

CITY OF LE ROY

ORDINANCE NO. 156

AN ORDINANCE AMENDING THE MUNICIPAL CODE
LE ROY, ILLINOIS, 1975, CHAPTER 34, LIQUOR,
SECTIONS 34.01 THROUGH 34.22.

ADOPTED BY THE
CITY COUNCIL
CITY OF LE ROY, IL.

This 7th day of December, 1981

Published in pamphlet form by authority of the City Council of the City of
Le Roy, McLean County, Illinois, this 8th day of December, 1981.

AN ORDINANCE AMENDING THE MUNICIPAL CODE, LE ROY, ILLINOIS, 1975, CHAPTER 34, LIQUOR, SECTIONS 34.01 THROUGH 34.22.

Whereas, the City Council of the City of LeRoy has determined that the provisions for the control of the sale and consumption of alcoholic beverages and spirits within the City of LeRoy, Illinois, as set forth under Chapter 34 of the LeRoy Municipal Code as presently constituted are inadequate to properly regulate the sale and consumption of said substances, and

Whereas, the City Council of the City of LeRoy desires to provide for the full and complete regulation of the sale and consumption of alcoholic spirits and beverages within the city,

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of LeRoy in lawful meeting assembled as follows:

Section 1: Sections 34.01 through 34.22 of Chapter 34, Municipal Code of LeRoy, Illinois 1975, are hereby repealed.

Section 2: Chapter 34, Municipal Code of LeRoy, Illinois 1975, is hereby amended by adding New Sections 34.01 through 34.37 as follows:

Section 34.01 DEFINITIONS Unless the context otherwise requires, the following terms as used in this Chapter shall be construed according to the definitions given below.

- A. "ALCOHOL". "Alcohol" means the product of distillation of any fermented liquor, whether rectified or diluted, whatever may be the origin thereof, and includes synthetic ethyl alcohol. It does not include denatured alcohol or wood alcohol.
- B. "ALCOHOLIC LIQUORS". "Alcoholic Liquors" shall mean any spirits, wine, beer, ale or other liquid containing more than one-half of one percent of alcohol by volume, which is fit for beverage purposes.
- C. "APPLICANT". "Applicant" shall include the owner of a sole-proprietorship; each partner and each person entitled to share in the profits of a partnership; each officer, member of the board of directors, shareholder, general manager, and registered agent in this state, and persons holding debenture notes or other obligations of a corporation; all officers, directors, the general manager and registered agent in Illinois, of a corporation, and all persons beneficially interested in a trust, either of which may be the deemed holder of a leasehold interest or the owner of the premises where a licensee shall conduct business under a liquor granted under this chapter; and all members and persons otherwise interested beneficially or members of a not-for-profit corporation; the owner of a rental unit where a one day sale of alcoholic liquor is to be sold in the rental unit or elsewhere on the rented premises.
- D. "BEER". "Beer" means a beverage produced by the alcoholic fermentation of an infusion or concoction of barley or other grain, malt and hops in water and includes among other things, beer, ale, stout, lager beer, porter and the like.
- E. "BOWLING ALLEY". "Bowling Alley" shall mean every establishment or building or part of an establishment or building, as the case may be, wherein the game of bowling is played with a ball and ten pins, of any substance or material, and has a minimum of eight bowling lanes.
- F. "CHANGE OF OWNERSHIP". "Change of Ownership" means:
 - (1) A change in the form of ownership; or
 - (2) A change of proprietors or addition or deletion of any partners; or
 - (3) As to a corporation, the transfer of over 50% of the stock thereof.
- G. "CITY". "City" shall mean the City of LeRoy.
- H. "CLUB". "Club" means:
 - (1) A patriotic or veterans' society organized under the laws of the United States or the State of Illinois; or
 - (2) A corporation organized under the laws of the United States or the State of Illinois not for pecuniary profit, but 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 extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodations 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 guests; provided that such club files with the Liquor Commissioner at the time of its application for a license under this ordinance two copies of a list of names and residences of its members and similarly files within ten days of the election of any additional member, his name and address; provided further that the affairs and management of the organization are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting and that no member or any officer, agent or employee of the club is paid, or directly or indirectly receives, 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 or by its board of directors or other governing body out of the general revenue of the club and which:

- (i) is affiliated with a national club or organization and/or clubs or organizations in all 50 states; or
 - (ii) maintains eating, golfing and swimming facilities on club premises for the use of members and their guests; or
 - (iii) is chartered as a not-for-profit corporation and regularly and routinely restricts admittance to the premises to members of the club and their guests.
- I. "DRUG STORE". "Drug Store" shall mean an establishment in which there is a regularly employed, full time and registered pharmacist, and where the principal business is the sale of cosmetics, drugs, medicine and pharmaceutical prescriptions.
- J. "GROCERY STORE". "Grocery Store" shall mean an establishment, the principal stock of which is one of staple and fancy groceries and of which the principal business is the sale and distribution of such stock.
- K. "HOTEL/MOTEL". "Hotel/Motel" shall mean every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food may actually be served and consumed, and where sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which twenty or more rooms are used for sleeping accommodations of such guests, and, if food is served on the premises, having one or more public dining rooms where meals are served to such guests; such sleeping accommodations and dining rooms being conducted in the same building or buildings in connection therewith and such building or buildings, structure or structures being provided with adequate and sanitary kitchen and dining room equipment and capacity, providing that 51% or more of the activity and/or 51% or more of the activity based on a dollar volume of income on an annual yearly basis of such establishment is not from the sale of alcoholic liquor at retail, as determined by the Liquor Commissioner. This definition includes motor hotels.
- L. "MINORS". "Minors" shall mean those persons as defined by the Dram Shop Act of the State of Illinois.
- M. "ORIGINAL PACKAGE". "Original Package" shall mean a bottle, flask, jug, can, cask, barrel, keg or other receptacle or container whatsoever used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and convey any alcoholic liquor or alcohol as defined herein.

