

Montgomery County Resolution 04- 2015

Amending

Montgomery County Resolution 1991 - 11

RESOLUTION TO REGULATE THE SALE AT RETAIL OF ALCOHOLIC LIQUOR IN THE TERRITORY IN THE COUNTY OF MONTGOMERY, ILLINOIS: OUTSIDE THE LIMITS OF ANY CITY: VILLAGE OR INCORPORATED TOWN.

Section 1. (Definitions) Unless the context otherwise requires, the following terms as used in this resolution shall be construed according to the definitions given below.

(1) The word "alcohol" means the product of distillation of any fermented liquid whether rectified or diluted, whatever may be the origin thereof, and includes synthetic ethyl alcohol. It does not include denatured alcohol or wood alcohol.

(2) The word "spirits" means any beverage which contains alcohol obtained by distillation mixed with water or other substance in solution, and includes brandy rum, whiskey, gin, or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with alcohol or other substances.

(3) The word "wine" means any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables containing sugar, including such beverages when fortified by the addition of alcohol or spirits as above defined.

(4) The word "beer" means a beverage obtained by alcoholic fermentation of any 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.

(5) The phrase "alcoholic liquor" includes the four varieties of liquor above defined "alcohol, spirits, wine and beer", and every liquid or solid patented or not containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being. The provisions of this resolution shall not apply to alcohol used in the manufacture of denatured alcohol, not to any liquid or solid containing one-half (1/2) of one percent (1%) or less of alcohol by volume. Nor shall the provisions of this

resolution apply to flavoring extracts, concentrates, syrups, or medicinal, mechanical scientific, culinary, or toilet preparations or food products unfit for beverage purposes, but the provisions of this resolution shall not be construed to exclude or not apply to alcoholic liquor used in the manufacture, preparation or compounding of such products. None of the provisions of this resolution shall apply to wine intended for use and used by any church or religious organization for sacramental purposes.

(6) The word "retailer" means a person who sells or offers for sale alcoholic liquor for use or consumption and not for resale in any form.

(7) "Sell at retail" and "sale at retail" refer to any means of sales for use of consumption, and not for resale in any form.

(8) The word "sale" means any transfer, exchange or barter, in any manner or by means of whatsoever for a consideration, and includes and means all sales made by any person whether principal, proprietor, agent, servant or employee.

(9) The words "to sell" includes to solicit or receive an order for, to keep or expose for sale, and to keep with intent to sell.

(10) The word "restaurant" means 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 without sleeping accommodations, such spaces being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare cook and serve suitable food for its guests.

(11) The word "club" means a corporation organized under the laws of this State not for pecuniary profit, solely for the pro-motion 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 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; PROVIDED, that such club files with the local commission at the time of its application for a license under this resolution two copies of a list of names and residences of its members, and similarly files within ten days of the election of any additional members, his name and address; and PROVIDED FURTHER, that its affairs and management 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 clubs paid, or directly or indirectly received in the form of salary or other compensation, any profits from the distribution or sale of alcoholic liquor to the club or the members of the club or its guests introduced by members beyond the amount of such salary as may be fixed and voted at any annual meeting by the members of its board of directors or other governing body out of the general revenue of the club.

(12) The word "hotel" means every building or other structure kept, used, maintained, advertised and held out to the public as 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 twenty-five or more rooms are used for the sleeping accommodations of such guests, and 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.

Section 2. (License Required) It shall be unlawful, to sell or offer for sale at retail in that territory of Montgomery County, Illinois, outside the limits of any city, village or incorporated town, any alcoholic liquor without having a retail liquor dealer's license or to do so in violation of the terms of any such license.

Section 3. (Application) (a) Applications for such licenses shall be made to the Chairman of the County Board in writing under oath or affirmation stating:

- (1) The name, age and address of the applicant in the case of an individual; in the case of a co-partnership, the persons entitled to share in the profits thereof and in the case of a corporation for profit or a club, the date of incorporation, the objects for which it was organized, the names and addresses of the officers and directors, and if above five percent of the stock of such corporation is owned by any person or his nominees, the name of such person.
- (2) The citizenship of the applicant, his place of birth, and if a naturalized citizen the time and place of his naturalization.
- (3) The character of business of the applicant; and in case of a corporation, the object for which it was formed.
- (4) The length of time that said applicant has been in said business of that character, or in the case of a corporation, the date of which its charter was issued.
- (5) The amount of goods, wares and merchandise on hand at the time application is made.
- (6) The location and description of the premises or place of business which is to be operated under such license.
- (7) A statement whether applicant has made similar application for a similar other license on premises other than described in this application and the disposition of such application.
- (8) Whether applicant has ever been convicted of a felony, of keeping a place of prostitution, of pandering, or any other crime or misdemeanor opposed to decency or morality.
- (9) Whether a previous license by any state or sub-division thereof, or by the federal government has been revoked and the reason therefore.
- (10) That he will not violate any of the laws of the State of Illinois, or of the United States in the conduct of his place of business.
- (11) That he has not received or borrowed money or anything else of value and that he will not receive or borrow money or anything else of value (other than merchandising credit in the ordinary course of business for a period not to exceed ninety days) directly or indirectly from any manufacturer, importing distributor or distributor representative of any such manufacturer, importing distributor or

distributor, nor be a party in any way directly or indirectly to any violation by a manufacturer, distributor or importing distributor, as set forth in Section 5 of Article 6 of the Illinois Liquor Control Law.

