

Chapter 104

ALCOHOLIC BEVERAGES

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[HISTORY: Derived from Title 2, Ch. 2, Arts. 4 through 13, of the 1993 Code of the Village of Port Byron. Amendments noted where applicable.]

ARTICLE I
Liquor

§ 104-1. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them.

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

ALCOHOLIC LIQUOR — Includes the four varieties of liquor defined in this section, i.e. 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 human beings.

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

CLUB — Means a corporation organized under the laws of the State, not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquors, kept, used and maintained by its members through the payment of annual dues, and owing, hiring or leasing a building or space in a building, of such an extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and provided with suitable and adequate kitchen and dining room space and equipment and maintaining a sufficient number of servants and employees for cooking, preparing and serving food and meals for its members and their guests. The club shall file with the Village Liquor Control Commission, at the time of its application for a license, two copies of a list of names and residences of its member, and similarity file within 10 days of the election of any additional member his name and address. The club's affairs and management shall be conducted by Board of Directors, Executive Committee or similar body chosen by the members at their annual meeting and no member of any officer, agent or employee of the club shall be paid or directly or indirectly receive, in the form of salary or other compensation, any profits from the distribution or sale of alcoholic liquor to the club or the members of the club or its guests introduced by members beyond the amount of such salary as may be fixed and voted at any annual meeting by the members of its Board of Directors or other governing body out of the general revenue of the club.

DANCING — Rhythmic movement, usually to music. Limited to social dancing as viewed by contemporary community standards on the licensed premises for patrons. **[Added 4-14-1997 by Ord. No. 97-14-4A]**

HOTEL — Every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which 25 or more rooms are used for the sleeping accommodations of the guests and having one or more public dining rooms where meals are served to guests, the sleeping accommodations and dining rooms being conducted in the same

building in connection therewith and the building or structure being provided with adequate and sanitary kitchen and dining room equipment and capacity.

LICENSEE — Includes all businesses, firms, partnerships, companies, corporations, distributorships, or clubs that have applied for and have been issued a Liquor License by the Village of Port Byron. **[Added 4-14-1997 by Ord. No. 97-14-4A]**

LIVE ENTERTAINMENT — The offering or permitting of any amusement feature, including music, vaudeville, singing, acting, dancing, or contests, whether by personal performance or instrumental device. **[Amended 4-14-1997 by Ord. No. 97-14-4A]**

NUDITY — Naked, unclothed, partially unclothed, the baring of a part of the human body, the showing or exposing of the human male or female sex organs, genitals, pubic area, buttocks, anus, or any portion of the human breast at or below the upper edge of the areola thereof of any female person, not covered by an opaque covering, including the nipple or any portion below the nipple with less than a full opaque covering. **[Added 4-14-1997 by Ord. No. 97-14-4A]**

ORIGINAL PACKAGE — Any bottle, flask, can, cask, barrel, keg, or other receptacle or contained used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor to contain and to convey any alcoholic liquor.

PERSON — Includes any individual employed by a licensee, business owner, manager, officer, employee, salesperson, associate, member, representative, agent, operator or employee of the operator, or other person whether acting as a mere helper of the operator, employee or operator, or acting as a participant or worker in any way, or private citizen, patron, or customer. **[Added 4-14-1997 by Ord. No. 97-14-4A]**

RESTAURANT — Any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served and without sleeping accommodations, the space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests.

RETAIL SALE — The sale for use or consumption and not for resale in any form.

SPIRITS — 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.

UNLAWFUL EXHIBITION, PERFORMANCE, OR ACTS — To engage in any form of dancing, performance, or any other act designed or intended for the touching, displaying, baring, exposing, uncovering, flashing, or disrobing of any part of the human body of either sex which has been defined as nudity, or which to the average person, applying contemporary community standards, the dominant theme of the dance, performance, or act taken as a whole appeals to the prurient interest in sex, or for the sexual gratification, excitement, or entertainment of either or both sexes. Includes such performances or acts called, referred to, or commonly known as exotic dancing, lap dancing, go-go dancing, stripping, flashing, baring, disrobing, shedding of clothing, wet t-shirt contests or exhibitions, or any act which

displays, is designed, or is intended to display or show any part or parts of the human body defined as nudity in this article. [Added 4-14-1997 by Ord. No. 97-14-4A]

WINE — Any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables, containing sugar, including such beverages when fortified by the additional of alcoholic or spirits, as defined in this section.

§ 104-2. Manner of determination of nature of sales.

For the purpose of this chapter, a business has a principal business of selling food if more than 1/2 of its gross revenue is derived from the sale of food. Any licensee under this chapter shall be barred from claiming such a status unless he shall file a sworn affidavit to such effect at the time he annually renews his license, on forms provided by the Liquor Commissioner.

§ 104-3. Persons to whom liquor not to be delivered.

No person licensed pursuant to this chapter, nor any officer, associate, member, representative agent or employee of such licensee shall sell, give or deliver alcoholic liquor to any person under the age of 21 or to any intoxicated person or to any person known by him to be a habitual drunkard, spendthrift, insane, mentally ill, mentally deficient or in need of mental treatment.