- N. "PREMISES". "Premises" shall mean the property, including the ground and building or buildings, owned, leased or controlled by an applicant for or holder of a license issued in accordance with this chapter and upon which the applicant or license holder conducts the licensed activities.
- O. "RESIDENT OF THE CITY". "Resident of the City" shall mean any person living in the City of LeRoy for a period of not less than thirty days.
- P. "RESTAURANT". "Restaurant" shall mean any public place kept, used, maintained, advertised and held out to the public to be a place where meals are sold and served and where meals are actually and regularly served, without sleeping accommodations; said premises having thereon a seating capacity for a minimum of forty patrons with adequate and sanitary kitchen and dining room equipment, as defined under applicable building and zoning codes of the City of LeRoy and McLean County, Illinois, and having employed therein a sufficient number and kinds of employees to prepare, cook and serve suitable food for its guests, provided that 51% or more of the activity and/or 51% or more of the activity based on a dollar volume of income on an annual yearly basis for such establishment is not from the sale of alcoholic liquor at retail, as determined by the Liquor Commissioner.
- Q. "RETAIL SALE". "Retail Sale" shall mean the sale for the use or consumption of the item sold and not for resale of the item sold.
- R. "SALE". "Sale" shall mean the transfer, exchange or barter in any manner by any means whatsoever for consideration and includes and means all sales made by any person, whether principal, proprietor, agent, servant or employee, and includes, but is not limited to, all 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 purpose 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 storage of any alcoholic beverage.
- S. "SET-UP ESTABLISHMENT". "Set-Up Establishment" shall mean any establishment not holding a Class A, B, C or D Liquor License, which engages in any of the activities described in Section 34.01(R).
- T. "SPIRITS". "Spirits" shall mean 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.
- U. "TO SELL". "To Sell" shall mean to keep or expose for sale and to keep with intent to sell.
- V. "WINE, FORTIFIED". "Fortified wine" means any alcoholic beverage, including vinaceous liquors, obtained by the fermentation of the natural contents of fruits or vegetables, containing sugar, when fortified by the addition of alcohol or spirits, as those terms (alcohol, spirits) are defined in this chapter.
- W. "WINE UNFORTIFIED". "Unfortified Wine" means any alcoholic beverage, including vinaceous liquors, obtained by the fermentation of the natural contents of fruits or vegetables containing sugar, excluding such beverages when fortified by the addition of alcohol or spirits, as those terms (alcohol, spirits) are defined in this chapter.

Section 34.02 LICENSE REQUIRED. It shall be unlawful for any person, either by himself or his agent, or any person acting as an agent, barkeeper, clerk, employee or servant of another to sell or offer for sale at retail any alcoholic beverage or engage in any sale as defined in Section 34.01(R) of this chapter in the City or to operate a set-up establishment without first having obtained a license to do so as provided in this chapter. It shall be unlawful for any such person to sell or offer for sale any intoxicating liquors, alcoholic or malt or vinaceous liquors, or engage in any sale as defined in Section 34.01(R) of this chapter or to operate a set-up establishment in violation of the terms and conditions of such license. Applications for licenses as required in accordance with this chapter shall be made in writing to the City Liquor Control Commissioner upon forms prepared and furnished by City. Each application shall be signed and verified by the written oath or affirmation of the applicant, if an individual. If the applicant is a partnership, all partners shall sign and verify the application. In the event the applicant is a corporation or a club, all officers must sign and verify the application and indicate their official position thereon. The information recited in the application form must be verified as to each person signing the application. Such application shall be submitted and filed with the City Clerk together with a non-refundable filing fee in the amount of \$100.00, at least thirty days prior to the date that issuance of the license applied for is requested, and shall contain the following information and statements:

- A. The name, age and address of the applicant in the case of an individual; in the case of a partnership, the persons entitled to share in the profits thereof; and in the case of a corporation for profit, or club, the date of incorporation, the objects for which it was organized, the names and addresses of the officers and directors, and if a majority in interest of the stock of such corporation is owned by one person or his nominees, the name and address of such person;
- B. The citizenship of each applicant or member of the applying organization, his place of birth, and if a naturalized citizen, the time and place of his naturalization;
- C. The character of business of the applicant, and in case of a corporation or club, the objects for which it was formed;
- D. The length of time that said applicant or applicants has or have been in business of that character or in the case of a club or corporation the date on which its charter was issued.
- E. The amount of goods, wares, and merchandise on hand at the time the application is made;
- F. The location and description of the premises or place of business which is to be operated under such license; and whether or not the proposed location is within 150 feet of any church, school, hospital, home for the aged, or indigent persons;
- G. A statement whether applicant has made similar application for a similar license on premises anywhere other than those described in the current application and disposition of such previous application;
- H. Whether food for human consumption is to be sold in such place of business if the application is allowed;
- I. A statement as to whether or not the applicant or applicants, or any owner of the corporation applying, has ever been convicted of any state or federal felony;
- J. Whether the applicant, applicants, or any owner or member of the applicant is or are the owner or owners of the premises for which a license is sought and if applicant is not an owner or if one or more members or owners of applicant are not an owner of the premises, then the name of the landlord and the terms of the lease;

- K. A statement of the business and employment history of the applicant for the past ten years;
- L. Whether a previous liquor license granted by any state or subdivision thereof or by the federal government to applicant or one of its members or owners has been revoked and if so the reasons therefore;
- M. A statement that the applicant, or its owners or members, will not violate any of the laws of the State of Illinois or of the United States, or any ordinance of the City in the conduct of his or its place of business;
- N. A statement that the applicant will testify under oath to all competent, relevant and material questions propounded to him or to agents, owners or members of applicant in any hearing conducted by the Liquor Control Commissioner, either before or after the issuance of a license to applicant and that applicant's failure or the failure of agents for applicant to so testify shall be sufficient reason for the refusal to issue any such license to applicant or for the suspension or revocation of any license which has been issued to applicant;

