

Chapter 104

ALCOHOLIC BEVERAGES

[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.]

GENERAL REFERENCES

Ordinance citation procedure — See Ch. 1, Art. V.

Adult dancing — See Ch. 100.

Dance halls — See Ch. 144.

Alcoholic beverages at special events — See Ch. 260, Art. II.

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 — 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 owning, 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 members, and similarly 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 a board of directors, executive committee or similar body chosen by the

members at their annual meeting, and no member or 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 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 container 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 alcohol 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 Control Commissioner.

§ 104-3. Persons to whom liquor not to be delivered.¹

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.

§ 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.

¹. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. VI).

§ 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.²

Except as otherwise permitted by 235 ILCS 5/6-33, it shall be a violation of this chapter 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. Responsibilities of President of Board of Trustees as Liquor Control Commissioner.

The President of the Board of Trustees shall be the Liquor Control Commissioner for the Village and shall be charged with the administration within 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, nonbeverage users, railroads, airplanes and boats:

². Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. VI).

- A. To grant and/or 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 enforcement 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 thereto 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.
- E. To receive license fees and pay the same forthwith to the Village Treasurer.³
- F. To levy fines in accordance with Article X of this chapter.⁴

§ 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 for 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 which 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

³. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. VI).

⁴. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. VI).

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 not 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 any 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.

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.⁵

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, unless the Commission determines that such person has been sufficiently rehabilitated to warrant the public trust after considering matters set forth in such person's application and the Commission's investigation. The burden of proof of sufficient rehabilitation shall be on the applicant.⁶
- E. A person who has been convicted of keeping a place of prostitution or keeping a place of juvenile prostitution, promoting prostitution that involves keeping a place of prostitution, or promoting juvenile prostitution that involves keeping a place of juvenile prostitution.⁷
- 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.

⁵. Editor's Note: The License Form is an attachment to this chapter.

⁶. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. VI).

⁷. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. VI).

- 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, any general partnership thereof, or any limited partnership thereof, owning more than 5% of the aggregate limited partner interest in such copartnership, unless each of the members of the copartnership shall be qualified to obtain a license.⁸
- J. A corporation or limited-liability company, if any officer, manager or director thereof or any stockholder or stockholders owning 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.⁹
- K. A corporation or limited-liability company, unless it is incorporated or organized in the state or unless it is a foreign corporation or foreign limited-liability company which is qualified under the Illinois Business Corporation Act to transact business in the state.¹⁰
- 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.¹¹
- 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, President of Board of Trustees or member of the 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 of alcoholic liquor. A license may be granted to such official in relation to premises that are not located within the territory subject to the jurisdiction of that official if the issuance of such license is approved by the State Liquor Control Commission. A license may be granted to a member of the Board of Trustees in relation to premises that are located within the territory subject to the jurisdiction of that official if: 1) the sale of alcoholic liquor pursuant to the license is incidental to the selling of food; 2) the issuance of the license is approved by the State Commission; 3) the issuance of the license is in accordance with all applicable local ordinances in effect where the premises are located; and 4) the official granted a license does not vote on alcoholic liquor issues pending before the Board of Trustees. Notwithstanding any provision of this Subsection O to the contrary, a member of the Board of Trustees, other than the President of the Board of Trustees, may have a direct interest in the manufacture, sale or distribution of

⁸. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. VI).

⁹. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. VI).

¹⁰. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. VI).

¹¹. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. VI).

alcoholic liquor as long as he or she is not a law enforcing public official or the Village Board President. To prevent any conflict of interest, the elected official with the direct interest in the manufacture, sale or distribution of alcoholic liquor shall not participate in any meetings, hearings or decisions on matters impacting the manufacture, sale or distribution of alcoholic liquor. Furthermore, the President of the Village may have an interest in the manufacture, sale or distribution of alcoholic liquor as long as the Board has made a local liquor control commissioner appointment that complies with the requirements of 235 ILCS 5/4-2.¹²

- 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 of a gambling offense as prescribed by any of subsections (a)(3) through (a)(11) of Section 28-1 of the Criminal Code of 1961 or the Criminal Code of 2012, as hereafter amended, or as proscribed by a statute replaced by any of the aforesaid statutory provisions.¹³
- R. A person or entity to whom or which a federal wagering stamp has been issued by the federal government, unless the person or entity is eligible to be issued a license under the Raffles Act of the Illinois Pull Tabs and Jar Games Act.¹⁴
- S. . A person who is licensed by any licensing authority as a manufacturer of beer, or any partnership, corporation, limited liability company or trust, or any subsidiary, affiliate or agent thereof, or any other form of business enterprise licensed as a manufacturer of beer, having any legal, equitable or beneficial interest, directly or indirectly, in a person licensed in this state as a distributor or importing distributor. For purposes of this Subsection S, a person who is licensed by any licensing authority as a "manufacturer of beer" shall also mean a brewer and a nonresident dealer who is also a manufacturer of beer, including a partnership, corporation, limited liability company or trust, or any subsidiary, affiliate or agent thereof, or any other form of business enterprise licensed as a manufacturer of beer.¹⁵
- T. A person who is licensed in this state as a distributor or importing distributor, or any partnership, corporation, limited liability company or trust, or any subsidiary, affiliate or agent thereof, or any other form of business enterprise licensed in this State as a distributor or importing distributor having any legal, equitable or beneficial interest, directly or indirectly, in a person licensed as a manufacturer of beer by any licensing authority, or any partnership, corporation, limited liability company or trust, or any subsidiary, affiliate or agent thereof, or any other form of business enterprise, except for a person who owns, on or after the effective date of this amendatory act of the 98th General Assembly, no more than 5% of the outstanding shares of a manufacturer of beer whose shares are publicly traded on an exchange within the meaning of the Securities Exchange Act of 1934. For the

12. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. VI).

13. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. VI).

14. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. VI).

15. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. VI).

purposes of this Subsection T, a person who is licensed by any licensing authority as a "manufacturer of beer" shall also mean a brewer and a nonresident dealer who is also a manufacturer of beer, including a partnership, corporation, limited liability company or trust, or any subsidiary, affiliate or agent thereof, or any other form of business enterprise licensed as a manufacturer of beer.¹⁶

§ 104-21. Premises ineligible for license. ¹⁷

Except in the case of wineries that have bed-and-breakfast facilities, 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 "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 other than an institution of higher learning, hospital, home for aged or indigent persons or for veterans, their spouses or children, or any military or naval station; however, this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs, or to restaurants, food shops or other places where the sale of alcoholic liquors is not the principal business carried on 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 or school where the church or school has been established within the distance of 100 feet since the issuance of the original license. In the case of a church, the distance of 100 feet shall be measured to the nearest part of any building used for worship services or educational programs and not to property boundaries.¹⁸
- C. Nothing in this section shall prohibit the issuance of a license to a church or private school to sell at retail alcoholic liquor if any such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors.¹⁹

¹⁶. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. VI); the ordinance also repealed former Subsection U, which followed.

¹⁷. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. VI).

¹⁸. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. VI).

¹⁹. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. VI).

§ 104-23. Restrictions on 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 thirty-day 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 Control 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 semiannually. Where the applicant for the license chooses 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 semiannual 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		Additional fee of \$100 annually or \$50 semiannually

§ 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. ²⁰

Class A, B, C, D or E licenses 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.

²⁰. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. VI).

The Liquor Control Commissioner shall keep a separate file for each license issued pursuant to this article 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 Control Commissioner shall see that all Class A, B, C, D or E 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 Control Commissioner to deliver said notice.²¹
- 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 article, 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

²¹. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. VI).

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 chapter until a valid license has been issued by the Liquor Control Commissioner and is properly posted in the premises licensed 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 shall be as prescribed in this article.

§ 104-31. Compliance with specific license 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.

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) Monday through Saturday, inclusive: 6:00 a.m. to 2:00 a.m.
 - (2) Sunday hours: 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) Monday through Saturday, inclusive: 6:00 a.m. to 1:00 a.m.
 - (2) Sunday hours: 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) Monday through Saturday, inclusive: 1:00 p.m. to 2:00 a.m.
 - (2) Sunday hours: 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) Monday through Saturday, inclusive: 9:00 a.m. to 2:00 a.m.
 - (2) Sunday hours: 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) Monday through Saturday, inclusive: 9:00 a.m. to 1:00 a.m.
 - (2) Sunday hours: 9:00 a.m. to 12:00 midnight.²²

§ 104-38. Class F - special license.

- A. A special license issued pursuant to this article shall entitle the licensee 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 Liquor Control Commission to revoke or suspend.

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.

²². Editor's Note: Subsection C, concerning provisions of a Class E license, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. VI).

§ 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 knew of, authorized or consented 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 licensee 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.²³

Appeals from the order of the Liquor Control Commissioner, entered pursuant to this article, shall be as provided by law in 235 ILCS 5/7-9.

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 shall remain on the licensed premises after the closing hours applicable to the class of license held by the licensee, except:²⁴

²³. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. VI).

- (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 public accommodation.

No person licensed under the provisions of this chapter 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 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, or 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 bona fide guests of members or guests in accordance with the bylaws of the club. Nothing contained in this section shall be construed to prevent any hotel from permitting 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 licensed 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 semiannual 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.

²⁴. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. VI).

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 specific words in sign or advertising.

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. Definition.

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

§ 104-54. Activities exempt.

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, packaged 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 as a part of an organized religious ceremony in an organized church.

§ 104-59. Authority and duty of licensees 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 of 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 chapter 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 as follows, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues:²⁵
- (1) Not more than \$1,000 for the first violation within a twelve-month period.
 - (2) Not more than \$1,500 for a second violation within a twelve-month period.
 - (3) Not more than \$2,500 for a third or subsequent violation within a twelve-month period.
 - (4) Not more than \$15,000 in fines during any one license period.
- 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 law enforcement officer shall, upon establishing probable cause that Article I, § 104-7, of this chapter has been violated, close the licensee's business for the remainder of the business day; ensure that all customers, patrons and employees leave the licensed premises when properly identified and not placed under arrest; gather all evidence necessary for prosecution of any violation of this chapter; issue a citation to the licensee and other person(s) in violation of the provisions of this chapter; complete a police report detailing the incident, listing probable cause, evidence seized, and identifying all subjects involved; and provide copies of all reports and citations to the Liquor Control Commissioner.
 - (3) The Liquor Control 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 \$750 for each offense, and a separate offense shall be deemed committed on each day during which a violation occurs or continues.²⁶

§ 104-64. Charging violation, prosecution.

- A. A law enforcement officer, upon establishing probable cause, shall charge a licensee or person with a violation of any provision of this chapter by delivering to that licensee or person a notice of violation charging that person with the violation.

²⁵. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. VI).

²⁶. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. VI).

- 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 law enforcing official 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.