§ 104-4. Misbranding.

No person shall knowingly possess, sell or in any way dispose of any alcoholic liquor under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the package or other container of alcoholic liquor. All misbranded packages and containers are contraband.

§ 104-5. Transportation in motor vehicles.

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

§ 104-6. Exiting licensed premises with open container.

It shall be a violation of this ordinance for a licensee, manager, employee, or other representative to allow a patron or customer (anyone) to leave the licensed premises with an open liquor container. This includes cans, bottles, glasses, or "To Go" cups.

§ 104-7. Prohibited acts. [Added 4-14-1997 by Ord. No. 97-14-4A].

It shall be unlawful for any licensee or person to commission, allow, authorize, tolerate, facilitate, permit, sanction, or participate in any act herein described or described or defined elsewhere in this article as Nudity or as an Unlawful Exhibition, Performance, or Acts.

ARTICLE II

Liquor Control Commissioner**§ 104-8. President of board of trustees to be liquor control Commissioner: enforcement responsibilities.**

The President of the Board of Trustees shall be the Liquor Control Commissioner for the Village and shall be charged with the administration with the Village of the laws of the State as they related to liquor control licenses within the Village, and with the provisions of this chapter and other ordinances of the Village relating to liquor.

§ 104-9. Appointment of assistants.

The Liquor Control Commissioner may appoint a qualified person to assist him in the exercise of the powers and performance of the duties imposed on him by law and the provisions of this chapter or other Village Ordinances.

§ 104-10. Compensation.

The Board of Trustees may fix the compensation of the Liquor Control Commissioner, and for his assistants and deputies, as may be deemed necessary for the proper performance of the duties vested in him by law.

§ 104-11. Powers.

The Liquor Control Commissioner shall have the following powers, functions and duties with respect to licenses, other than licenses of manufacturers, importing distributors, distributors, non-beverage users, railroads, airplanes and boats;

- A. To grant and/of suspend for not more than 30 days or revoke for cause all local licenses issued to persons for premises within the Village.
- B. To enter or to authorize any law enforcing officers to enter at any time upon any premises licensed pursuant to this chapter to determine whether any of the provisions of this chapter or State law, or any rules or regulations adopted by him or by the State Commission have been or are being violated, and at such time to examine the premises of the licensee in connection therewith.
- C. To receive complaints from any citizen within the Village that any of the provisions of the state law or this chapter, or any rules or regulations adopted pursuant have been or are being violated and to act upon such complaints in the manner prescribed in this chapter.
- D. To extend, for cause and after a Liquor Control Commission Hearing, the hours of business as provided in Article V, to a liquor license issued to persons for premises within the Village; provided that any such extension so granted shall expire at the end of the business day for which such extension was granted.

§ 104-12. Authority to examine applicants for liquor licenses and licensees.

The Liquor Control Commissioner shall have the right to examine, or cause to be examined, under oath, any applicant for a license required by this chapter, or for a renewal of any licensee upon whom notice of revocation or suspension has been served in the manner provided in this chapter, and to examine and cause to be examined the books and records of any such applicant or licensee; to hear testimony and take proof for his information in the performance of his duties, and for such purpose to issue subpoenas when shall be effective in any part of the State. For the purpose of obtaining any of the information desired by the Liquor Control Commissioner under this section, he may authorize his agent to act on his behalf.

ARTICLE III

General**§ 104-13. When required.**

No person shall sell alcoholic liquor at retail, or make any sale of liquor at retail, within the Village without first having obtained a liquor license as provided by this article.

- A. A "sale of retail" or "to sell at retail" means for use or consumption, and not for resale, in any form.
- B. A "sale" means any transfer, exchange or barter, in any manner or by any means for a consideration, and includes and means all sales made by any person, whether as principal, proprietor, agent, servant or employee, and includes, but is not limited to, all of the following acts when done for consideration:
 - (1) The selling of liquor.
 - (2) The "giving away" of liquor.
 - (3) The dispensing of liquor.
 - (4) The providing of mix, ice, water or glasses for the purposes of mixing drinks containing alcoholic liquor for consumption on the same premises.
 - (5) The pouring of liquor.
 - (6) The providing of "set-ups" containing alcoholic liquor.
 - (7) The maintaining of a private or public club which serves liquor on its premises to its patrons, or members.
 - (8) The maintaining of a restaurant which serves liquor on its premises to its patrons.
 - (9) The possessing in any business or commercial establishment of alcoholic liquor to be served to patrons on the premises.
- C. It is the intent of this section to require a license for the sale of liquor at retail within the Village for any consideration, whether direct or indirect, regardless of the form that the sale takes.

- D. Proof of Dram shop insurance is mandatory if the licensee is selling alcohol for use or consumption on the licensed premises. Up-to-date proof of insurance must be supplied to the Village before a license will be issued. **[Added 4-12-2004 by Ord. No. 041204A]**

§ 104-14. Classes and number of licenses established.