Section 34.03 DISQUALIFICATION FOR APPLICATION FOR LICENSE. No liquor license provided for hereunder shall be issued to:

- A. A person not of legal age or under any other legal disability;
- 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 resident of the City or otherwise meets the necessary residence requirements under the laws of the State of Illinois regarding issuance of state liquor licenses;
- D. A person who is not a citizen of the United States;
- E. A person who has been convicted of a felony which occurred during the ten years preceding the date of application for issuance of a liquor license, or a person who has been convicted of a felony under any federal or state law, if the Liquor Control Commissioner determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust;
- F. A person who has been convicted of being the keeper of, or is keeping a house of ill fame;
- G. A person who has been convicted of pandering, or other crime or misdemeanor opposed to decency or morality, within the last three years preceding the date of application for a license;
- H. A person, club or corporation whose license issued under this ordinance has been revoked for cause;
- I. A person who at the time of application for renewal of any license hereunder would not be eligible for such license under a first application;
- J. A partnership, unless all of the members of such partnership shall be qualified to obtain a license;
- K. A corporation, if any stockholder, officer, manager or director thereof would not be eligible to receive a license hereunder for any reason other than United States citizenship, or if said corporation is not incorporated in Illinois unless it is a foreign corporation which is qualified under the Illinois Business Corporation Act as amended to transact business in the State of Illinois;

- L. A person whose place of business is conducted by a manager or agent unless said manager or agent possesses the same qualifications required of the applicant;
- M. A person who has been convicted of a violation of any federal or state law concerning the manufacture or sale of alcoholic liquor, after the passage of this ordinance, or shall have forfeited his bond by failure to appear in court to answer charges for any such violation;
- N. A person who does not own the premises for which a license is sought, or does not have a lease thereon for the full period for which the license is to be issued;
- O. Any law-enforcing public official, any public official of the City, any Mayor or Alderman, and no such official who shall be interested in any way, either directly or indirectly, in the manufacture, sale or distribution of alcoholic liquor;
- P. Any person, association or corporation not eligible for a state retail liquor dealer's license;
- Q. Any person who fails to furnish or falsely furnishes information or who fails to make or falsely makes statements required in the application for license as set forth in this chapter.

Section 34.04 NOTICE AND HEARING ON APPLICATION FOR LICENSE: INSPECTION OF PREMISES.

- A. Notice. Upon the filing of an application for a liquor license, the Liquor Commissioner shall fix a time and place for hearing thereon. Notice of the hearing shall be given the applicant not less than five (5) days prior to the hearing.
- B. The City Clerk, upon receipt of an application for a liquor license, shall send notice of such application to the Police Department of the City and to the McLean County Health Department. The Police Department shall investigate the background, including criminal history information, of persons interested in the applicant and shall report its findings to the Liquor Commissioner at said hearing.
- C. Hearing and Evidence. The Liquor Commissioner shall receive and may require such evidence as he may deem necessary to make findings based upon the standards and factual criteria outlined in Section 34.05 of this chapter.
- D. Report to Council. After conducting a hearing on an application for a license at which all interested persons have had an opportunity to speak, the Liquor Commissioner shall make written findings of fact and shall then make known within a reasonable time after said hearing his decision as to the issuance of the license applied for. The findings of fact shall be related to those factual criteria listed in Section 34.05 of this chapter.
- E. The City Liquor Commissioner or such person as he may appoint may inspect the premises sought to be licensed and shall report any findings to the Liquor Commissioner prior to or at the hearing.

Section 34.05 FACTUAL CRITERIA FOR ISSUANCE OF LIQUOR LICENSE. In deciding whether issuance of a license when applied for is necessary, the Liquor Commissioner shall consider:

- 1. The class of liquor license applied for;
- 2. Whether most of the establishment's anticipated gross revenue will be from the sale of alcohol or other resources; it shall be required that the principal business activity of the establishment is not the sale of alcoholic liquor at retail except for Class A and B Licenses;

3. The character and nature of the proposed establishment;
4. The general design, layout and contents of the proposed establishment;
5. The location of the proposed establishment and the probable impact of a liquor establishment at that location upon the surrounding neighborhood and the City as a whole;
6. The probable demand for the proposed liquor establishment in the City;
7. The financial responsibility of the applicant and owners if applicant is a partnership, corporation or association;
8. Whether the applicant intends to furnish live entertainment in the establishment, and if so, the nature of such entertainment;
9. Whether the proposed establishment poses any problems to the Police Department or Liquor Commissioner in the enforcement of City Ordinances or State and Federal laws;
10. Whether the applicant, or if applicant is a partnership, corporation or association then whether any partner, officer, director, owner or member of applicant has ever held a liquor license, and his or her performance as a licensee;
11. Whether a current City Liquor License has been issued for the premises sought to be licensed in the application;
12. Whether the issuance of the license applied for would be in the best interests of the City;
13. Evidence of application for and approval of application for Dram Shop insurance in such amounts as may be the minimum required under any state law or under this chapter.

Section 34.06 CONDITIONS OF CREATION. If the Liquor Control Commissioner finds that any change in applicant's plans is needed to meet the grounds for finding necessity for the issuance of a license as applied for, the Liquor Control Commissioner may make such change a condition of the creation of a license, and the failure of the applicant at any time to adhere to or perform such condition shall be grounds for revocation of applicant's license.

Section 34.07 PERMITS FOR LICENSES.

