

ORDINANCE NO. 529-13

AN ORDINANCE AMENDING THE LIQUOR CONTROL ORDINANCE

WHEREAS, the City of Altamont, Illinois, is authorized to regulate the sale of alcoholic liquors within the corporate boundaries of the City of Altamont, Illinois; and,

WHEREAS, the City of Altamont, Illinois, is authorized pursuant to the Illinois Liquor Control Act to issue licenses for the sale of alcoholic beverages; and,

WHEREAS, the City of Altamont exercises its authority to issue liquor licenses for the sale of alcoholic beverages within the City limits of the City of Altamont pursuant to Chapter 21 of the City of Altamont Revised Code of Ordinances, and further desires to amend said Chapter 21 of the City of Altamont Revised Code of Ordinances as provided for herein.

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALTAMONT, EFFINGHAM COUNTY, ILLINOIS THAT:

Section 1: The findings made in the prefatory portion of this Ordinance are hereby adopted.

Section 2: Section 21-1-1 of the City of Altamont Revised Code of Ordinances, is hereby amended by adding the following definitions:

- A. **“Applicant”** shall mean any person seeking to obtain a License pursuant to this Chapter.
- B. **“Licensee”** shall mean any person, corporation, limited liability company, partnership or limited partnership holding a license under the terms of this Chapter.
- C. **“Limited Liability Company”** shall mean any limited liability company, domestic or foreign, qualified to do business in the State of Illinois under the Limited Liability Company Act, 805 ILCS 180/1-1 *et. seq.*
- D. **“Limited Partnership”** shall mean any limited partnership, domestic or foreign, qualified to do business under the Uniform Limited Partnership Act, 805 ILCS 215/0.01 *et. seq.*

E. **“Person.** The word “Person” shall mean any individual, firm, partnership, organization, corporation, limited liability company, association, proprietorship or other legal entity. It shall also include an executor, administrator, trustee, receiver or other representative appointed according to law. Whenever the word "Person" appears in any section of this Chapter prescribing a penalty or fine, as to partnerships or associations, the word shall include the partners or members thereof, and as to corporations or limited liability company, shall include the officers, agents or members thereof who are responsible for any violation of this title.”

Section 3: The definition of “Manager” or “Agent” as provided in Section 21-1-1 of the City of Altamont Revised Code of Ordinances, is hereby deleted in its entirety, and replaced with the following:

“Manager” or “Managing Agent” shall mean the person designated as manager within the application for license. The Resident Manager or Managing Agent must be bona fide resident of the County of Effingham and must be a full-time employee of the Licensee who is physically present on a daily basis at the Premises not less than twenty-five hours per week; the Manager or Managing Agent must have management authority including control of the Premises, all books and records and must have authority to make decisions and give consent regarding any matter concerning the control of the Premises. A general partnership, corporation, limited partnership, limited liability company, and similar business entities must conduct business by a Manager or Managing Agent. Satisfactory evidence of such employment shall be furnished to the City in the form and manner as the City may prescribe from time to time.”

Section 4: Section 21-2-2 of the City of Altamont Revised Code of Ordinances is hereby amended and restated in its entirety as follows:

“21-2-2 APPLICATIONS. The Mayor is authorized to grant and issue licenses to Persons to sell at retail and to keep and offer for sale at retail alcoholic liquors within the limits and territory of this municipality upon the conditions and in the manner provided by this Chapter and by the **Act of the General Assembly of Illinois**, and not otherwise. Such license shall be in writing, signed by the Mayor and attested by the Municipal Clerk, with the seal of his office affixed thereto.

Any Person desiring a license authorized by this Chapter shall make and submit an application in triplicate to the Mayor. A separate application shall be made for each license desired by an Applicant. Such application shall be in writing upon forms prepared and furnished by the City. Each application for a license shall be signed by the Applicant and verified by him by oath or affidavit, and shall be filed with the Mayor. In case the Applicant is a partnership, all partners must sign and verify the application.