- A. There shall be the following classes of liquor licenses available to qualified applicants in the Village of Port Byron, Illinois:

(1) Classes:

- (a) Class A - Standard License (Tavern).
- (b) Class B - Package Sales License (Convenience Store).
- (c) Class C - Nightclub.
- (d) Class D - Restaurant.
- (e) Class E - Club.
- (f) Class F - Special License.

- B. Number of licenses available: **[Amended 6-14-1993 by Ord. No. 93-14-6; 8-11-2003 by Ord. No. 031108D; 7-9-2007 by Ord. No. 070907V6; 9-12-2011 by Ord. No. 111209]**

- (1) Class A — Four.
- (2) Class B — Two.
- (3) Class C — One.
- (4) Class D — Two.
- (5) Class E — None.
- (6) Class F — as needed.

§ 104-15. Licenses to be used only for premises for which issued.

- A. No licensee under this article shall use his license to engage in the liquor business at any location other than the one named in the license.
- B. The use or attempted use of a license pursuant to this article at any premises other than the one for which the license was issued shall be cause for revocation of the licenses.

§ 104-16. Posting.

- A. Every holder of a license issued pursuant to this article shall at all times keep it posted in a conspicuous location on a wall of the business premises.

- B. No person shall post any license issued under this article in any premises other than the premises named in the license as issued.
- C. It shall be the duty of any peace officer to seize any license issued pursuant to this article which has been posted in any premises other than the premises for which it was issued.

§ 104-17. Scope of privileges granted by license.

A license issued pursuant to this article shall be purely a personal privilege, extending for not to exceed one year after its issuance, unless sooner revoked as provided in this article, and shall not constitute property, nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or be subject to being encumbered or hypothetical. The license shall descend by the laws of the State or intestate devolution, but it shall cease upon the death of the licensee, provided that executors or administrators of the estate of and deceased licensee, and the trustee of any insolvent or bankrupt licensee, when the 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, but not longer than six months after the death, bankruptcy or insolvency of the licensee; a refund shall be made of that portion of the license fees paid for any period in which the licensee shall be prevented from operating under such license in accordance with the provisions of this section.

ARTICLE IV
Licensing Procedure

§ 104-18. Prerequisites to obtaining initial license.

The Liquor Control Commissioner shall issue an original license required by Article III, where the applicant is eligible for the license under this article, and has completed all of the following acts:

- A. Fully completed the application prescribed in this article.
- B. Posted the bond required by this article.
- C. Paid the fees required by this article.

§ 104-19. Application form.

No license of any class required by Article III shall be issued prior to the time that an application in the form included as an attachment to this chapter is wholly completed and verified by the person desiring the license. A license issued in violation of this section shall be void.

§ 104-20. Persons ineligible for license.

No license of any kind shall be issued pursuant to this article to:

- A. A person who is not a resident of the Village of Port Byron. **[Added 3-14-1994 by Ord. No. 94-14-3-2]**
- B. A person who is not of good character and reputation in the community in which he resides.
- C. A person who is not a citizen of the United States.
- D. A person who has been convicted of a felony under any Federal or State law.
- E. A person who has been convicted of being the keeper or is keeping a house of ill fame.
- F. A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality.
- G. A person whose license issued under this article has been revoked for cause.
- H. A person who at the time of application or renewal of any license issued pursuant to this article would not be eligible for the license upon a first application.
- I. A copartnership, unless each of the members of the copartnership shall be qualified to obtain a license.
- J. A corporation, if any officer, manager or director thereof, or any stockholder or stockholders, owing in the aggregate more than 5% of the stock of such corporation, would not be eligible to receive a license under this article for any reason other than citizenship.
- K. A corporation unless it is incorporated in the State, or unless it is a foreign corporation which is qualified under the Illinois Business Corporation Act to transact business in the State.
- L. 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 and is a citizen of the United States.
- M. A person who has been convicted of a violation of any Federal or State law concerning the manufacture, possession or sale of alcoholic liquor, or has forfeited his bond to appear in court to answer charges for any such violation.
- N. A person who does not beneficially own the premises for which a license is sought, or does not have a lease for the full period for which the license is to be issued.
- O. Any law enforcing public official, any President of Board of Trustees or member of Board of Trustee, or any President or member of a County Board; and no such official shall be interested in any way, either directly or indirectly, in the manufacture, sale or distribution.
- P. A person who is not a beneficial owner of the business to be operated by the licensee.
- Q. A person who has been convicted by a gambling offense as prescribed by any of subsections a-3 through a-10 of Section 28-1 of the "Criminal code of 1961", as

contained in the Illinois Revised Statutes, approved July 28, 1961, as hereafter amended, or as proscribed by a statute replaced by any of the aforesaid statutory provisions.