- A. Issuance of Permits. Whenever an applicant is not ready to begin immediate operation, the application shall be considered and applied for as provided above. If the Liquor Control Commissioner approves the application, he shall create a Permit For License which shall entitle the holder thereof to a liquor license when the holder is ready to begin operations subject to the other requirements of this chapter.
- B. Duration. Permits for license shall expire 180 days from the date of creation or when exchanged for a license. Permits may be renewed by the Liquor Control Commissioner for one period not to exceed 180 days for good cause shown;
- C. Effect of Creation of Permit. A permit created pursuant to this Section 34.07 shall entitle the holder thereof to a liquor license which shall be deemed created at the time the holder is ready to begin operations subject to the discretion of the Liquor Control Commissioner.

Section 34.08 TERM OF LICENSE AND PAYMENT OF FEES.

- A. Term - Liquor licenses are valid, provided all fees are paid and all

other conditions of this ordinance are met, for a fiscal year beginning the 1st day of May and ending April 30th of the succeeding year.

- B. License Fees - The fee to be paid shall be reduced in proportion to the full calendar months which have expired during the fiscal year in which the license is applied for. All license fees shall be paid in full on an annual basis and must be paid on or before the last day of the fiscal year preceding the year for which the license is to be in effect. Fees for all licenses shall be paid to the City Clerk by certified check, cashier's check, bank money order, personal money order or postal money order and the proceeds thereof shall be deposited in the General Fund of the City.

Section 34.09 CLASSIFICATION AND FEES.

- A. No license shall be issued for the sale at retail of any alcoholic liquor within 150 feet from any church, school, hospital, home for the aged, or any military or naval station. The 150 foot measurement provided in this section shall be measured from the outside perimeter of the Lot on which the establishment in which alcoholic liquor is permitted to be sold sits to the perimeter of the Lot on which the church, school, hospital, home for the aged, or military or naval station is located.
- B. All licenses shall be and are hereby divided into the following classes:
- (1) Class A Licenses - shall authorize the retail sale of alcoholic liquor on the specified premises for consumption on or off the specified premises. The annual fee for such license shall be \$1,000.00.
 - (2) Class B Licenses - shall authorize the retail sale of beer on the specified premises for consumption on or off the premises. The annual fee for such license shall be \$255.00.
 - (3) Class C Licenses - shall authorize the retail sale of alcoholic liquor on the premises specified, for consumption off the premises. The annual fee for such license shall be \$500.00.
 - (4) Class D Licenses - shall authorize the retail sale of alcoholic liquor for consumption on the specified premises only; provided, however, that the sale of food in any establishment applying for a Class D License must account for at least 65% of the total retail sales of such establishment and the sale of alcoholic liquor for consumption on the premises shall not exceed 35% of the sales for said establishment. The annual fee for such licenses shall be \$1,000.00. Notwithstanding any other provision of this chapter, the holder of a Class D license may sell alcoholic liquor within the terms of said license between the hours of 1:00 p.m. and 10:00 p.m. on Sundays.

Section 34.10 LICENSE TO BE POSTED - LOST LICENSE .

Every person or establishment licensed in accordance with the provisions of this chapter shall immediately post the license so issued in a conspicuous place on the licensed premises and shall keep such license so posted during all of the time said license is in force. Whenever such license shall be lost or destroyed a duplicate license shall be issued upon application to the City Clerk at a charge of Five Dollars (\$5.00).

Section 34.11 NATURE OF LICENSE OR PERMIT FOR LICENSEE:
RENEWALS; CESSATION OF OPERATIONS.

- A. Nature of License or Permit for License. A license or permit for license shall be purely a personal privilege, good for not to exceed one (1) fiscal year after issuance unless sooner revoked as provided in this chapter, and shall not constitute property nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable voluntarily or involuntarily or subject to being encumbered or hypothecated. Such license or permit for license shall not pass by the laws of the State of Illinois of intestate succession or under the laws of testate succession, but it shall cease upon the death or dissolution of the holder, provided that executors or administrators of the estate of any deceased holder and the trustee of any insolvent or bankrupt holder, when such estate consists in part of alcoholic liquor, may continue the business of the sale or manufacture of alcoholic liquor under the order of the appropriate court and may exercise the privileges of the deceased or insolvent or bankrupt holder after the death of such decedent or after such insolvency or bankruptcy until the expiration of such license or permit for license but not longer than one (1) year after the death, bankruptcy or insolvency of such holder.
- B. Renewals. Any holder may renew his license at the expiration thereof, provided he or it is qualified at such time as required by this chapter to receive a license and the premises for which a renewed license is sought are suitable for such activities.
- C. Applications for Renewals. All applications for the renewal of a license shall be made in writing to the Liquor Control Commissioner not later than April 1 of each year. If the information and statements contained in the original application have not changed, in lieu of an application for renewal, a license holder may file with the Liquor Control Commissioner, not later than April 1 of each year, an affidavit stating that such facts and statements have not changed.
- D. Cessation of Operations. If such license expires or is terminated in any manner provided in this chapter, said license shall cease to exist and the holder of the expired license shall immediately terminate all activities regulated under this chapter.

Section 34.12 LIST.

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

Section 34.13 NUMBER OF LICENSES.

Only four (4) Class "A" Licenses may be issued and outstanding at any one time in the City. All other classes of licenses are not restricted as to number that may be issued.

Section 34.14 CHANGE OF LOCATION AND ANNEXATION OF TERRITORY.

- A. A liquor license shall permit the sale of alcoholic beverages and sales as defined in Section 34.01 only upon the premises described

in the application and license; however, the Liquor Control Commissioner may authorize a licensee to operate temporarily at a location other than the premises at which said licensee is licensed to operate. Such permit shall be in writing, shall name the licensee, shall describe the temporary location (which shall not include street right of way) and shall state the hours of operation permitted at the temporary location. No change of location shall be permitted unless the proposed new location is a proper one for the retail sale of alcoholic liquor under the laws of the State of Illinois and the ordinances of this City.

