

Effective Date: February 25, 2012

1/11/12
12/14/2011

9-0-12

AN ORDINANCE

Amending City Code Sections 3-5-6-(H), 3-5-6-(N) and 3-5-6-(O) to Clarify the Prohibition on Sales of Single Containers of Beer Less than 40 Ounces in Volume

WHEREAS, Title 3, Chapter 5, Section 6 of the Evanston City Code of 1979, as amended ("City Code"), contains liquor license classifications and fees, and includes regulations pertaining to the sale of liquor by licensees; and

WHEREAS, pursuant to City Code Section 3-5-2, the Mayor of the City of Evanston, as the Local Liquor Control Commissioner ("Commissioner"), is charged with administration of the City's Liquor Control Regulations contained in City Code Title 3, Chapter 5; and

WHEREAS, pursuant to 3-5-6-(H)-1 of the City Code, "It shall be unlawful for a Class H licensee to sell a single container of beer unless the volume of the container is equal to or greater than forty (40) fluid ounces or 1.18 liters;" and

WHEREAS, pursuant to 3-5-6-(N)-1 of the City Code, "It shall be unlawful for a Class N licensee to sell a single container of beer unless the volume of the container is greater than forty (40) ounces or 1.18 liters;" and

WHEREAS, pursuant to 3-5-6-(O)-1 of the City Code, "It shall be unlawful for a Class O licensee to sell a single container of beer unless the volume of the container is greater than forty (40) ounces or 1.18 liters;" and

WHEREAS, the Liquor Control Review Board (the "Board") convened a meeting, pursuant to notice, on November 28, 2011 at the Evanston Civic Center; and

WHEREAS, at the November 28, 2011 meeting, certain licensees sought clarification from the Board and Commissioner regarding the licensees' ability to sell at retail re-packaged single bottles of beer; and

WHEREAS, pursuant to a review of the licensees' inquiry and consideration of Title 3, Chapter 5, Section 6, during the aforementioned November 28, 2011 meeting, the Commissioner and the Board determined that City Code Subsections 3-5-6(H)-1, 3-5-6-(N)-1 and 3-5-6-(O)-1 are intended to prevent the sale of single containers of alcoholic liquor, including those that have been re-packaged at retail in any fashion different than packaged by the producer of the alcoholic liquor, with the exception for certain allowances outlined in 3-5-6-(H), 3-5-6-(N) and 3-5-6-(O) regarding the sale of wine or non-beer liquor in individual bottles of specific volumes,

NOW BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS, THAT:

SECTION 1: Section 3-5-6-(H) of the City Code is hereby further amended to read as follows:

(H) CLASS H licenses, which shall authorize in the retail package store area the retail sale in package stores of alcoholic liquor in original packages to persons of at least twenty-one (21) years of age for consumption off the premises. The applicant for a class H license shall pay a first year license fee of twenty-five thousand dollars (\$25,000.00). Thereafter, the annual fee for a class H license shall be four thousand one hundred dollars (\$4,100.00). Each class H license shall be subject to the following conditions:

1. It shall be unlawful for a class H licensee to sell a single container of beer unless the volume of the container is equal to or greater than forty (40) fluid ounces or 1.18 liters. It shall be unlawful for a licensee to bundle, tape, package, or otherwise manipulate single containers of beer for sale as a set. Any such manipulation of packaging shall be a violation of this subsection. Nothing in this subsection shall be construed as prohibiting the sale of packages containing six single containers of beer, including such packages consisting of various single containers of beer chosen by the consumer.
2. It shall be unlawful for a class H licensee to sell a single container of wine

unless the container is greater than sixteen (16) fluid ounces or 0.473 liter.

3. It shall be unlawful for a class H licensee to sell a single container of alcoholic liquor, except beer and wine which are regulated by Subsections (H)1. and (H)2. of this Section, unless the container is greater than sixteen (16) fluid ounces or 0.473 liter.

4. The sale of alcoholic liquor at retail pursuant to the class H license may begin after 8:00 a.m., Monday through Sunday. Alcoholic liquor shall not be sold after the hour of 12:00 midnight on any day.

