

LIQUOR CONTROL RESOLUTION OF 1997

BE IT RESOLVED BY THE COUNTY BOARD OF THE COUNTY OF MERCER, STATE OF ILLINOIS, as follows:

Article I - General

SECTION 1. Title. This Resolution shall be known and may be cited as the "Mercer County Liquor Control Resolution of 1997."

SECTION 2. Liberal Construction. The provisions of this Resolution shall be liberally construed, to the end that the health, safety and welfare of the people of Mercer County shall be protected.

SECTION 3. Definitions. Unless defined otherwise, all words and phrases used in this Resolution shall have the same meaning and definition as given to such words and phrases in the Liquor Control Act of 1934 as amended.

SECTION 4. Incorporation of Illinois Act. All provisions of the Liquor Control Act of 1934 shall be and are hereby made a part of this Resolution insofar as the provisions of that Act pertain to Mercer County, unless specifically and lawfully contradicted.

Article II - Scope of Resolution and Powers

SECTION 1. Unauthorized Sales Prohibited. No person, partnership, non-private club, firm, association, corporation or any person acting as an agent, barkeeper, clerk, servant, or employee of another, shall sell or offer for sale at retail any alcoholic liquor within the County of Mercer, State of Illinois, and outside the corporate limits of any city, village or incorporated town, except as specifically provided in this Resolution.

SECTION 2. Power to License. Subject to the limitations and restrictions provided in this Resolution and in the Liquor Control Act of 1934, the Liquor Control Commissioner of the County of Mercer, hereinafter called "Commissioner", may grant licenses for the retail sale of alcoholic liquor within the County of Mercer and outside the corporate limits of any city, village or incorporated town to any person, partnership, private or non-private club, firm, association or corporation qualified to receive such license upon written application, accompanied by a bond and check, as herein set forth.

SECTION 3. Regulations. The Commissioner may adopt such rules and regulations consistent with provisions of the Liquor Control Act of 1934 as amended, the Rules and Regulations of the Illinois Liquor Control Commission, and the provisions of this Resolution as may be required to perform properly the functions, duties and responsibilities of his office for the protection of the health, safety and welfare of the people of this County.

SECTION 4. Assistant Commissioner. The Commissioner may appoint an assistant Commissioner who, in the event the Commissioner is absent from the County or incapacitated, shall preside at Commission meetings and act for the Commissioner.

SECTION 5. Disposition of Fees. All fees collected by the Commissioner hereunder shall be deposited with the County Treasurer to the credit of the County General Fund.

Article III - Licenses

SECTION 1. Application. Application for a license, or for a renewal of a license, to sell alcoholic liquor at retail shall be made in writing under oath on a form prescribed by the Commissioner. All applications for renewal of a license must be submitted not less than 30 days prior to the expiration of the licensing period as herein established. All applications for licenses shall be submitted to the Commissioner at a reasonable time prior to the date for which said license is to be in effect.

SECTION 2. Bond. Every applicant for a license shall furnish a good and sufficient bond, the form of which shall be prescribed by the Commissioner, payable to the People of the State of Illinois for the use of the County of Mercer, Illinois, in the sum of One Thousand (\$1,000.00) Dollars. The condition of such bond shall be that if the licensee or executor, administrator or trustee, as the case may be, violates the provisions of the Liquor Control Act of 1934, the Regulations of the Illinois Liquor Control Commission, or the provisions of this Resolution or the rules and regulations adopted by the Commissioner pursuant to this Resolution, as any of these may hereinafter be amended, said bond thereupon shall be forfeited.

SECTION 3. Approval of Bond. The bond furnished by an applicant must be submitted with the application for a license, and must be approved by the Commissioner prior to the issuance of a license.

SECTION 4. Leased Premises. In all cases where the applicant is a lessee of the premises sought to be licensed, a complete copy of the applicant's written lease shall be submitted to the Commissioner with the application for a license, and said written lease shall be required before issuance of a license.