- B. If at any time subsequent to the effective date of this ordinance any territory is annexed to the City wherein a valid license issued by the County of McLean is in existence, said license shall not be revoked or invalidated as a result of the annexation of such territory but shall be allowed to continue in the same manner as it was prior to such annexation and shall continue until the following April 30 when said license shall be renewed by the Liquor Control Commissioner as a city license in the same manner as if the licensed activity had originally been licensed under this chapter.

Section 34.15 PEDDLING.

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

Section 34.16 SANITARY CONDITIONS.

All premises used for the retail sale of alcoholic liquor or for the storage of such liquor for such sale shall be kept in a clean and sanitary condition and shall be maintained in full compliance with the ordinances regulating the condition of premises used for the storage of sale of food for human consumption. All premises used for the retail sale of alcoholic liquor for consumption on the premises shall provide separate toilets and washstands for male and female patrons and shall maintain the same in a clean and sanitary condition.

Section 34.17 EMPLOYEES - DISEASES - AGE LIMITS.

- A. It shall be unlawful for any licensee or for any officer, associate, member, representative, agent or employee of such licensee to employ in any licensed premises any person who is afflicted with, or is a carrier of, any contagious infection or venereal disease; and it shall be unlawful for any person who is afflicted with, or a carrier of, any such disease to work in or about any premises or to engage in the handling, preparation or distribution of alcoholic liquor.
- B. It shall be illegal for any liquor licensee or for any officer, associate, member, representative, agent or employee of such licensee to employ upon any premises used for the sale of alcoholic beverages any person under twenty-one (21) years of age for the purpose of drawing, pouring or mixing alcoholic beverages for the consumption of such beverages upon said premises, or tending bar or to sell or consummate the sale of any such beverages to be consumed off the licensed premises, such as but not limited to such sales at a package liquor store, a grocery store or a pizza establishment. It shall be illegal for any person under twenty-one (21) years of age to be so employed as specified in this paragraph.

Section 34.18 SOLICITATION OF DRINKS PROHIBITED.

No licensee shall employ or permit any person to solicit any other person to purchase the solicitor a drink or drinks in or about any premises offering alcoholic or malt or vinaceous beverages for sale.

Section 34.19 SERVING, ETC. TO PERSONS IN MOTOR VEHICLES.

No licensee, his agent, employee, officer, associate, member or representative, shall serve, give or in any manner be concerned with placing any alcoholic liquor in or upon or about any motor vehicle or to any occupant of a motor vehicle, whether such vehicle is moving or parked or is at a curb or in a public place or upon the licensee's premises or other private place except in the original package and with the seal unbroken.

Section 34.20 GAMBLING OR DISORDERLY CONDUCT.

It shall be unlawful for any licensee, or for any officer, associate, member, representative, agent or employee of such licensee to permit or allow anyone to play for money, or other valuable thing, at any game involving cards, dice or checks, or with any other article, instrument or thing whatsoever, which may be used for the purpose of playing or betting upon or winning or losing money or any other thing or article of value or to bet on any game others may be playing upon any premises licensed under this chapter, except as permitted by state law. No gambling device shall be kept or used upon any premises licensed hereunder. No riotous, disorderly, indecent or offensive conduct of any kind shall be allowed in or about the premises licensed hereunder.

Section 34.21 VIEW FROM STREET.

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

Section 34.22 OPEN CONTAINERS - NOT TO BE REMOVED FROM PREMISES.

No licensee or officer, employee, member, representative, associate or agent of a licensee shall permit any person on the licensed premises to leave the licensed premises with any open container containing any alcoholic beverage.

Section 34.23 CONSUMPTION, POSSESSION OR AVAILABILITY OF OPENED ALCOHOLIC LIQUOR AFTER AUTHORIZED SALE HOURS.

It shall be unlawful for any licensee to permit or allow any bottle, glass, cup, pitcher, tumbler or other container for or containing alcoholic liquor to remain in the possession of any customer or at any location accessible to customers before or after the hours during which the sale of such alcoholic liquor is permitted.

Section 34.24 NO SALE, GIFT OR DELIVERY TO OR BY A PERSON UNDER THE AGE OF TWENTY-ONE YEARS OR AN INCOMPETENT - ILLEGAL PURCHASER PROCUREMENT - ILLEGAL POSSESSION - PARENTS' RESPONSIBILITY.

- A. It is unlawful for any licensee or any officer, associate, member, representative, agent or employee of such licensee to sell, give, deliver or serve any alcoholic liquor to any person under the age of twenty-one (21) years or to any intoxicated person or to any person known to be a spendthrift, insane, mentally ill, mentally deficient or an habitual drunkard.
- B. It shall be unlawful for any person under the age of twenty-one (21) years to purchase, accept or procure or to attempt to purchase, accept or procure any alcoholic liquor from any retail liquor dealer in the city or from any other person.
- C. It shall be unlawful for any person to purchase or otherwise obtain alcoholic liquor and then to sell, give or deliver such alcoholic liquor to another person under the age of twenty-one (21) years.
- D. It shall be illegal for any person to directly or indirectly have any alcoholic beverages sold, given or delivered to another person under twenty-one (21) years of age or to permit the sale, gift or delivery of any alcoholic beverage to another person under twenty-one (21) years of age.
- E. It shall be illegal for any person to have any alcoholic beverage in an open container in his or her possession on any street or highway or upon any other public property within the City.
- F. It shall be unlawful for any person to whom the sale, gift, delivery or service of any alcoholic liquor is prohibited because of age to consume or possess in any manner, including by consumption, any such alcoholic liquor, except as otherwise provided by law. The violation referred to in this section which relates to the possession of alcohol after it has been consumed may be identified as the "illegal possession of alcohol by consumption" or by the number of the chapter and section of this ordinance. This violation may be proven by evidence which indicates that the breath of the person charged with such offense had a smell associated generally or specifically with any alcoholic liquor and no additional evidence relating thereto shall be necessary to find the Defendant to be in violation of this ordinance. It shall not be necessary to show that the person charged with an offense hereunder was at the time in question under the influence of any alcoholic liquor in any manner, but such evidence shall be admissible to prove a violation of this ordinance.