- R. A person to who a Federal gaming device stamp or a Federal wagering stamp has been issued by the Federal government for the current tax period, or if any of the partners have been issued a Federal gaming device stamp or Federal wagering stamp for the current tax period.
- S. A copartnership to which a Federal gaming device stamp or a Federal wagering stamp has been issued by the Federal government for the current tax period, or if any of the partners have been issued a Federal gaming device stamp or Federal wagering stamp for the current tax period.
- T. A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than 20% of the stock of such corporation has been issued a Federal gaming device stamp or a Federal wagering stamp for the current tax.
- U. Any premises for which a Federal gaming Device stamp or a Federal wagering stamp has been issued by the Federal government for the current tax period.

§ 104-21. Premises ineligible for license.

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

§ 104-22. Location ineligible for license.

No license required by Article III shall be issued for use in any of the following locations:

- A. In any district under an ordinance entitled "TITLE 5: 5-1 through 5-18 inclusive - Zoning Ordinance of the Village of Port Byron", where the sale of liquor is not permitted by that ordinance.
- B. No license shall be issued for the sale at retail of any alcoholic liquor within 100 feet of any church, school, hospital, home or aged or indigent persons or for veterans, their wives or children or any military or naval station; however, this prohibition shall not apply to hotel offering restaurant service, regularly organized clubs, or to restaurants, food shops or other places where the sale of alcoholic liquors is not the principal business carried on if such place of business so exempted shall have been established for such purposes prior to the ordinance from which this section is derived; nor shall this subsection apply to the renewal of a license for the sale at retail of alcoholic liquor on premises within 100 feet of any church where the church has been established within the 100 feet since the issuance of the original license. No alcoholic liquor, other than beer, shall be sold for consumption on the premises within 1,500 feet from any building used

for regular classroom or laboratory instruction on the main campus of any state university owned or maintained, in whole or in part, by the State.

§ 104-23. Restrictions on the issuance of special licenses.

- A. A special license shall be issued only to organized clubs, societies, associations, fraternal organizations, duly constituted churches or benevolent organizations organized not for pecuniary profits.
- B. A special license may be issued pursuant to this article for one day, two consecutive days, three consecutive days, four consecutive days, five consecutive days, or six consecutive days. The license shall specify on its face the duration.
- C. No organization shall be issued more than one special license during any 30 days period.

§ 104-24. Surety bond or cash bond required for license; amount; forfeiture.

- A. A person desiring a license or renewal of a license required by Article III shall execute a penal bond in the form and with security satisfactory to the Liquor Commissioner, conditioned upon the faithful observance of this chapter, and the laws of the state and the United States, or post a cash bond as provided in Subsection B of this section. The amount of the bond required by this subsection for the various classes of licenses shall be as follows:

Class of License	Bond
Standard	\$1,000
Package sale license	\$600
Special license	\$250

- B. In lieu of posting a penal bond with satisfactory security as provided by Subsection A of this section, an applicant for a license required by Article III may post \$150 in cash, subject to the following conditions:
 - (1) A cash bond shall be kept by the Village in a separate account, and the Village shall be entitled to all interest earned on the account.
 - (2) In the event that a licensee under this article surrenders his license for a reason other than forfeiture, at a time when no violation of this chapter has been charged against him, the cash bond shall be returned to him.
- C. The Liquor Control Commissioner may direct that the bond posted pursuant to either Subsection A or B of this section be forfeited at any hearing where the evidence shows that the licensee has failed to observe the laws of the Village, the State or the United States.

§ 104-25. License fees.

- A. Before any class of license is issued pursuant to this article, the applicant shall pay the license fee prescribed in this section.
- B. A license fee for a license to be issued pursuant to this article shall be payable annually or 1/2 the amount semi-annually. Where the applicant for the license choose to pay annually for his license, the payment must be made in full before the first day of April. Where the licensee chooses to pay for his license in semi-annual installments, his installments shall be paid before the first day of April and the first day of October.
- C. The fees for the various classes of licenses to be issued pursuant to this article shall be as follows: **[Amended 2-14-2005 by Ord. No. 051402D]**

License Fees

Class A	Standard	\$600 per year
Class B	Package sales license	\$375 per year
Class C	Nightclub	\$675 per year
Class D	Restaurant	\$600 per year
Class E	Club	\$150 per year
Class F	Special license	\$25 per day
Live entertainment	An additional fee of \$100 annually or \$50 semi-annually	

§ 104-26. Contents of license certificate.

The license issued by the Liquor Control Commissioner pursuant to this article shall show the following information:

- A. The name of the licensee.
- B. The class of the license and option, if any.
- C. The address of the licensed premises.
- D. The special privileges of the license.
- E. The signature of the Liquor Control Commissioner and his seal.
- F. The term of the license.

§ 104-27. Term of license.

A license issued pursuant to this article shall exist for a term of one year from the first day of April. At the end of the license term, the license shall expire and cease to be a license.

§ 104-28. Records of licenses issued: contents.

The Liquor Control Commissioner shall keep a separate file for each license issued pursuant to this division containing the following material:

- A. A duplicate original of the license certificate.
- B. The bond.
- C. The application and attached documents.
- D. The receipt showing payment of fees.

§ 104-29. Renewal of license: generally; procedure.

