

RULES

ADOPTED BY NAPERVILLE LIQUOR COMMISSIONER

Pursuant to Article IV, Sections 1 and 2 of Chapter 43 of The Illinois Revised Statutes and Sections 3-3-2:1 and 3-3-2:2 of Chapter 3 of the Municipal Code of the City of Naperville, the Naperville Liquor Commissioner on April 16, 1987, hereby adopts the following rules to be effective on May 5, 1987.

ARTICLE I

VIOLATIONS OF STATE STATUTES OR CITY ORDINANCES

(Amended on 1-12-94, 7-6-00, 8-21-08)

RULE ONE

To the end that the health, safety and welfare of the people of the City of Naperville shall be protected and temperance in the use and consumption of alcoholic liquor, and tobacco, shall be fostered and promoted by sound and careful control and regulation of the sale and distribution of alcoholic liquor and tobacco:

1. Violations of this Chapter may be proved by evidence that the licensee has been convicted or placed on court supervision for a violation of the law of the State of Illinois in the conduct of the licensed business or upon the licensed premises, or has been found guilty of violating any ordinance of the City of Naperville, or any rule, regulation or resolution regulating the sale of alcoholic liquors or tobacco of the City of Naperville's Liquor Control Commission.
2. Evidence that any person other than the licensee has been convicted or placed on court supervision for violating a statute of the State of Illinois or found guilty of violating an ordinance of the City of Naperville relating to morals, violence, possession or use of alcoholic liquor or tobacco while upon the licensed premises, shall be PRIME FACIE evidence of a violation of this Chapter.
3. Proof before this Commissioner of facts which establish a violation of any ordinance of the City of Naperville relating to morals, violence or disorder or an ordinance regulating the sale or distribution of alcoholic liquor or tobacco or rule or regulation of the Commissioner within the licensed

premises shall be sufficient cause for revocation or suspension of any license issued by the local Liquor Commissioner of the City of Naperville, whether or not a conviction has been obtained in any court.

ARTICLE II

SPECIFIC PROCEDURE FOR APPLICATION FOR RENEWAL

OF EXISTING LICENSE

(Amended 1-12-94, 11-16-98, 7-6-00, 8-21-08)

RULE TWO

To the end that health, safety and welfare of the people of the City of Naperville shall be protected and temperance in the use and consumption of alcoholic liquors and tobacco shall be fostered and promoted by sound and careful control and regulation of the manufacture, sale, and distribution of alcoholic liquor and tobacco:

1. Any licensee desirous of renewing its license issued under and pursuant to Chapter 3 of the Municipal Code of the City of Naperville shall:

(a) No later than 90 days prior to the expiration of the license, licensee shall file its renewal application (with all new supporting documents).

2. Failure of the licensee to comply with the provisions herein as to notice and filing of application may result in delay of issuance of the renewal license, and shall result in the assessment of a penalty of - as follows:

2/1 through 2/14	-	\$250
2/15 through 2/29	-	\$500
3/1 through 3/14	-	\$750
after 3/14	-	\$1,000

3. Those persons specifically required to be or subject to be fingerprinted, including all managers, assistant managers and sole proprietors who reside outside the state of Illinois, upon application for a new City liquor license shall do so pursuant to Section 3-3-4 of Chapter 3 of the Municipal Code of the City of Naperville, and shall further submit to fingerprinting at five-year intervals commencing in 2010 and continuing every five (5) years thereafter. The cost of the fingerprinting shall be the responsibility of the applicant.

ARTICLE III

CLARIFICATION AND IMPLEMENTATION OF CERTAIN

SECTIONS OF CHAPTER 3 OF THE NAPERVILLE MUNICIPAL

CODE - ALCOHOLIC LIQUOR AND TOBACCO DEALERS

(Amended 7-13-94, 8-21-08)

RULE THREE

To the end that the health, safety and welfare of the people of the City of Naperville shall be protected and temperance in the use and consumption of alcoholic liquor and tobacco shall be fostered and promoted by sound and careful control and regulation of the sale and distribution of alcoholic liquor and tobacco:

1. Section 3-3-7 of Chapter 3 of the Naperville Municipal Code is construed to mean and shall be given the interpretation that full coverage shall be continuous for the full period of the license and licensees who have policies of insurance expiring on dates other than the expiration of a license granted under this chapter shall provide the City Clerk with a certificate of insurance as otherwise required under Section 3-3-7 extending identical coverage, no later than 14 days prior to the expiration of said policy. A lapse in Dram Shop coverage as provided for in the Naperville Liquor Control Ordinance or Local Rules and Regulations of the Naperville Liquor Control Commissioner, shall be deemed grounds for immediate suspension of licensee's license during such lapse in coverage and said license shall be deemed to be suspended during such period of lapse.
 - (a) The minimum liability coverage provided under the Dram Shop insurance shall be \$1,000,000.00.
2. That in order to implement the observation and enforcement of the regulations set forth in Section 3-3-11:4 and 3-3-11:6 of Chapter 3 of the Naperville Municipal Code:

(a) That portion of the premises where substantially all of the business transacted relates to the sale of alcoholic beverages shall be separated from the portion or portions of the premises where other business is conducted. This partition is required to completely bar access, with the exception of an entrance to and exit from the area where alcoholic beverages are sold. Both the entrance and exit shall be observed from the checkout counter.

3. That in order to insure that Licensees maintain the high standards of personal and professional integrity necessary and appropriate for a Tobacco and Liquor Licensee in the City of Naperville:

(a) The Mayor, the Local Liquor Commissioner, may issue or renew a license for the sale and dispensing of alcohol and tobacco upon a condition, precedent or for a probationary period upon terms and conditions that are reasonable and proper, to insure compliance with the provisions of the Ordinances of the City of Naperville, the State of Illinois, and the rules of the Naperville Liquor and Tobacco Control Commissioner relative to the sale and dispensing of alcohol and tobacco within the City of Naperville.

(b) Any license issued under Paragraph 3-a of this rule shall specify whether such license is conditional or probationary as the case may be.

(c) Failure to comply with the conditions of such conditional license or failure to comply with the terms and conditions of any such probationary license shall result in immediate termination of such license upon notice in writing to such Licensee of the Commissioner's intent to terminate such license.

4. The term intoxicated person as it appears in Section 3-3-22-1:1 of Chapter 3, Title 3, of the Municipal Code of the City of Naperville, commonly referred to as Liquor and Tobacco Control, is considered to mean and shall be given the interpretation that a person is intoxicated when as a result of the ingestion, inhalation or injection of any amount of alcohol or drugs, or cannabis or any derivatives thereof, whether legally obtained or otherwise, there is an impairment of such person's mental or physical faculties so as to diminish his ability to think and act with ordinary care. For the purpose of this section the fact that a person shall be found to have an alcohol concentration (BAC) of .08 or

greater in that person's blood, breath, or urine, shall be prima facie evidence that such person is under the influence of alcohol.

ARTICLE IV

ABANDONMENT AND DISUSE

RULE FOUR

To the end that health, safety and welfare of the people of the City of Naperville shall be protected and temperance in the use and consumption of alcoholic liquor and tobacco shall be fostered and promoted by sound and careful control and regulation of the sale and distribution of alcoholic liquor and tobacco:

1. In the event and at the time a license becomes inactive or a licensee ceases to do business or a licensee's lease is terminated without renewal, said licensee shall surrender such license to the Liquor Commissioner. If the said licensee shall fail to so surrender the license within fifteen days of the happening of any of the foregoing events, the Local Liquor Commissioner may direct the Chief of Police to cause the licensed premises to be entered and the license removed there from.

ARTICLE V

EDUCATIONAL REQUIREMENTS FOR LICENSEES AND CERTAIN

EMPLOYEES FOR ALCOHOL DISTRIBUTION

(Amended [on 2/15/95, 8-21-08](#))

RULE FIVE

To the end that the health, safety and welfare of the people of the City of Naperville shall be protected and temperance in the use and consumption of alcoholic liquor and tobacco shall be fostered and promoted by sound and careful control and regulation of the sale and distribution of alcoholic liquor and tobacco:

1. Persons covered by Section 3-3-~~20~~[4](#) ~~of~~ the Naperville Municipal Code relating to personnel restrictions, and all licensees' agents and employees

who dispense, sell, deliver or serve alcoholic liquor, shall be Basset certified or be enrolled in a Basset program as provided by Section 3-3-~~19:420~~:4 of the Naperville Municipal Code and of Rule Five of the Naperville Liquor Commission within thirty (30) days of employment and shall become certified no later than 60 days subsequent to such employment.