The possession and dispensing or consumption by a person under the age of 21 years of an alcoholic beverage in the performance of a religious service or ceremony or the consumption of alcoholic liquor by a person under the age of 21 years under the direct supervision and direct approval of the parents or parent of such person in the privacy of the parents' home is not prohibited by this ordinance, and this provision shall be considered only as a defense for which the burden of proving that it applies to and was reasonably relied upon in a particular case shall be on the person charged with an offense under this chapter.

- G. It shall be unlawful for any parent or guardian to suffer or permit his or her child or ward under the age of 21 years to violate any provisions of this chapter.

Section 34.25 BOND

Each applicant desiring a liquor license shall submit with his or its application a bond to the City of Elroy in the penal sum of One Thousand Dollars (\$1,000.00) conditioned upon the faithful compliance with the terms of this chapter. Said bond to be accompanied by evidence of a surety on the bond; the surety to be a solvent surety company licensed to be a solvent surety company licensed.

to do business in the State of Illinois, to be approved by the Liquor Control Commissioner. Said bond shall further be conditioned on the faithful observance by the licensee of the provisions of the laws of the State of Illinois and the United States of America applying to the sale and possession of intoxicating liquor and shall further be conditioned upon the payment of any judgment for damages and costs that may be recovered against said licensee in accordance with the laws of the State of Illinois and the ordinances of this City.

Section 34.26 NO UNDER AGE OR INTOXICATED PERSON IN LICENSED PREMISES - EXCEPTIONS AND BURDEN OF PROOF.

- A. It shall be unlawful for any intoxicated person or any person under the age of 21 years to be or remain in any premises which are licensed hereunder except that any person under the age of 21 years may be or remain on the premises:
- (1) if accompanied by his or her parent or parents or legally appointed guardians; or
 - (2) if more than 50% of the gross business income received by the licensed establishment results from the sale of services or commodities other than alcoholic liquor; or
 - (3) if legally employed by the license holder of the premises or by an authorized representative thereof as provided in accordance with this chapter and if the person is actively performing his or her duties as a legal employee at the time in question.
- B. It shall be unlawful for any licensee hereunder or the licensee's officer, partner, associate, representative, agent or employee to suffer or permit any intoxicated person or any person under the age of 21 years to be or remain upon any premises licensed in accordance with this chapter except that any person under the age of 21 years may be or remain in such premises:
- (1) if accompanied by his or her parent or parents or legally appointed guardians; or
 - (2) if more than 50% of the gross business income received by the licensed establishment results from the sale of services or commodities other than alcoholic liquor; or
 - (3) if legally employed by the license holder of the premises or by an authorized representative thereof as provided in accordance with this chapter and if the person is actively performing his or her duties as a legal employee at the time in question.
- C. The Defendant or Respondent in any court or administrative hearing held in connection with an alleged violation of any of the provisions of this section shall have the burden of proving as a defense that subparagraphs (1), (2) or (3) of the preceding paragraphs (A) and (B) apply to the case and the prosecutor shall have no responsibility to prove that any of said exceptions do not apply.

Section 34.27 DETERMINATION OF AGE AND IDENTITY - FALSIFICATION - CHECKING AS DEFENSE - BURDEN OF PROOF.

- A. If a licensee or any officer, associate, member, representative, agent or employee of such licensee believes there is any reason whatsoever to suspect or believe that the sale, gift, delivery or service to a

prospective recipient of any alcoholic liquor is prohibited by this chapter because of the age of such person, he or she shall demand written evidence, and may not rely on oral evidence, of the prospective recipient's age and identity before making such sale, gift, delivery or service. Any person from whom such written evidence is demanded shall forthwith display his or her motor vehicle operator's license, federal selective service card, federal armed forces identification card or other written evidence of age and identity issued by a public officer in the performance of his official duties.

If any such person fails to present such written evidence, he or she shall be considered to be an underage person who is not entitled to any such alcoholic liquor. However, if such written evidence of age and identity is produced and shows the prospective recipient to be of the age required to purchase such alcoholic liquor and if such a sale, gift, delivery or service of alcoholic liquor is made in reasonable reliance thereon, then the licensee and his representative shall not be subject to the penalty provisions of this chapter. The burden of proving that a demand of written evidence of the age and identity was made, that such written evidence was shown, the content of the written evidence presented, and the reasonableness of the reliance thereon shall be on the person charged with an offense under this chapter.

- B. It shall be unlawful for any person whomsoever to present or offer to any licensee or to any officer, associate, member, representative, agent or employee of a licensee or to any other person any written, printed or photostatic evidence of his or her age and identity or that of any other person which is false or fraudulent, for the purpose of ordering, purchasing, attempting to purchase, or otherwise procuring or attempting to procure any alcoholic liquor of any kind or description in violation of Section 34.24 of this chapter, or to have in his or her possession any false or fraudulent written, printed or photostatic evidence of age and identity. It shall be unlawful for any person to sell, give or otherwise furnish to any other person any type of such false or fraudulent written, printed or photostated evidence of age or identity.
- C. No person shall transfer, alter or deface any written evidence of age or identity issued by a public officer in the performance of his official duties, use such evidence of another, carry or use false or forged identification or obtain such written evidence by means of false information.

Section 34.28 ACTS OF AGENTS OR EMPLOYEES; LIABILITY OF LICENSEE:
KNOWLEDGE.

Every act or omission of whatsoever nature, constituting a violation of any of the provisions of this act by any officer, director, manager or other agent or employee of any licensee shall be deemed and held to be the act of such employer and licensee and said employer or licensee shall be punishable in the same manner as if said act or omission had been done or omitted by him or it personally.

Section 34.29 ACCESS FROM LICENSEE'S PREMISES TO DWELLING QUARTERS.