In case the Applicant is a limited partnership, all general partners and any limited partner owning more than a five (5) percent interest in such limited partnership must sign and verify the application. In case the Applicant is a corporation or club, all officers,

directors and any stockholders owning more than five (5) percent of the stock of such corporation must sign and verify the application and indicate their official position. In case the Applicant is a limited liability company, all members owning more than five (5) percent of the interest of such company must sign and verify the application and indicate their official position. In case any other person is to conduct the place of business as Manager or Managing Agent of the Licensee he must also sign and verify the Application. The information requested in the application form must be furnished as to each person signing the application. Each application shall contain the following information and statements:

(A) ***Name, age and address.*** The name, age and address of the Applicant in the case of an individual; in the case of a partnership, the names and addresses of the persons entitled to share in the profits thereof; in the case of a limited partnership, the names, ages, and addresses of all general partners, and of all limited partners owning more than a five (5) percent interest in such limited partnership; in the case of a corporation or Club, the objects for which organized, and the names, ages, and addresses of the officers, directors, and any stockholders owning more than five (5) percent of the stock of such corporation; in the case of a limited liability company, the objects for which organized, and the names, ages, and addresses of the members owning more than five (5) percent of the interest of such company; and in any case, the name and address of the Manager or Managing Agent who is to conduct the place of business for which the license or Permit is sought.

(B) ***Residence in City.*** Whether or not the Applicant, if an individual, is a bona fide resident of the City.

(C) ***Citizenship.*** The citizenship of the Applicant, his place of birth and if a naturalized citizen, the time and place of his naturalization.

(D) ***Character of Business.*** The character of business of the Applicant, and in the case of a corporation, the objects for which it was formed.

(E) ***Length of Operation of Business.*** The length of time that the Applicant has been engaged in the business of that character.

(F) ***Ownership of Premises, Name of Landlord.*** Whether the Applicant owns the premises for which a license is sought. Proof of ownership must be submitted in the form of a deed, tax bill or other qualifying document(s). If an Applicant for a license does not own the premises where the license is sought, he must submit the name of the landlord and the terms of the lease including the expiration of the lease or contract for deed. In the event the premises is contracted for deed or leased, a copy of the lease or contract for deed shall be attached to the Application.

(G) ***Disposition of other Applications.*** Whether Applicant has made similar application for a similar other license on premises other than described in the application and the disposition of such application.

(H) ***Suspension or revocation of Previous Licenses.*** Whether a previous license issued to the Applicant by any state, or subdivision thereof, or by the federal government has been revoked and the reasons therefor.

(I) ***Former convictions relative to decency or morality.*** Whether or not the Applicant has ever been convicted of being the keeper or an inmate of a house of ill fame, of pandering or of any other crime or misdemeanor opposed to decency or morality.

(J) ***Connection with houses of ill fame.*** A statement that the Applicant is not, at the time of making the application, connected with a house of ill fame and that no such connection will occur during the existence of the License.

(K) ***Former conviction of felony, etc.*** That Applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in the aforesaid **Act of the General Assembly** or in this Chapter or resolution and amendments thereto.

(L) ***Agreement not to violate ordinances, etc.*** A statement that the Applicant agrees not to violate any provision of this Chapter or other ordinances of this City or any law of the United States or of the state in the conduct of his business, and that in the event such promise is broken or if any statement contained in the Application is not true, that the license applied for may be immediately suspended or revoked.

(M) ***Agreement to testify under oath and provide records, as required.*** A statement that the Applicant will testify under oath and subscribe to the truth in response to all relevant and material questions propounded to him, in any hearing conducted by the Mayor, either before or after the issuance of a License to him, and that his failure to so testify shall be sufficient reason for the refusal to issue any such License to him, or the renewal thereof, or for the suspension or revocation of any License which has been issued to him. A statement that he will provide, on receipt of a lawfully authorized subpoena by the Mayor, any book or record of his licensed business in connection with any investigation conducted by the Mayor, and that his failure to provide such books or records shall be sufficient reason for the refusal to issue any such License to him, or the renewal thereof, or for the suspension or revocation of any License, which has been issued to him.

