Council of the City of Fairbury, Illinois, and its approval by the Mayor of the City of Fairbury, Illinois, and its publication in pamphlet form as required by law.

Passed by the City Council of the City of Fairbury, Illinois on December 4, 2019.

Ayes: 7 Nays: 0 Absent: 1

Approved by the Mayor of the City of Fairbury, Illinois on December 4, 2019.

(CITY SEAL)

Attest: Nancy Widacki  
City Clerk

D. J. Gel  
Mayor