The total number of class H licenses in force at any one (1) time shall not exceed two (2).

SECTION 2: Section 3-5-6-(N) of the City Code is hereby further amended to read as follows:

(N) CLASS N licenses, which shall authorize the retail sale of alcoholic liquor in grocery stores, combination stores as defined in Section 3-5-1 of this Chapter, and wholesale clubs requiring membership in original packages to persons of at least twenty-one (21) years of age for consumption off the premises. The applicant for such license shall pay an initial fee of thirty-five thousand dollars (\$35,000.00) and thereafter an annual fee of eleven thousand five hundred dollars (\$11,500.00).

1. It shall be unlawful for a class N licensee to sell a single container of beer unless the volume of the container is greater than forty (40) ounces or 1.18 liters. It shall be unlawful for a licensee to bundle, tape, package, or otherwise manipulate single containers of beer for sale as a set. Any such manipulation of packaging shall be a violation of this subsection. Nothing in this subsection shall be construed as prohibiting the sale of packages containing six single containers of beer, including such packages consisting of various single containers of beer chosen by the consumer.

2. It shall be unlawful for a class N licensee to sell a single container of wine unless the container is greater than sixteen (16) fluid ounces or 0.473 liters.

3. It shall be unlawful for a class N licensee to sell a single container of alcoholic liquor, except beer and wine which are regulated by Subsections (N)1. and (N)2. of this section, unless the container is greater than sixteen (16) fluid ounces or 0.473 liters.

4. The sale of alcoholic liquor at retail pursuant to the class N license may begin after 8:00 a.m., Monday through Sunday. Alcoholic liquor shall not be sold after the hour of 12:00 midnight on any day.

5. No such license may be granted to an establishment that is located within five hundred (500) feet of a licensee holding a class N liquor license.

6. A class N licensee shall provide a minimum of twelve thousand (12,000) square feet of production, preparation, and display area in which products are prepared and are for sale.

The total number of class N licenses in effect at any one time shall not exceed six (6).

SECTION 3: Section 3-5-6-(O) of the City Code is hereby further amended to read as follows:

(O) CLASS O licenses, which shall authorize the retail sale of beer and wine in grocery stores and combination stores as defined in Section 3-5-1 of this Chapter, and in original packages to persons of at least twenty-one (21) years of age for consumption off the premises. The applicant for such license shall pay an initial fee of twenty thousand dollars (\$20,000.00) and thereafter an annual fee of four thousand one hundred dollars (\$4,100.00).

1. It shall be unlawful for a class O licensee to sell a single container of beer unless the volume of the container is greater than forty (40) ounces or 1.18 liters. It shall be unlawful for a licensee to bundle, tape, package, or otherwise manipulate single containers of beer for sale as a set. Any such manipulation of packaging shall be a violation of this subsection. Nothing in this subsection shall be construed as prohibiting the sale of packages containing six single containers of beer, including such packages consisting of various single containers of beer chosen by the consumer.

2. It shall be unlawful for a class O licensee to sell a single container of wine unless the container is greater than sixteen (16) fluid ounces or 0.473 liters.

3. The sale of alcoholic liquor at retail pursuant to the class O license may begin after 8:00 a.m., Monday through Sunday. Alcoholic liquor shall not be sold after the hour of 12:00 midnight on any day.

4. A class O licensee shall provide a minimum of twelve thousand (12,000) square feet of production, preparation, and display area in which products are prepared and are for sale.

The total number of class O licenses in effect at any one (1) time shall not exceed two (2).

SECTION 4: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 5: If any provision of this Ordinance 9-O-12 or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be

given effect without the invalid application or provision, and each invalid application of this Ordinance is severable.

SECTION 6: The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

SECTION 7: This Ordinance 9-O-12 shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: January 9, 2012

Approved:

Adopted: January 23, 2012

January 25, 2012

Elizabeth B. Tisdahl
Elizabeth B. Tisdahl, Mayor

Attest:

Approved as to form:

Rodney Greene
Rodney Greene, City Clerk

W. Grant Farrar
W. Grant Farrar, Corporation Counsel