Except in the case of hotels and clubs, no alcoholic liquor shall be sold at retail upon the premises if there is any access from the premises which leads to any other portion of the same building or structure used for dwelling or lodging purposes and which is permitted to be used or kept accessible for use by the public. This provision shall not prevent any connection between such premises and such other portion of the building or structures which is used only by the licensee, his family and personal guests.

Section 34.30 CLOSING HOURS.

It shall be unlawful to sell or offer for sale at retail any alcoholic liquor in the City between the hours of 1:00 A.M. and 7:00 A.M. on any day or between the hours of 1:00 A.M. Sunday and 7:00 A.M. on Monday following. It shall be unlawful to keep open for business or to admit the public to any premises in or on which alcoholic liquor is sold at retail during the hours within which the sale of liquor is prohibited. In the case

of restaurants, such establishments may be kept open during such hours, but no alcoholic liquor may be sold to or consumed by the public during such hours unless such restaurant is the holder of a Class "D" License.

Section 34.31 LOCAL LIQUOR CONTROL COMMISSIONER - DESIGNATION;
ENFORCEMENT OF STATE LAW AND LOCAL ORDINANCES,
HEARING PROCEDURES.

- A. The Mayor of the City shall be the local liquor control commissioner and shall be charged with the administration of the appropriate provisions of the Illinois Liquor Control Act, of this Chapter, and of such ordinances, resolutions, rules and regulations relating to alcoholic liquor as hereafter may be adopted.
- B. Powers and Duties Generally - The local Liquor Control Commissioner shall have the following powers and duties:
- (1) To grant, suspend, and revoke for cause, all licenses created under this Chapter for premises within the City's jurisdiction.
 - (2) To enter upon and to authorize any law enforcement officer to enter at any time upon any premises licensed hereunder to determine whether any of the provisions of the Illinois Liquor Control Act or of this Code, or any rules and regulations adopted by the Liquor Control Commissioner or by the state commission have been or are being violated.
 - (3) To exercise all the powers, functions and duties which now or hereafter may be granted to him by the Illinois Liquor Control Act, regulations of the Illinois State Liquor Control Commission or by this Chapter.
- C. Suspension and Revocation of License. To suspend and to revoke any license issued under this Chapter for any of the following reasons:
- (1) That the licensee has violated any of the laws of the United States relating to the sale of alcoholic liquor or any of the provisions of the Illinois Liquor Control Act, or any of the provisions of this Chapter, or any applicable rules and regulations adopted by the local Liquor Control Commissioner or by the state commission.
 - (2) The willful making of any false statement as to a material fact in the application for a license under this Chapter.
 - (3) The permitting of any violation of state law or the LeRoy City Code by any person upon the licensed premises.
 - (4) Failure to use and maintain the licensed premises in compliance with all codes and regulations pertaining to health and safety applicable within the City of LeRoy, including but not limited to building, plumbing, electrical and fire codes, zoning ordinances, McLean County health ordinances, and all regulations and orders of the McLean County Health Department.
 - (5) Refusal of any licensee to testify under oath to all relevant and material questions propounded to him at any hearing conducted by the local Liquor Control Commission.
 - (6) Suspension or revocation of the license of the licensee by the state commission.
 - (7) Payment by the licensee of the special federal tax imposed under Section 4411 (Wagering) or Section 4461 (Coin Operated Gaming Devices) of the Internal Revenue Code of 1954, as amended.
 - (8) Maintaining or operating a dram shop upon any premises registered as a place of business where activities are carried on which make

the person or persons carrying on such activities subject to the special federal tax on wagering (Section 4411, Internal Revenue Code).

9. Having on the premises where the licensee carries on his or its business any coin operated gaming device subject to the special federal tax imposed under Section 4461, Internal Revenue Code, whether or not said tax is paid.
 10. Permitting any gambling device or equipment used for the purpose of gambling to be located on the licensed premises.
 11. Failure to adhere to any changes or requirements imposed as a condition of the license being issued by the Liquor Control Commissioner pursuant to Section 34.06 of this Chapter.
- D. Examination of Applicants - To examine or cause to be examined under oath any applicant for a local license or for a renewal thereof or any licensee upon whom notice of hearing has been served, to hear testimony and take proof for his information in the performance of his duties, and for such purposes to issue subpoenas which shall be effective in any part of the state.
- E. Investigation of Complaints - To receive the complaint of any resident of the City and to investigate upon such complaint or to investigate upon his own initiative any alleged violation of any law of the United States relating to the sale of alcoholic liquor or any of the provisions of the Illinois Liquor Control Act or of this code, or any applicable rules and regulations adopted by the local Liquor Control Commissioner or by the state commission.
- F. Rules and Regulations - To make, promulgate, alter, amend, repeal and enforce such reasonable rules and regulations relating to the administration and enforcement of the provisions of this Chapter as may be deemed by him to be desirable.
- G. To order the license classification of any establishment to be changed upon application as provided under this Chapter or upon his own initiative if he finds, after hearing evidence, that an establishment fails to qualify for the license it holds.

Section 34.32 HEARINGS

For the purpose of administering and enforcing the provisions of this Chapter, and proposing amendments thereto to the City Council, the local Liquor Control Commissioner may in his discretion hold public hearings at any time within the City concerning any matters embraced or which may be embraced within this Chapter. Licenses may be revoked or suspended by the local Liquor Control Commissioner only after a public hearing as provided by the applicable sections of this Chapter, and of the Liquor Control Act of the State of Illinois.

Hearing Procedures:

- A. The licensee shall at all times be afforded due process including the right to subpoena witnesses in his or its own behalf, the right to hear witnesses and evidence given against him or it, the right to counsel, the right to cross-examination and the right to demand a written specification of charges against him or it in advance of the hearing.
- B. Witnesses shall be sworn, but in all other respects, the hearings shall be informal and strict rules of evidence shall not apply.