SECTION 5. Eligibility for a License. No license shall be issued to:

- (a) A person who is not a bona fide resident of Mercer County;
- (b) A person who is not of good character and reputation;
- (c) A person who is not a citizen of the United States;
- (d) A person who has been convicted of a felony under the law of any jurisdiction;

(q) Any person, association or corporation not eligible for a State retail liquor dealer's license;

(r) Any person, association, partnership or corporation if said person, association, partnership or corporation owns more than five (5%) per cent of the aggregate stock of any corporation presently holding a liquor license;

(s) A person who is the manager of more than one liquor establishment licensed herein;

(t) A person who is not in compliance with conditions prescribed by the Illinois Statute(s) to be met before the person is entitled to the privilege of receiving a liquor license;

(u) A person who is not in compliance with the conditions set forth in this Resolution, including any subsequent amendments or regulations;

(v) A person when it is determined that issuance of a liquor license would not be for the public good and/or safety.

SECTION 6. Classification. Licenses issued by the Commissioner shall be classified as follows:

(a) Type A licenses shall authorize: the retail sale of alcoholic liquor on the premises specified for consumption on the premises where sold, as well as: retail sale of alcoholic liquor for consumption off the premises when sold in unbroken sealed package form as delivered by the manufacturer;

(b) Type B licenses shall authorize the retail sale of alcoholic liquors in unbroken sealed package form as delivered by the manufacturer only, not to be consumed on the premises where sold;

(c) Type C licenses which shall authorize the retail sale of beer and wine in an establishment or in a specifically defined area, as either may be approved by the Commissioner, where the premises are being utilized in connection with a fair, rodeo, festival, reunion, organized picnic, concert or similar type of outing;

(d) Type D licenses which shall authorize the retail sale of beer and wine in an establishment operated in conjunction with a golf course consisting of nine (9) or more holes.

SECTION 7. Limitation on Number of Licenses. The total number of liquor licenses in effect at any one time for the respective classes shall be limited as follows:

(a) The total number of Type A, B, and D licenses shall not exceed two (2) per type per township;

(b) Type C licenses will be limited to two (2) licenses issued to an individual in any calendar year; and further limited to three (3) licenses per township, per calendar year.

SECTION 8. The amount of the license fees for the respective classes herein established shall be as follows:

- (a) Type A \$1,000.00 per year or portion thereof
- (b) Type B \$1,000.00 per year or portion thereof
- (c) Type C \$100.00 per day or portion thereof
- (d) Type D \$750.00 per year or portion thereof

SECTION 9. Partial fees. The fees required by Section 8 shall be required in full and no proportionate rebate, or reduction or any sort, shall be permitted.

SECTION 11. Payment of Fee. Every application for a license shall be accompanied by full payment of the required license fee by cashier's check, money order or cash, and no license shall be issued until such fee has been fully paid. If such application is denied, the fee payment shall be returned to the applicant.

SECTION 12. Duration of Licenses. All licenses, except Type C licenses, shall expire at 12 o'clock midnight on April 30th following issuance of the license each year. No license shall be valid for a period greater than one year. Type C licenses shall be valid for a period not to exceed five (5) days as requested on the application and approved.

SECTION 13. Hearing. Whenever the Commissioner receives an application for a new license, other than an application for renewal license or for a Class G license, he shall hold a public hearing and afford all persons interested therein an opportunity to be heard. The Commissioner shall cause to be published one a notice of the time and place of such hearing, the name of the applicant and the proposed location of the premises. Said notice shall appear in a newspaper of general circulation in Mercer County not more than ten (10) days nor less than five (5) days prior to the date of said hearing.

SECTION 14. Ruling within 45 days. The Commissioner shall grant or refuse to grant a license not later than forty-five days after receipt of the prescribed application for said license.

SECTION 15. Refusal to Grant License. The Commissioner shall refuse to grant a license to any applicant who is not eligible to hold a license under the law or this resolution or who does not comply with requirements for application and bond set forth in Article IV. In the event that a license is refused, the Commissioner shall notify the applicant within a reasonable time of the action taken and the reasons therefore, and he shall return to the applicant the total license fee paid and the bond previously furnished.

SECTION 16. Form of License. All licenses issued by the Commissioner shall be in such written form as the Commissioner may prescribe, subject to all applicable laws.

Article V - Restrictions

SECTION 1. Business Hours.