2. Evidence of certification or enrollment of every person covered by said Section 3-3-~~19:420~~:4 shall be kept in each licensed premises, and shall be presented upon demand of any liquor commissioner or law enforcement officer.
3. All Basset training shall be through a program approved under 235 ILCS 5/6-27; and
 - (a) All Basset training shall be by a certified Basset trained instructor provided by the City of Naperville, and
 - (b) All Basset training provided by the City of Naperville shall be conducted upon the premises of the Naperville City Hall.
4. All licensees holding a Class A, B or C local liquor license are required to successfully complete the City of Naperville's Fire Watch Program; and
 - (a) Every Class A, B and C liquor licensee shall have a minimum of one (1) manager certified in the City of Naperville's Fire Watch Program, and
 - (b) All Class A, B or C local liquor licensees shall have on duty at all times a certified Fire Watch Program employee, and
 - (c) A copy of completion of the Fire Watch Program shall be kept at each licensed premise and shall be presented upon demand to any liquor commissioner or law enforcement officer, and
 - (d) All licensees who are subject to this rule shall be in compliance within 180 days of the effective date of this rule, and
 - (e) All Class A, B and C licensees who are subject to renewal of their liquor licenses and all new applications for a Class A, B, or C liquor licenses shall provide a copy of their Fire Watch Program certification with their application. The failure to provide a copy of the Fire Watch Program

certificate with their renewal application or application shall be deemed a sufficient basis in which to deny the application.

5. [No employee, agent, or person employed by licensee or acting therefore as manager or assistant manager or engaged in or responsible for any form of managerial duties or serving in a managerial capacity, shall be less than 21 years of age.](#)

ARTICLE VI

(Amended to add Article VI on 9-17-92)

CLARIFICATION AND IMPLEMENTATION OF THE EXCEPTIONS SET FORTH IN SECTION 3-3-21-1:3 OF CHAPTER 3 OF THE MUNICIPAL CODE OF THE CITY OF NAPERVILLE (LIQUOR CONTROL) AS APPLIED TO PREMISES HOLDING CLASS O LICENSES.

RULE SIX

To the end that health, safety and welfare of the people of the City of Naperville shall be protected and temperance in the use and consumption of alcoholic liquor and tobacco shall be fostered and promoted by sound and careful control and regulation of the sale and distribution of alcoholic liquor and tobacco:

1. Any premises holding a Class O license qualifying for the exemption permitting the presence of persons of non-age not accompanied by a parent or guardian, shall as a condition to the utilization of the exemption, to ensure that consumption or possession of alcohol by the person of non-age present shall be prevented, must provide and maintain the following safeguards.
 - (a) Persons of non-age shall be confined to a physically restricted area.
 - 1.) The said area shall be delineated by a continuous physical barrier between the segregated and non-segregated areas, provide for an entrance to and an exit there from.
 - 2.) The physical barrier shall extend from the floor to a point not less than one foot above the table or counter where said non-age persons are seated or standing.

- 3.) Such barrier may be of the moveable type and such segregated areas may be enlarged, contracted, or relocated to accommodate different occupancy ratios.
 - 4.) Persons of non-age once segregated, shall not be permitted to leave the area unless they are going to or from the washroom or to leave the premises.
 - 5.) No person may enter this area reserved hereunder for persons non-age while in the possession of an alcoholic beverage.
 - 6.) The restricted area shall be clearly marked and identified so as to be seen from the entrance of the premises, as non-alcohol seating.
 - 7.) There shall be maintained a space between the segregated area and the general area of sufficient width to prevent the passing of alcohol between the non-segregated area to the segregated area.
 - 8.) Persons who are of age shall be provided with and shall wear while in the premises a band on the right wrist and shall be required by licensee's rules of attendance to display said wrist band to any Police Officer requesting the same.
 - 9.) Licensee shall be responsible for the compliance with all provisions of this rule and shall ensure compliance by its patrons with all provisions of this rule.
2. No non-age person, not accompanied by a parent or guardian, under the age of seventeen years (17 years) shall be permitted entry to any such licensed premises.