- C. A certified court reporter shall take the complete record of all evidence, testimony and comments before the local Liquor Control Commissioner and, upon notification by the Commissioner, shall prepare a certified official record of the proceedings, suitable for filing with the Illinois Liquor Control Commission, and so that all reviews of the proceedings of the local Liquor Control Commissioner of the City of LeRoy be "on the record" so that the scope of review by the Illinois State Liquor Control Commission shall be limited to those instances stated therein. The cost of taking and preparing the certified official record of the proceedings shall be shared equally between the City and the licensee, with payment of the licensee's share to be made to the City at or before the time the order of the local Liquor Control Commissioner becomes effective, provided, however, if the order, action or decision of the local Liquor Control Commissioner is reversed by the state commission or a court of law, any such payment made by the licensee shall be returned to him or to it.
- D. No person shall make a false statement to the local Liquor Control Commissioner, material to the issue or point in question, knowing such statement to be false, under penalty of perjury or false swearing.

Section 34.33

In all cases where, in the opinion of the Liquor Control Commissioner, the public peace is likely to be endangered by the keeping open of places where intoxicating liquor is sold at retail, it shall be lawful for the local Liquor Control Commissioner to issue his proclamation under the seal of the City, commanding and enjoining all persons so licensed by said City and their servants and agents to close such places of business for such time as the local Liquor Control Commissioner may deem necessary and neither to sell, give away or suffer to be drunk any of said liquors in or about their premises during the time mentioned in said proclamations; and if any person shall disobey said proclamation by keeping open such place of business, or by selling, giving away or suffering to be drunk in or about his or its premises any of the said liquors, he, she or it shall be deemed to be in violation of the sections of this Chapter.

Section 34.34

After public hearing as provided herein and if the local Liquor Control Commissioner determines that a licensee has violated any provisions of this Chapter or any state law pertaining to the sale of alcoholic liquor, the commissioner may direct a written reprimand to the licensee (a copy of said reprimand shall be made a part of the liquor license application file which is preserved in the office of the City Clerk), or the local Liquor Control Commissioner may suspend the liquor license of such licensee for a period of not more than 30 days or may revoke the liquor license of such licensee. In making his determination to reprimand, suspend or revoke or in determining the length of a suspension imposed, the local Liquor Control Commissioner may consider the nature of the violation, past violations of the licensee occurring within the immediately preceding three-year period, notwithstanding the fact that a previous reprimand or suspension might have been imposed, past action of the commissioner in comparable situations and the factual situation and circumstances surrounding the violation as presented at the public hearing.

Section 34.35 ABATEMENT OF PLACE USED IN VIOLATION.

Every lot, parcel or tract of land, and every building, structure, establishment, or place whatsoever, together with all furniture, fixtures, ornament and machinery located therein, wherein there shall be conducted any unlawful sale of alcoholic liquor or in any other manner used in violation of the provisions of this article is hereby declared to be a public nuisance and shall be abated as provided by the laws of this state and by the code of the City of LeRoy for the abatement of public nuisances.

Section 34.36 PENALTY.

Any person, firm or corporation violating any provision of this Chapter shall, unless otherwise provided in this Chapter, be fined not less than \$100.00 nor more than \$500.00 for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Section 34.37 SEVERABILITY.

Each section, paragraph, sentence, clause and provision of this ordinance is separate and if any provision is held unconstitutional or invalid for any reason such holding shall not affect the remainder of this ordinance or any part hereof.

Section 3.

This ordinance shall be in full force and effect after its passage, approval, and publication in pamphlet form as required by law and by the ordinances of the City of LeRoy.

PASSED by the Mayor and Council of the City of LeRoy, Illinois, on the 7th day of December, 1981.

AYES Loren Bean, Gary Bulta, Michael Hanafin, Jon Winston, David King
Mayor Jack Moss

NAYS None

Jeanita Bagley
City Clerk of the City of LeRoy, Illinois

Approved by the Mayor of the City of LeRoy, Illinois, this 7th day of December, 1981.

Jack W. Moss
Mayor of the City of LeRoy, Illinois

ATTEST:

(Seal)

Jeanita Bagley
City Clerk of the City of LeRoy, Illinois.

STATE OF ILLINOIS)
) SS.
COUNTY OF MC LEAN)

I, Juanita Dagley, do hereby certify that I am the duly qualified and acting City Clerk of the City of LeRoy, McLean County, Illinois; and as such City Clerk that I am the keeper of the records and files of the Mayor and the City Council of said City.

I do further certify that the foregoing is a true, correct and complete copy of an ordinance entitled:

AN ORDINANCE AMENDING THE MUNICIPAL CODE, LE ROY, ILLINOIS, 1975, CHAPTER 34, LIQUOR, SECTIONS 34.01 through 34.22.

That said ordinance was adopted by the Mayor and City Council of the City of LeRoy at a regular meeting on the 7th day of December, 1981, and that a faithful record of said ordinance has been made in the record books.

In Witness Whereof, I have hereunto set my official hand and seal of office this 7th day of December, 1981.

Juanita Dagley
City Clerk

(Seal)

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CERTIFICATE

I, Juanita Dagley, certify that I am the duly elected and acting municipal clerk of the City of Le Roy, McLean County, Illinois.

I further certify that on December 7, 1981, the Corporate Authorities of such municipality passed and approved Ordinance No. 156, entitled AN ORDINANCE AMENDING THE MUNICIPAL CODE, LE ROY, ILLINOIS, 1975, CHAPTER 34, LIQUOR, SECTIONS 34.01 thru 34.22

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 156, including the Ordinance and a cover sheet thereof was prepared, and a copy of such Ordinance was posted in the City hall, commencing on December 8, 1981, and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the City Clerk.

DATED at Le Roy, Illinois, this 8th day of December, 1981.

(SEAL)

Juanita Dagley
City Clerk