

CITY OF NAPERVILLE MEMORANDUM

DATE: November 8, 2018

TO: Liquor Commission

FROM: Jennifer Lutzke, Senior Assistant City Attorney

SUBJECT: Naperville Liquor Commissioner Rules

PURPOSE: The purpose of this memo is to provide an overview regarding changes to the Naperville Liquor Commissioner Rules ("Rules"). The Rules provide guidance and clarification regarding the Naperville Liquor and Tobacco Code ("Code").

BACKGROUND: In September 2016, the Code was rewritten. During the rewrite, portions of the Code were amended and modified. The purpose of the rewrite was to simplify the Code. Since the Code was rewritten, it was necessary to modify the Rules.

DISCUSSION: This memo is intended to provide background information and explanation of changes for each of the Rules. The following outlines the existing rules and the suggested revisions.

Article I – Violations of State Statutes or City Ordinances - Rule One

- Purpose: To clarify the standards that are used for liquor and tobacco violations.
- Revision(s): No substantive changes were made to this rule.

Article II – Procedure for Renewal Application of Existing License - Rule Two

- Purpose: Provide a timeline and penalty schedule for failure to timely file renewal paperwork.
- Revision(s): "Specific" was removed from the Article title.
 - Renewal application deadline moved from 90-days to 60-days prior to expiration. Penalties were adjusted for the new deadline.
 - Removal of requirement that managers, assistant managers, and sole proprietors submit to fingerprinting at five-year intervals.

Article III – Clarification and Implementation of Certain Sections of Chapter 3 of the Naperville Municipal Code – Alcoholic Liquor and Tobacco Dealers - Rule Three

- Purpose: Provide additional information concerning the dram shop insurance coverage requirement; allow the Liquor Commissioner to issue a liquor license for a probationary period or upon a condition precedent; and clarify the definition of "intoxicated person."

- Revision(s): Removal of language pertaining to observation and enforcement regulations for package stores and beer and wine package sale. The language required a partition barring access to the area where alcoholic beverages are sold except for an entrance and exit. Liquor Confinement restrictions are present in 3-3-12:8.
 - Inclusion of appropriate citations to the revised Code.
 - Removal of redundant language.

Article IV – Abandonment and Disuse – Rule Four

- Purpose: Requires a licensee to tender liquor license to Liquor Commissioner when a license becomes inactive, licensee ceases to do business, or the license is terminated without renewal. Allows police to enter premises and remove the license if licensee fails to surrender the license
- Revision(s): No substantive changes were made to this rule.

Article V – Educational Requirements for Licensees and Certain Employees for Alcohol Distribution – Rule Five

- Purpose: Prohibits any under the age of 21 from serving in a managerial capacity.
- Revision(s): Article changed from “Educational Requirements for Licensees and Certain Employees for Alcohol Distribution” to “Age Restrictions on Employees.”
 - Removal of the Basset training language due to the rewrite moving this into the Code.
 - Removal of the Fire Watch Program certification because it is not being enforced.
 - Simplification of the language concerning the prohibition on employees under the age of 21.

Article VI – Clarification and Implementation of the Exceptions Set Forth in Section 3-3-21:3 of Chapter 3 of the Municipal Code of the City of Naperville (Liquor Control) as Applied to Premises Holding Class O Licenses – Rule Six

- Purpose: Sets parameters for allowing of persons of non-age in Class O licensees.
- Revision(s): Deleted. There are currently no Class O licensees and it is unclear the rationale for this specific rule.

Article VII – Procedures Upon Hearings, Discovery and Depositions

- Purpose: Allows for discovery and depositions for any party in any proceeding before the Liquor Commissioner.
- Revision(s): No substantive changes were made to this rule.
- Rule was moved to Article VI, Rule Six due to deletion of the prior Article VI, Rule Six.

Article VIII – Procedure for the Sale and Distribution of Alcoholic Beverages Under Class E and Class L Licenses – Rule Eight

- Purpose: Provides additional restrictions for Special Event and Temporary Permit licensees.
- Revision(s): Replacement of Class E and Class L language with Special Event and Temporary Permits.
 - Deletion of the requirement that the sale and distribution of alcoholic beverages shall cease at 9:30am and instead, end sale and distribution as specified in the liquor license.
 - Beer container restriction increased to 16 ounces.
 - Wine container restriction increased to 6 ounces.
 - Rule was renumbered as Article VII, Rule Seven.

Article IX – Form of Applications for Licensees and Renewals Thereof – Rule Nine

- Purpose: Provides information regarding where application and renewals forms are available; it also provides that the police department background investigation form becomes part of the application.
- Revision(s): Removes the application and renewal forms as well as police department background investigation forms from the Rules.
 - Provides that application and renewal forms are available from the Mayor or the City Clerk's office.
 - Rule was renumbered as Article VIII, Rule Eight.

Article X – Clarification and Implementation of Section 3-3-5:11 of Chapter 3 of the Municipal Code of the City of Naperville (Tobacco & Liquor Control) – Rule Ten

- Purpose: Clarifies the definition of resides and resident as used in the Code.
- Revision(s): No substantive changes.
 - Title was changed to Residency Requirements for clarification.
 - Rule was renumbered as Article IX, Rule Nine.

Article XI – Clarification of the Scope of Interest Covered by 3-3-5:13 of Chapter 3 of the Municipal Code of the City of Naperville (Liquor and Tobacco Control) – Rule Eleven

- Purpose: Provides clarification relating to ownership of the licensed premises.
- Revision(s): Deleted. The referenced section was not incorporated into the rewrite.

Article XII – Clarification and Intent of the Purpose of Section 3-3-19-1.1 of Chapter 3 of the Municipal Code of the City of Naperville – Rule Twelve

- Purpose: Provides clarification concerning the exemption for a Class K licensee to be located within one hundred feet of any church, school, hospital, home for the aged or for indigent persons or for veterans, their wives or children.

- Revision(s): Deleted. Section 3-3-12:9 provides for the exemption. The explanation is not necessary.

Article XIII – Product Tastings – Rule Thirteen

- Purpose: Clarifies what is allowed under tastings in the Code.
- Revision(s): Adds Class P, Class S, Class S-1 to licenses where tastings are permitted.
- Rule was renumbered as Article X, Rule Ten.

RECOMMENDATION: Receive the staff report on the amended Naperville Liquor Commissioner rules.