ARTICLE VII

(Amended to add Article VII on 9-17-92, 8-21-08)

PROCEDURES UPON HEARINGS, DISCOVERY AND DEPOSITIONS

RULE SEVEN

To the end that health, safety and welfare of the people of the City of Naperville shall be protected and temperance in the use and consumption of alcoholic liquor and tobacco shall be fostered and promoted by sound and careful control and regulation of the sale and distribution of alcoholic liquor and tobacco:

1. Discovery and depositions shall be available to any party in any proceeding before the Liquor Commissioner as in civil cases pursuant to the Illinois Code of Civil Procedure, 735 ILCS 5/1- et seq. and the Illinois Supreme Court Rules.

ARTICLE VIII
(Amended to add Article VIII on 10/13/93)
(Amended 7/14/11)

PROCEDURE FOR THE SALE AND DISTRIBUTION OF ALCOHOLIC BEVERAGES UNDER CLASS E AND CLASS L LICENSES

RULE EIGHT

In recognition of the unique special and other circumstances attendant to the sale and distribution of alcoholic beverages by Licensees holding Class E (temporary licenses) and Class L (special event licenses), and to the end that the health, safety and welfare of the people of the City of Naperville shall be protected and temperance in the use and consumption of alcoholic liquor shall be fostered and promoted by sound and careful control and regulation of the sale and distribution of alcoholic liquor:

1. All functions conducted under a Class E license, other than the constraint limiting the retail sale and/or consumption of wine and/or beer be on municipally owned property, shall be conducted subject to the constraints applicable to Class L licenses as set forth in Section 3-3-11:11.2 of Chapter 3, Title 3, of the Naperville Municipal Code, when the Class E function or any part thereof is conducted in, at or upon a premises other than within a permanent, enclosed structure.
2. Alcoholic beverages shall not be brought into licensed premises.
3. Alcoholic beverages obtained within the premises shall not be removed from the interior fenced area.
4. Identification shall be required of all persons within the premises appearing to be under the age of 21 years. Such identification shall be limited to a

photo driver's license or Illinois identification card issued by the Illinois Secretary of State.

5. All sales and distribution of alcoholic beverages may be ordered to cease for the remainder of the license day upon the order of the Local Liquor Commissioner or his designee upon the determination by such person that any person being served or consuming an alcoholic beverage within the premises is under the influence of alcohol and/or drugs.
6. Sale and distribution of all alcoholic beverages shall cease at 9:30 P.M., or as specified in the liquor license in any particular instance, and consumption to cease 30 minutes thereafter.
7. Alcoholic beverages shall be sold and dispensed only in containers provided by licensees.
8. Beer and wine coolers shall be dispensed in containers no larger than 12 ounces, and wine in containers no larger than 5 ounces.
9. It shall be the responsibility of the licensees to insure strict compliance with the provisions of these rules.
10. Failure of licensee to comply with the provisions of this Article shall be a basis for denial of future Class E or Class L licenses.
11. In addition to the fifty dollar (\$50.00) daily fee for either such license (Class-E or Class-L), payment to the City for the actual cost incurred by the City in providing additional police personnel necessitated by improper conduct or control by the licensee on the specified premises. Each licensee who is held responsible for additional charges shall receive an itemized invoice therefore, shall be given an opportunity to review the charges with the liquor and tobacco control commissioner, and shall thereafter promptly pay any such additional charge determined by the commissioner to be due the City.

ARTICLE IX
(Amended to add Article IX on 1-12-94)

FORM OF APPLICATIONS FOR LICENSEES AND RENEWALS THEREOF

RULE NINE

To the end that health, safety and welfare of the people of the City of Naperville shall be protected and temperance in the use and consumption of alcoholic liquor and tobacco shall be fostered and promoted by sound and careful control and regulation of the sale and distribution of alcoholic liquor and tobacco:

1. Applications for licenses and renewals thereof for the retail sale of alcohol and/or tobacco shall be in the form set forth in Exhibit A - attached to these Rules and is made a part thereof.
2. That a Police Department background investigation form, in the form set forth in Exhibit B - attached to these Rules, shall be completed by every applicant for a license or renewal thereof as a part of the application set forth in Paragraph 1 of this section and is deemed to be an integral part thereof and incorporated therein.