(N) ***Statement as to receipt of money or credit from manufacturers or distributors.*** A statement that the Applicant has not accepted, received or borrowed money, or anything else of value, or accepted or received credit (other than merchandise credit in the ordinary course of business for a period not to exceed thirty (30) days) directly or indirectly from any manufacturer, importing distributor or wholesaler of alcoholic liquor, or from any stockholder, partner, officer, or member of any partnership, limited partnership, corporation, or limited liability company engaged in, or any other person connected with any such business.

(O) **Documentation of Limited Partnership.** If Applicant is an Illinois limited partnership, a copy of the filed certificate of limited partnership and a certificate of good standing from the Illinois Secretary of State must be attached. If Applicant is a foreign limited partnership, a copy of the filed certificate of limited partnership from the Illinois Secretary of State for admission to transact business as a foreign limited partnership in Illinois must be attached.

(P) **Documentation of Corporation.** If Applicant is an Illinois corporation, a copy of the articles of incorporation and a certificate of good standing from the Illinois Secretary of State must be attached. If the Applicant is a foreign corporation, a certificate from the Illinois Secretary of State to conduct business in Illinois as a foreign corporation must be attached.

(Q) **Documentation of Limited Liability Company.** If Applicant is an Illinois limited liability company, a copy of the articles of organization and a certificate of good standing from the Illinois Secretary of State must be attached. If the Applicant is a foreign limited liability company, a certificate from the Illinois Secretary of State to conduct business in Illinois as a foreign limited liability company must be attached.

(R) **Connection with police department or City Council.** A statement whether or not the Applicant, his or her spouse, or any member of the Applicant's household is a member or employee of the police department of the City, a City Commissioner, or the Mayor, and whether or not any such person is interested in any way, either directly or indirectly, in the License applied for, the premises, or the profits or proceeds from the sale of Alcoholic Liquor under the License applied for.

(S) **Evidence of Insurance.** No License shall be granted to an Applicant until such Applicant shall furnish evidence satisfactory to the Mayor that such Applicant is covered by a policy of dramshop insurance issued by a responsible insurance company authorized and licensed to do business in the state of Illinois insuring such Applicant against liability which such Applicant may incur under the provisions of 235 ILCS 5/6-21, and specifically designating the City as an additional insured, on a primary, non-contributory basis. The evidence of the insurance policy shall indicate that the term of the insurance is of sufficient length to encompass the period of the License sought.

(T) **Type of License or Permit.** A statement as to what type of License is being applied for. Following a review of the application and any additional documentation and information submitted by the Applicant, the Mayor retains the right to determine the appropriate classification of License to be issued.

(U) **Additional Requirements.** The Mayor may request additional information to be included in the application, which is necessary to effectuate the purposes of this Chapter.

One (1) copy of the application shall be retained by the Mayor, **one (1) copy** given to the Chief of Police; the Chief of Police shall endorse on the copies his approval

or disapproval of the application and may make further comments regarding that application. The copies shall be returned to the Mayor and the endorsement and comment of the Chief of Police shall be considered by him as an aid in deciding whether the license should be issued or refused. (See 235 ILCS Sec. 5/7-1).”

Section 5: Section 21-2-4 of the City of Altamont Revised Code of Ordinances is hereby amended and restated in its entirety as follows:

“**21-2-4 PROHIBITED LICENSES.** No license, authorized by this Chapter, shall be issued by the Mayor to the following:

(A) A Person **under the age of twenty-one (21) years** or a Person under any Person under any 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 citizen of the United States of America;

(D) A Person who has been convicted of a felony under any federal or state law, pandering or any other crime or misdemeanor opposed to decency and morality, if the Mayor determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust;

(E) A Person who has been convicted of being the keeper of or is keeping a house of ill-fame;

(F) A Person who has been convicted of a violation of any federal or state law concerning the manufacture, possession, or sale of Alcoholic Liquor, subsequent to July 12, 1937, or shall have forfeited his bond to appear in court to answer charges for any such violation, if the Mayor determines, after investigation, that such person has not been sufficiently rehabilitated to warrant a public trust;

(G) A Person convicted of any crime involving the illegal distribution or abuse of Alcoholic Liquor, including driving while intoxicated or illegal transportation of Alcoholic Liquor, if the Mayor determines, after investigation, that such Person has not been sufficiently rehabilitated to warrant a public trust;