- A. Notice by Village of license renewal. The Liquor Commissioner shall see that all liquor license holders are given notice of license expiration at least 15 days prior to expiration of their current licenses. Said notice shall be in writing, may be a form letter, and may be delivered by mail or in person by any person designated by the Liquor Commissioner to deliver said notice.
- B. Any licensee under this article may renew his license at the expiration; if he then qualifies to receive a license and if the premises for which the renewal license is sought are suitable for the purpose. The renewal privilege provided for in this section shall not be construed as a vested right which shall in any case prevent the Board of Trustees from decreasing the number of licenses to be issued within its jurisdiction.
- C. The holder of a license issued pursuant to this article, who is eligible for an initial license pursuant to this division, desiring to procure renewal of his license shall perform the following acts:
 - (1) Surrender his old license certification.
 - (2) Pay the annual fees required by this article.
 - (3) File the required bond, unless previous bond remains in effect.
 - (4) Amend his application to show any change in any of the matters stated in the first application.
 - (5) Licenses issued pursuant to this article may be renewable annually before the first day of April.
 - (6) Upon granting the renewal of a license issued pursuant to this article, the Liquor Control Commission shall issue a new license.
- D. Penalty for late renewal.
 - (1) If, after being served proper notice of license renewal, the licensee fails to renew said license by submitting proper application and fee before the expiration date, a late fee shall be assessed. Said late fee shall be in the amount of \$50.

- (2) In addition to said late fee, the licensee shall not sell any alcohol, beer, wine, or spirits as defined by this Ordinance until a valid license has been issued by the Liquor Commissioner and is properly posted in the premises license by the Village.
- (3) Should a licensee pay for said license by check, and said check is returned from the bank for insufficient funds, or other reasons showing the licensee did not have the funds to cover payment for the license, the Liquor Commission shall revoke said license until such time as the licensee has paid the appropriate license and late fees. Payment shall be in the form of cash.

ARTICLE V

Privileges Conferred by Various Classes of Licenses**§ 104-30. Generally.**

The privileges authorized by the issuance of one of the various classes of licenses pursuant to Article III and shall be as prescribed in this article.

§ 104-31. Compliance with this article required.

No licensee under this article shall engage in any conduct allowable under any license created by Articles III and IV except as specifically allowed by his own license.

§ 104-32. Compliance with scope of license required.

No licensee under Articles III and IV shall engage in any conduct otherwise proscribed by this chapter, or by law, except as specifically allowed by his license.

§ 104-33. Class A - standard license (tavern).

- A. A Class A license issued pursuant to Articles III and IV shall entitle the licensee to make the following sales of liquor:
 - (1) Sales for consumption on the premises.
 - (2) Package sales, for consumption off of the premises of the licensee.
- B. A Class A license issued pursuant to this chapter allows the licensee to maintain the following hours of business: **[Amended 3-9-1998 by Ord. No. 98-9-3B; 4-13-1998 by Ord. No. 98-13-4; 2-11-2008 by Ord. No. V081102E]**
 - (1) 6:00 a.m. to 2:00 a.m. Monday through Saturday inclusive.
 - (2) Sunday hours shall be 6:00 a.m. to 12:00 Midnight.
- C. A Class A license issued pursuant to Articles III and IV shall entitle the licensee to provide entertainment only by means of mechanical reproduction or radio reception.

- D. A Class A license issued pursuant to Articles III and IV allows the licensee to select the following option to a standard license for the additional fee required as stated in § 104-25:
- (1) Live entertainment allows social dancing and live entertainment as defined in Article I, § 104-1.
- E. Class A license allows the preparation and service of food. **[Added 8-11-2003 by Ord. No. 031108E]**

§ 104-34. Class B - package sales license (convenience store).

- A. A Class B license issued pursuant to this article shall entitle the licensee to make the following sales of liquor:
- (1) Package sales, for consumption off of the premises of the licensee.
- B. A Class B license issued pursuant to Articles III and IV shall entitle the licensee to maintain the following hours of business: **[Amended 3-9-1998 by Ord. No. 98-9-3B; 4-13-1998 by Ord. No. 98-13-4]**
- (1) 6:00 a.m. to 1:00 a.m. Monday through Saturday inclusive.
 - (2) Sunday hours shall be 9:00 a.m. to 12:00 midnight.
- C. No holder of a Class B license shall permit dancing or live entertainment, as defined in Article I, § 104-1, on the premises.

§ 104-35. Class C - nightclub.

- A. A Class C license issued pursuant to Articles III and IV shall entitle the licensee to make the following sales of liquor:
- (1) Sales for consumption on the premises.
- B. A Class C license allows for live entertainment, recorded entertainment, radio received entertainment, and dancing, as defined in Article I, § 104-1.
- C. A Class C license allows the preparation and service of food.
- D. A Class C license issued pursuant to this chapter allows the licensee to maintain the following hours of business: **[Amended 3-9-1998 by Ord. No. 98-9-3B; 4-13-1998 by Ord. No. 98-13-4]**
- (1) 1:00 p.m. to 2:00 a.m. Monday through Saturday inclusive.
 - (2) Sunday hours shall be 9:00 a.m. to 12:00 Midnight.