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).
(Amended to add Article X on 2/15/95)

RULE TEN

To the end that the health, safety and welfare of the people of the City of Naperville shall be protected and temperance in the use and consumption of alcoholic liquor shall be fostered and promoted by sound and careful control and regulation of the sale and distribution of alcoholic liquor:

1. Resident or resides within fifteen (15) miles of the corporate limits of the City of Naperville, shall be construed to mean that any such person covered by this provision residing within the corporate limits of a city, town, or village, whose corporate limits are within 15 miles of any portion of the corporate limits of the City of Naperville shall qualify under said section.

2. Persons residing outside the corporate limits of any city, town, or village shall live within 15 miles of any portion of the city limits of the City of Naperville, measured from such property line of such person's residence in order to qualify under this Section.

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)

(Added on 08/14/96)

RULE ELEVEN

To the end that the health, safety, and welfare of the people of the City of Naperville shall be protected and temperance in the use and consumption of alcoholic liquor shall be fostered and promoted by sound and careful control and regulation of the sale and distribution of alcoholic liquor:

1. The Commissioner being aware that as time progresses, different vehicles are commonly utilized for the purposes of acquiring interests in land, other than ownership and leaseholds. All having in common the sole and exclusive right of possession of the premises or portion thereof subject of a particular license.
2. The provision, in Section 3-3-5:13 of Chapter 3, relating to ownership of the licensed premises, shall be construed to mean and encompass all forms of exclusive possession of the licensed premises, evidenced by an instrument in writing, signed and accepted by the owner of the premises, and all intervening lessees, sublessors, and sublessees, including but not limited to articles of agreement for warranty deed, management and sub-management agreements.

7/13/94

ARTICLE XII

**CLARIFICATION OF THE INTENT AND PURPOSE OF
SECTION 3-3-19-1.1 OF CHAPTER 3 OF THE MUNICIPAL CODE
OF THE CITY OF NAPERVILLE
(LIQUOR AND TOBACCO CONTROL)**

Adopted 7/6 /00

RULE TWELVE

To the end that the health, safety, and welfare of the people of the City of Naperville shall be protected and temperance in the use and consumption of alcoholic liquor shall be fostered and promoted by sound and careful control and regulation of the sale and distribution of alcoholic liquor:

1. The Commissioner, being aware of the intent and purpose of Section 3-3-19-1.1 of the code being to protect the included classes of persons and institutions set forth there in and for the purpose of preventing persons of non age from possessing and consuming alcoholic liquor, is in full support of said concept.
2. The Commissioner is also aware that there is a class of license, being a class K license commonly referred to as the catering license.
3. The Commissioner finds that the existence of a premised licensed for such use would not impair the spirit and intent of section 3-3-19-1.1 in that no alcoholic beverage would be available for consumption, possession or use on the licensed premises.
4. The provision of section 3-3-19-1.1 was enacted prior to the establishment of the class K license (catering license) and is not reasonably applicable to such class license.
5. The Commissioner hereby interprets such section not to apply to Class K licenses. 8/03/00

ARTICLE XIII
Product Tastings
Adopted 8-21-08

RULE THIRTEEN

To the end that the health, safety and welfare of the people of the City of Naperville shall be protected and temperance in the use and consumption of alcoholic liquor and tobacco shall be fostered and promoted by sound and careful control and regulation of the sales and distribution of alcoholic liquor and tobacco:

1. "Tasting" shall have the following meaning: A supervised presentation of alcoholic products to the public at a licensed liquor retailer for the purpose of disseminating product information and education with consumptions of alcoholic products being an incidental part of the presentation. Tasting must be done by a licensee and/or a registered tasting representative as provided for in Section 100.40 of the Rules of the State of Illinois Liquor Commission.
2. Tastings are permitted by the Local Liquor and Tobacco Control Commissioner and are limited to the following Classes of liquor licenses: Class-D, Class-G, Class-N and Class-S.
3. Other than that which is specifically provided for in Section 3-3-11:21 of the Naperville Municipal Code, all tastings are subject to the following restrictions:
 - (a) A total of three (3) tastings may be served to a consumer in one day and which shall be limited to:
 - (b) No more than ¼ ounce of distilled spirits in each tasting, and
 - (c) No more than one ounce of wine in each tasting, and
 - (d) No more than two ounces of beer in each tasting.