(H) A Person who previously had a license issued under this Chapter, or prior liquor control ordinance, revoked or denied renewal for any cause;

(I) A Person who, at the time of the application for renewal for any license issued hereunder, would not be eligible for such license upon first application;

(J) An Applicant who is not a beneficial owner of the business to be operated by the Licensee;

(K) A partnership, unless all of the members of such partnership shall be qualified to obtain a license;

(L) A limited partnership, unless all of the general partners of such limited partnership shall be qualified to obtain a license and no limited partner owning more than a 5% interest in the limited partnership would not be eligible to receive a license hereunder for any reason other than citizenship and residence within the City;

(M) A corporation, if any officer, director, 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 hereunder for any reason other than citizenship and residence within the City;

(N) A limited liability company, if any member owning in the aggregate more than 5% interest in the limited liability company, would not be eligible to receive a license hereunder for any reason other than citizenship and residence within the City;

(O) A limited partnership, unless it is organized in Illinois, or unless it is a foreign limited partnership, which is qualified under the Illinois Uniform Limited Partnership Act of 2001 to transact business in Illinois;

(P) A corporation, unless it is incorporated in Illinois, or unless it is a foreign corporation which is qualified under the Business Corporation Act of 1983 to transact business in Illinois;

(Q) A limited liability company, unless it is organized in Illinois, or unless it is a foreign limited liability company which is qualified under the Illinois Limited Liability Company Act to transact business in Illinois;

(R) A Person who is not an actual resident of the City of Altamont, Illinois prior to the date of his or her application. In the case of a general partnership, residency shall not be required for partners, if the general partnership Applicant employs a Manager or Managing Agent to operate the business. In the case of a corporate Applicant, residency shall not be required for corporate officers and stockholders if the corporate Applicant employs a Manager or Managing Agent to operate the business. In the case of a limited liability company Applicant, residency shall not be required for limited liability company members if the limited liability company employs a Manager or Managing Agent to operate the business. In the case of a limited partnership Applicant, residency shall not be required for limited partners or general partners if the limited partnership applicant employs a Manager or Managing Agent to operate the business.

(S) An Applicant whose place of business is to be conducted by a Manager or Managing Agent who would not be eligible to receive a license for a reason other than citizenship.

(T) Any Person not eligible for a state retail liquor license;

(U) A Person who does not own the Premises for which a license is being sought, or does not have a written lease for the full period for which the license is to be issued.

(V) A Person leasing the Premises for which a license is being sought where the terms of the lease are in conflict with this Chapter, any provision of the Revised Code of Ordinances, or the Illinois Liquor Control Act.

(W) Any law enforcing public official, including the Mayor, commissioners or any elected official; and no such official shall be interested directly or indirectly in the manufacture, sale, or distribution of Alcoholic Liquor, except that license may be granted to such official in relation to premises which are not located within the territory subject to the jurisdiction of that official, provided, however, that persons described herein may be members or unpaid officers of Clubs, as defined in Section 21-1-1 of this Chapter, which are licensed in accordance with Paragraph (C) of Section 21-2-6 of this Chapter.

(X) Any Person who has in any way failed to cooperate in a background investigation required by this Chapter as ordered or authorized by the Mayor.

(Y) Any Person who fails to furnish information or to make statements required in the application for license as set forth in this Chapter or requested by the Mayor.

(Z) A Person who knowingly furnishes false or misleading information or falsely answers the statements required in the Application for a license, or one who furnishes false or misleading information on the application or to any investigator during the application process.

(AA) A Person who has been convicted of a gambling offense as proscribed by any of subsections (a)(3) through (a)(11) of Section 28-1 of, or proscribed by section 8-1.1 or 28-3 of the Illinois Criminal Code of 1961, or as proscribed by a statute replaced by any of the aforesaid statutory provisions.

(BB) A Person or entity to whom 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 or the Illinois Pull Tabs and Jar Games Act.