(12) A statement the applicant is not disqualified to receive a license by reason of any matters or thing contained in this resolution.

(a) In addition to the foregoing information, such application shall contain such other further information as the local liquor commissioner may by rule or regulation, not inconsistent with law, prescribe.

If said application is made in behalf of a partnership, firm, association, club or corporation, then the same shall be signed and sworn to be all members of such partnership or the President and Secretary of such corporation.

(b) All applications to the local commissioner shall be filed in duplicate and shall be accompanied by the deposit of a certified or cashier's check of a bank within the State, United States Postal money order, or cash in the full amount of the license fee required to be paid for the license applied for which fee shall be returned to such applicant if such application is denied.

(c) Every applicant for a license to sell at retail shall file with his application a joint and several bond executed by good and sufficient sureties residing or licensed to do business within the State of Illinois to the local commission in the amount of five times the annual license fee conditioned upon true and faithful compliance by said licensee with all of the provisions of this resolution. **At the time of license renewal, the County will waive its bond requirement for any renewal year if the current license holder provides written proof of receipt from the Illinois Department of Revenue of a current "Notice of Termination of Bond for Liquor Gallonage Tax" form.**

Section 4. (Restriction on Licenses) No retail license shall be issued by the local commission to:

(1) A person, corporation or other business entity which does not meet the residency requirements of the Illinois Liquor Control Act which is Chapter 43, Illinois Revised Statutes.

(2) A person whose license issued under this resolution or its predecessor has been revoked for cause.

(3) A person who has been convicted of a felony under the Laws of the State of Illinois or a violation of this Ordinance or the Illinois Liquor Control Act.

(4) Any person, association, or corporation not eligible for a retail liquor dealer's license under Article VI of the Illinois Liquor Control Act or any other law of the State of Illinois.

Section 5. (Annual License Fee) The annual fee for such license for the sale of alcoholic liquors at retail shall be six hundred dollars. Each such license shall terminate on the 30th day of April next following its issuance. The fee to be paid shall be reduced in proportion to the full calendar months which have expired in the licensing year prior to the issuance of the license.

Section 6. (Disposition of Fees) All such fees shall be paid to the Chairman of the County Board at the time application is made, and shall be forthwith turned over to the County Treasurer. In the event the license applied for is denied the fee, less 10% charge for processing, shall be returned to the applicant; if the license is granted then the fee shall be deposited to the credit of the appropriate fund of said County.

Section 7. (List of Licensees) The local liquor control commissioner shall keep or cause to be kept a complete record of all such licenses issued; and shall furnish the County Clerk, Sheriff and State's Attorney each with a copy thereof; upon the issuance of any new license or the revocation of any old license, the Chairman of the County Board shall give written notice of such action to each of these officers within forty-eight hours of such action.

Section 8. (Closing Hours-Sundays) It shall be unlawful to sell or offer for sale at retail any alcoholic liquor in the County of Montgomery in that territory outside the corporate limits of any city, village, or incorporated town between the hours of 2:00 o'clock A. M. and 6:00 o'clock A. M. on each and every day of the week.

Section 9. (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 kept in full compliance with all laws regulating the condition of premises used for the storage or sale of food for human consumption.

Section 10. (Employees) It shall be unlawful to employ in any premises maintained principally for the retail sale of alcoholic liquor any person not of an age lawfully to purchase every variety of alcoholic liquor there for sale, or to employ any person in any premises in the handling, preparation, or distribution of any variety of liquor, which he is not of an age lawfully to purchase.

Section 11. (Employees) It shall be unlawful to employ in any premises used for the retail sale of alcoholic liquor any person who is afflicted with or who is a carrier of any contagious, infectious or venereal disease; and it shall be unlawful for any person who is afflicted or a carrier of any such disease to work in or about any premises or to engage in any way in the handling, preparation or distribution of such liquor.

Section 12. The Chairman of the County Board shall be the Local Liquor Control Commissioner for that territory of the County of Montgomery, Illinois located outside the corporate limits of any city, village or incorporated town of said County, and shall be charged with the administration in his jurisdiction of the appropriate provisions of this resolution and of such other resolutions relating to alcoholic liquor as may be enacted; PROVIDED, however, that the said chairman of the County Board may appoint a person or persons to assist him in the exercise of the powers and performance of the duties herein provided for such Local Liquor Control Commissioner.