§ 104-36. Class D - restaurant license.

- A. A Class D license issued pursuant to Articles III and IV shall entitle the licensee to make the following sales of liquor:
- (1) Sales for consumption on the premises.
- B. A Class D license issued pursuant to this chapter allows the licensee to maintain the following hours of business: **[Amended 3-9-1998 by Ord. No. 98-9-3B; 4-13-1998 by Ord. No. 98-13-4]**
- (1) 9:00 a.m. to 2:00 a.m. Monday through Saturday inclusive.
 - (2) Sunday hours shall be 9:00 a.m. to 12:00 Midnight.
- C. A Class D license issued pursuant to Articles III and IV shall entitle the licensee to provide entertainment only by means of mechanical reproduction or radio reception.

§ 104-37. Class E - club.

- A. A Class E license issued pursuant to Articles III and IV shall entitle the licensee to make the following sales of liquor:
- (1) Sales for consumption on the premises.
- B. A Class E license issued pursuant to this chapter allows the licensee to maintain the following hours of business: **[Amended 3-9-1998 by Ord. No. 98-9-3B; 4-13-1998 by Ord. No. 98-13-4]**
- (1) 9:00 a.m. to 1:00 a.m. Monday through Saturday inclusive.
 - (2) Sunday hours shall be 9:00 a.m. to 12:00 Midnight.
- C. A Class E license issued pursuant to this chapter allows the licensee to provide _____.

§ 104-38. Class F - special license.

- A. A special license issued pursuant to this article shall entitle the licensee to engage in the license to engage in the following conduct:
- (1) To sell liquor at any banquet, picnic, bazaar, fair or similar event.
- B. A special license issued pursuant to this article shall authorize the licensee to sell liquor during those hours provided for in a Class A license.

ARTICLE VI

Revocation and Suspension**§ 104-39. Authority of the liquor control commission: grounds.**

The Liquor Control Commissioner may revoke or suspend any license issued by him pursuant to Articles III, IV and V if he determines that the licensee has violated any of the provisions of the Liquor Control Act (235 ILCS 5/1-1 et seq.) or any provisions of this chapter or other ordinance or resolution enacted by the Board of Trustees, or any applicable rule or regulation established by the State Liquor Control Commission or the State Liquor Control Commissioner, which is not inconsistent with law.

§ 104-40. Liability of licensee generally.

In any proceeding before the Liquor Control Commissioner for suspension or revocation of a license granted pursuant to Articles III, IV and V, the acts of any officer, director, manager, agent or employees of the licensee shall be deemed and be held to be the acts of the licensee, without regard to whether or not the licensee knows of, authorized or consent to the acts.

§ 104-41. Hearing required; notice.

No license issued pursuant to Articles III, IV and V shall be so revoked or suspended except after a public hearing by the Liquor Control Commissioner, with a three-day notice in writing to the licensee affording the licensee an opportunity to appear and defend.

§ 104-42. Final order of revocation or suspension.

The Liquor Control Commissioner shall, within five days after a hearing held pursuant to this article, if he determines after the hearing that the license issued pursuant to Articles III, IV and V should be revoked or suspended, state the reason or reasons for such determination in a written order of revocation or suspension, and shall serve a copy of the order within five days upon the licensee.

§ 104-43. Revocation of bond.

- A. Whenever the Liquor Control Commissioner revokes a license issued pursuant to Articles III, IV and V, he shall also cause a forfeiture of the bond given by the license for faithful compliance with the law and this chapter.
- B. Whenever the Liquor Control Commissioner determines that a licensee under Articles III, IV and V has violated any provision of the Liquor Control Act (235 ILCS 5/1-1 et seq.) or any provisions of this chapter, the Liquor Control Commissioner may forfeit the licensee's bond, in addition to any other sanction imposed under this chapter.

§ 104-44. Appeals.

Appeals from the order of the Liquor Control Commissioner, entered pursuant to this article, shall be as provided by law in Illinois Revenue Statutes, Chapter 110, 264-279.

ARTICLE VII
Operation

§ 104-45. Persons not to remain on premises after closing hours; exceptions.

- A. Except as otherwise provided in this section, no person hold a license issued pursuant to this chapter shall remain on the licensed premises after the closing hours applicable to the class of license held by the licensee, except:
 - (1) The licensee.
 - (2) A person on the licensee's payroll.
- B. All lights must be turned out at the premises licensed pursuant to this chapter at or before the closing hour prescribed for the class of license held except:
 - (1) Outside lights.
 - (2) Inside lights for police protection.
- C. All restaurants or other establishments whose principal business is the sale of food, and to which a license has been issued pursuant to this chapter, shall close down its business with regard to the sale of liquor at the closing hours prescribed in its license, but may remain open for the sale of food.

§ 104-46. Nature of licensed premises as a public accommodation.