(CC) Any Person if the following criteria is applicable: If any tax payable to the City or other debt owed to the City remains unpaid after its due date and the delinquent taxpayer or debtor (henceforth debtor) holds a license, for the benefit of the debtor or his property, issued by the City, or the debtor applies for such license, the City Treasurer may request the licensing or issuing authority to suspend or refuse to issue, renew or extend such license. The Mayor shall then suspend or refuse to issue, renew, or extend such license until such time as all taxes and outstanding debts are paid. Every Licensee

or Applicant for license shall attest, under penalties of perjury that he has paid all taxes or other debts owed to the City.

(DD) A Person requesting a license for Premises already licensed to another Licensee under this Chapter.

(EE) Any Person who has not obtained and provided proof to the Mayor of adequate dramshop insurance. The City of Altamont, Illinois shall be named as a certificate holder and it will be the responsibility of the insurer to notify all certificate holders of any restriction or termination of said policy. Failure to maintain adequate dramshop insurance shall be grounds for revocation of any license granted under this Chapter. A Licensee is required to give notice within seven (7) calendar days to the Mayor in the event its liquor liability insurance is restricted in any way or terminated for any cause. A Licensee must provide prior written notice regarding any changes of liquor liability insurance to the Mayor thirty (30) days prior to the changes being made.

(FF) Any Person who uses or proposes to use a licensed Premises, which are not in compliance with all applicable health and safety codes and regulations pertaining to the City of Altamont, including, but not limited to Building, Plumbing, Electrical, Fire Codes. (See 235 ILCS Sec. 5/6-2)."

Section 6: Except as specifically modified by this Ordinance, the remaining provisions of Chapter 21 of the City of Altamont Revised Code of Ordinances shall remain in full force and effect.

Section 7: This Ordinance shall become effective upon its approval and passage as required by law.

Section 8: This Ordinance shall be in full force and effect from and after its passage and approval and may be published in pamphlet form as required by law.

Section 9: In the event that a court of competent jurisdiction finds that any provision of this Ordinance is invalid, then the remaining provisions of this Ordinance shall remain in full force and effect.

Section 10: All ordinances or resolutions conflicting with this Ordinance are hereby repealed.

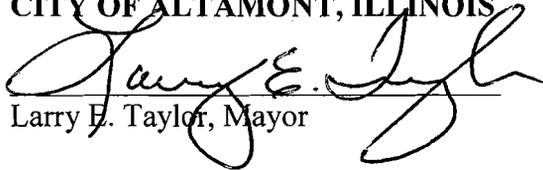
Placed on file this 11th day of February, 2013.

Presented, passed and approved this 11th day of February, 2013.

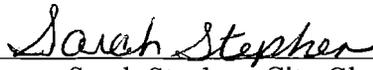
Published in pamphlet form this 11th day of February, 2013.

Mayor Larry E. Taylor Y
Commissioner Charles W. Jones Absent
Commissioner Richard Frailey Y
Commissioner Gerald White, Jr. Y
Commissioner Jason Williams Y _____

YEAS: 4
NAYS: 0

CITY OF ALTAMONT, ILLINOIS

Larry E. Taylor, Mayor

ATTEST:



Sarah Stephen, City Clerk

STATE OF ILLINOIS)
) SS.
COUNTY OF EFFINGHAM)

CERTIFICATE

I, Sarah Stephen, certify that I am the duly appointed and acting municipal clerk of the City of Altamont, Effingham County, Illinois.

I further certify that on February 11, 2013, the corporate authorities of such municipality passed and approved Ordinance No. 529-13 entitled "An Ordinance Amending the Liquor Control Ordinance" which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 529-13, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted in the municipal building, commencing on February 11, 2013 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 municipal clerk.

Dated at Altamont, Illinois this 21st day of February, 2013.

(SEAL)



Sarah Stephen, City Clerk

STATE OF ILLINOIS)
 :
COUNTY OF EFFINGHAM)

I, Sarah Stephen, City Clerk of the City of Altamont, Effingham County, Illinois, do hereby certify that the foregoing pages constitute a true and correct copy of an Ordinance entitled "An Ordinance Amending the Liquor Control Ordinance", and numbered 529-13, which was passed by the Council of the City of Altamont on February 11, 2013 and approved by the Mayor on February 11, 2013.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of said City of Altamont, all on this 11th day of February, A.D. 2013.

Sarah Stephen
City Clerk

(SEAL)