Section 13. When in this resolution the Local Liquor Control Commissioner is referred to, it shall include any committee or other agency appointed by such Local Liquor Control Commissioner with the consent of a majority of the County Board. The Local Liquor Control Commissioner shall also have the following powers, functions and duties with respect to retail licenses:

- (a) To grant, to suspend for not more than thirty days, and to revoke for cause all local licenses issued to persons or corporations for premises within his jurisdiction.
- (b) To enter or to authorize any law enforcing officer to enter at any time upon any premises licensed hereunder to determine whether any of the provisions of this resolution or any rules or regulations adopted by the Local Liquor Control Commissioner or by the State Commission have been or are being violated, and at such time to examine said premises of said license in connection therewith.

(c) To receive complaint from any citizen within his jurisdiction that any of the provisions of the Illinois Liquor Control Act or of this ordinance or of rules or regulations adopted pursuant hereto have been or are being violated, and to act upon such complaints in the manner provided by the laws of this state.

(d) To receive local license fees and pay the same forthwith to the County Treasurer.

(d) To examine or cause to be examined either by himself or his duly authorized agent under oath or affirmation any applicant for a local license or for a renewal thereof, or any licensee upon whom notice of revocation has been served in the manner herein provided, and to examine or cause to be examined the books and records of any such applicants 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 this state.

Section 14. (Gifts)

(1) Neither the local Liquor Control Commissioner, nor any agent employed by him, nor any member of the County Board shall solicit or accept any gratuity, emolument or employment from any person or corporation licensed under this ordinance, or from any officer, agent or employee thereof, and every license holder and every officer, agent and employee thereof is hereby forbidden to offer to any such Liquor Control Commissioner, or his agents, any member of the County Board or law enforcement officer, any gift, gratuity, emolument or employment.

(2) Neither the Local Liquor Commissioner, nor any agent employed by him, nor any member of the County Board shall solicit from, nor recommend to, or any person or corporation licensed under this ordinance the appointment of any person to any place or position.

(3) If the County Liquor Commissioner or his agent or any member of the County Board of Supervisors shall violate any provision of this Section he shall be removed from office and be thereafter ineligible to hold such office. If any person or corporation holding a license under this ordinance shall violate the provisions of this section he shall lose his license and be thereafter ineligible to acquire a license under this ordinance.

Section 15. (Penalty) Any person, firm or corporation who sells alcoholic liquor at retail in the County of

Montgomery, Illinois, outside the corporate limits of any city, village or incorporated town without having first obtained a valid license so to do under the provisions of this resolution or shall make any false statements or other violation of any of the provisions of this resolution in obtaining any license hereunder or who, having obtained a license hereunder shall violate any of the provisions of this resolution, with respect to the sale at retail of alcoholic liquor or with respect to the maintenance of the licensed premises, or shall violate any other provisions of this resolution, shall for a first offense be fined not more than Five Hundred Dollars (\$500.00) and for a second or subsequent offense shall be fined not more than Five Hundred Dollars (\$500.00) and/or be imprisoned in other than the penitentiary not more than six months; or be both fined and imprisoned. Each day any person engages in business as a retailer in violation of the provisions of this resolution shall constitute a separate offense.

Section 16. (Revocation) Whenever any licensee shall be convicted of any violation of any of the provisions of this resolution, the license of said licensee may in the discretion of the local commissioner, be revoked and forfeited, and all fees paid thereon shall be forfeited, and the bond given by said licensee to secure such licensee's faithful compliance with the terms of this resolution, shall be forfeited and it shall thereafter be unlawful and shall constitute a further violation of this act for said licensee to continue to operate under said license.

Section 17. (Repeal) A resolution entitled "Resolution to Regulate the Sale at Retail of Alcoholic Liquor in the Territory in the County of Montgomery, Illinois; outside the limits of any city, village or incorporate town," and adopted by the Board of Supervisors of Montgomery County, Illinois on March 13, 1934 is hereby repealed and all resolutions and parts thereof heretofore adopted in conflict with any provision of this resolution are hereby repealed insofar as such conflict exists.

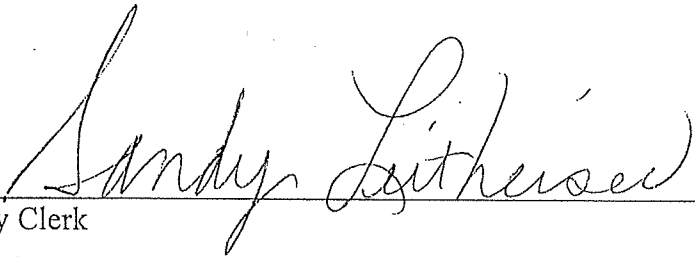
Section 18. (Severability) If any of the provisions of this resolution shall be held invalid, it shall not be construed to invalidate the remaining provisions of this resolution.

Section 19. (Time of Take Effect) This resolution shall take effect and be in force and effect upon and after its passage and approval as provided by law.

Dated this 12th day of May 2015.


Chairman of the County Board

Attest:


County Clerk