No person licensed under the provisions of this article shall deny or permit his agents and employees to deny any person the full and equal enjoyment of the accommodations, advantages, facilities and privileges of any premises in which alcoholic liquors are authorized to be sold subject only to the conditions and limitations established by law, and applicable alike to all citizens.

§ 104-47. Sales on other than a cash basis.

No person shall sell or furnish alcoholic liquor at retail to any person on credit or on a passbook, or order on a store, on in exchange for any services rendered; and if any person shall extend credit for such a purpose, the debt attempted to be created shall not be recoverable at law. However, nothing contained in this section shall be construed to prevent any club from permitting checks or statements for alcoholic liquor to be signed by members of bonafide guests of members or guests in accordance with the by-laws of the club. Nothing contained in this section shall be construed to prevent any hotel from permitted checks or statements for liquor to be signed by regular guests residing at the hotel and charged to the accounts of the guests.

§ 104-48. Dancing or live entertainment.

No licensee under this chapter or his agents or his employees, shall permit dancing or live entertainment in any licenses premises other than a premises operating under a standard license with an option for live entertainment or a special license issued pursuant to this chapter; provided, however, that a "club" as defined in Article I, § 104-1, of this chapter, shall be permitted to have social dancing on the premises for its members and patrons together with music incidental upon payment of an annual fee of \$100, which fee shall be payable annually or in semi-annual installments of \$50 each, which fee shall be paid at the time the license or a renewal is applied for.

§ 104-49. Restraint of trade.

No person licensed pursuant to this chapter shall enter into any contract with any manufacturer, distributor or importing distributor of alcoholic liquors under which the licensee agrees not to sell any alcoholic liquors manufactured or distributed by any other manufacturer, distributor or importing distributor.

§ 104-50. Use of words, "saloon" or "bar".

No person licensed pursuant to this chapter shall use the words, "saloon" or "bar" in any sign or advertisement.

§ 104-51. Pandering by licensee.

No licensee shall in any advertisement state or imply that obscene conduct or immoral conduct, or obscene entertainment or immoral entertainment can be found or see at the licensed premises.

§ 104-52. Possession of alcoholic liquor on public right-of-way.

No person shall transport, carry, possess or have any alcoholic liquor in or upon or about his person on a street, alley or other public right-of-way adjacent to nonresidential areas in the Village, except in the original package with the seal unbroken.

ARTICLE VIII

Minors**§ 104-53. Defined.**

As used in this article, the term "minor" shall mean a person under the age of 21 years.

§ 104-54. Activities exempt from this article.

The possession and dispensing or consumption by a minor of alcoholic liquor in the performance of 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 article.

§ 104-55. Preparation of alcoholic beverages.

No minor shall at any time, tend any bar or pour, draw, mix or sell any liquor, package or otherwise, in any premises licensed in the Village.

§ 104-56. Possession.

No minor shall have on or about his person, or in his custody or in his possession, or in his control, any liquor whether the seal is, or is not broken; however, a minor may do such acts in his own home, or as a part of a religious ceremony in an organized church.

§ 104-57. Consumption.

The consumption of alcoholic liquor by a minor is unlawful.

§ 104-58. Giving liquor to minors.

No person shall give, sell, or deliver any liquor to any minor within the Village, including liquor in a container with the seal unbroken; however a minor may be given liquor by his parents, or with their consent in the home of his parents, or a part of an organized religious ceremony in an organized church.

§ 104-59. Authority and duty of licensees under this chapter to require proof of age.

If a person licensed pursuant to this chapter or his agent or employee shall believe, or have reason to believe that a sale or delivery of alcoholic liquor is prohibited because of nonage of the prospective recipient, he shall, before making the sale or delivery, demand presentation or some form of positive identification, containing proof of age, issued by a public officer in the performance of his official duties.

§ 104-60. Fraudulent identification cards.

No person shall transfer, alter or deface an identification card containing proof of age, issued by a public officer in the performance of his duties; or use the identification card of another; or carry or use a false or forged identification card; or obtain an identification card by means of false information.

§ 104-61. Minors on premises.

A. No licensee holding a license issued pursuant to this chapter shall employ any person under the age of 21 years upon his licensed premises.

- B. No licensee holding a license issued pursuant to this chapter shall permit or suffer any minor to be on the licensed premises except where the minor is present at the licensed premises in the company and presence of a parent, guardian or other responsible adult; is present during the hours of 11:00 a.m. to 8:00 p.m. and is not present in an area of the licensed premises that is used solely for the dispensing or ingesting of alcoholic beverages, i.e.; the bar area, package liquor area, etc.

ARTICLE IX

Vicarious Liability

§ 104-62. Licensee's liability for violations of state law.

Every act or omission constituting a violation of the Liquor Control Act (235 ILCS 5/1-1 et seq.) or any of the provisions of this chapter, by any officer, director, manager, agent or employee of any licensee under this ordinance, shall be deemed and held to be the act or omission of the licensee, even though such act may be done without the knowledge, authorization or consent of the licensee.

ARTICLE X

Penalty

[Amended 4-14-1997 by Ord. No. 97-14-4C]

§ 104-63. Violations and penalties.

- A. Any licensee or person, violating any of the provisions of this chapter, except Article I, Liquor, § 104-7, Prohibited acts, shall upon conviction, be fined not less than \$100 nor more than \$500 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.
- B. For the purposes of this article, penalties for any licensee or person violating any of the provisions of Article I, Liquor, § 104-7, Prohibited acts, of this chapter shall include the following:
- (1) It shall be cause for revocation or suspension as provided if any licensee, his manager or agent shall commission, allow, authorize, tolerate, facilitate, permit, or sanction any violation of Article I, § 104-7, of this chapter.
 - (2) A Police Officer shall, upon establishing probable cause that Article I, § 104-7, of this chapter has been violated, shall close the licensee's business for the remainder of the business day, ensure that all customers, patron's, and employees leave the licensed premises when properly identified and not placed under arrest, shall gather all evidence necessary for prosecution of any violation of this ordinance, shall issue a citation to the licensee and other person(s) in violation of the provisions of this ordinance, shall complete a police report detailing the incident, listing probable cause, evidence seized, and identifying all subjects involved, and shall provide copies of all reports and citations to the Liquor Commissioner.

- (3) The Liquor Commissioner shall schedule a hearing for the purpose of revocation or suspension of the licensee's liquor license.
- (4) Any licensee or person, violating any of the provisions of Article I, § 104-7, of this chapter, shall, upon conviction, be fined not less than \$250 nor more than \$500 for each offense; and a separate offense shall be deemed committed on each day during which a violation occurs or continues.

§ 104-64. Charging violation, prosecution.

- A. A Police Officer, upon establishing probable cause, shall charge a licensee or person with a violation of any provision of this ordinance by delivering to that licensee or person a notice of violation charging that person with the violation.
- B. The business or person so such charged has five business days to satisfy the violation by making payment of the appropriate fine established by this article to the Port Byron Village Clerk. If the fine is not paid to the Village Clerk within five business days after receipt of the notice of violation the Police Department shall forward copies of all reports and the NOTICE OF VIOLATION to the Village Attorney who shall then file a local ordinance complaint with the Rock Island County Circuit Court charging that licensee or person with the violation and establishing a court date for trial.

MANUSCRIPT
ALCOHOLIC BEVERAGES

104 Attachment 1

Village of Port Byron

License Form

1. Name of applicant(s) _____
2. Address of applicant(s) _____

3. Date of birth of applicant(s) _____
4. Address of premises to be used by applicant(s) _____

5. Owner or landlord of premises to be used by applicant(s) _____

6. Address of owner or landlord of premises to be used by applicant(s) _____

7. Class of license applied for _____
8. Date on which business to commence _____
9. If you are not the owner or landlord of the premises, do you have the consent of the owner or landlord of the premises to use the premises for the purpose allowed in the license that you have applied for? _____
10. Are you leasing the premises? _____
11. Are you a citizen of the United States? _____
12. Have you ever been convicted of a felony under the laws of the State of Illinois?

13. Have you ever been convicted of a felony under the laws of the United States, or under Federal law? _____
14. Have you ever been convicted of keeping a house of ill fame? _____
15. Are you presently keeping a house of ill fame? _____
16. Have you ever been convicted of pandering or any other crime or misdemeanor opposed to decency or morality? _____
17. Have you ever had a liquor license issued to you under the laws of the State of Illinois, or any of its political subdivisions revoked for cause? _____
18. Are you a co-partnership? _____
19. If so, who are your partners, either overt or silent? _____
20. Are you a corporation? _____
21. If so, name all of the stockholders of your corporation who own more than 5% of stock of your corporation.

22. Does the applicant plan to actively manage the business? _____
23. If not, who will be the manager? _____

MANUSCRIPT
PORT BYRON CODE

24. Full name and address of manager _____

25. Date of birth of manager _____

26. Qualifications of manager _____

(NOTE: Manager must answer questions 11 through 17 personally and under Oath in separate application.)

27. Are any of the following persons in any way connected with the applicant in connection with the business for which this license is sought?

a. President of Board of Trustees Port Byron, Illinois _____

b. A member of the Board of Trustees of the Village of Port Byron, Illinois _____

c. Any Village Attorney _____

STATE OF ILLINOIS)

) SS:

ROCK ISLAND COUNTY)

AFFIDAVIT

We, the undersigned, being first duly sworn upon our oath, state and depose as follows:

1. We understand that the foregoing information is set forth so that we might obtain a liquor license.
2. That under the laws of the State of Illinois, the answers to questions 10 through 27 are material to the question of whether or not we are entitled under law to obtain a liquor license in the State of Illinois.
3. That we understand that making a false affidavit constitutes perjury where a false answer is made knowingly to a material question.
4. That we personally prepared the answers to the above questions.
5. That we have re-read them, and find them to be wholly true, and we wholly understand them.

Subscribed and sworn to before me this

_____ day of _____, 19____ A.D.

President of Board of Trustees or Village Clerk