(a) No Type A, C, or D licensee shall sell or offer for sale, give or permit the consumption of alcoholic liquor on the licensed premises after 12:00 o'clock A.M. (midnight) until 8:00 o'clock A.M. on Mondays through Fridays; after 1:00 o'clock A.M. until 8:00 o'clock A.M. on Saturdays; and after 1:00 A.M. until 12:00 o'clock (noon) on Sundays.

(b) No Type B licensee shall sell or offer for sale, give or permit the consumption of alcoholic liquor on the licensed premises after 12:00 o'clock A.M. (midnight) until 5:00 o'clock A.M. on Mondays through Fridays; after 1:00 o'clock A.M. until 5:00 o'clock A.M. on Saturdays; and after 1:00 A.M. until 5:00 o'clock A.M. on Sundays.

(c) It shall be unlawful for any licensee to be open for business or to admit the public to, or to permit the public to remain within, or to permit consumption of alcoholic liquor in or upon any premises in which alcoholic liquor is sold at retail under a license issued pursuant to the provisions of this Resolution during the hours in which the sale of liquor is prohibited; provided that the term "public" shall not be construed in such a manner as to include the licensee, when a named individual is the licensee, or paid employee of any licensee; and provided further, that hotels, motels, restaurants, clubs, and airports may conduct business during those hours in which the sale, gift or consumption of alcoholic liquor is prohibited as set forth above, subject to that prohibition of the sale, gift, or consumption of alcoholic liquor.

(c) The permitted hour of sale for alcoholic beverages may be extended for an additional period not to exceed one hour, upon petition to and approval by the Commissioner.

SECTION 2. Occupancy.

(a) The occupancy permitted in any establishment shall be determined by dividing the number of square feet available to the public by ten (10) in open areas, by sixteen (16) in inn areas where tables and chairs are used, or by a combination of the above. Said occupancy shall be determined by the fire chief or a subordinate delegated subordinate shall have the right to enter any public building, structure or premises at any reasonable time for the purpose of making an inspection to determine what said occupancy should be and also to determine whether or not there are any violations of these rules and regulations of the local ordinances for the protection of life and property from fire or other emergency.

(b) The maximum occupancy as determined by the fire chief shall be posted at or near the front entrance to said establishment and also above the bar.

(c) The fire chief of the fire district where the licensed premises exists, or his delegated subordinate, can make the occupancy determination by any reasonable means, including requiring the temporary evacuation of the establishment.

SECTION 3. Person Under Legal Age.

(a) No person under the age of 21 years shall be employed in any premises licensed for the retail sale of alcoholic liquor except for services related exclusively to service of food.

(b) No licensee, or agent or employee of a licensee, shall permit a person under 21 years of age to enter into or to remain within any portion, room or compartment within a licensed premises wherein alcoholic liquor is drawn, poured, or mixed; provided, that this prohibition shall not be deemed to have been violated if the licensee, or agent or employee of a licensee, proves as an affirmative defense that a person under 18 years of age entered into a portion, room or compartment of a licensed premises wherein alcoholic liquor is drawn, poured or mixed as a patron for the service of food, accompanied by a parent, guardian or other responsible adult approved by the parent or guardian.

(c) No person under the age of 21, shall buy or attempt to buy or accept or receive or consume any alcoholic liquor, in or around any licensed premises.

(d) No person under 21 years of age shall enter into or remain within any portion, room or compartment within a licensed premises wherein alcoholic liquor is drawn, poured or mixed; provided that this prohibition shall not be deemed to have been violated if a person under 18 years of age shall prove, as an affirmative defense, that he or she entered into or remained within a portion, room or compartment of a licensed premises wherein alcoholic liquor is drawn, poured or mixed as patron for the service of food, accompanied by a parent, guardian or other responsible adult approved by the parent or guardian.

(e) Proof of age.

If a licensee under this Resolution or his agents or employees believes or has reason to believe that a sale or delivery of alcoholic liquor is prohibited because of the age of the prospective recipient, he shall, before making such sale or delivery, demand presentation of some form of positive identification, containing proof of age, issued by a public agency in the due course of official business.

(f) False identification; misrepresenting age.

(a) It shall be unlawful for any person to use an altered, defaced, forged or false identification card for the purpose of obtaining alcoholic liquor or for the purpose of obtaining alcoholic liquor or for the purpose of inducing another person to sell or give alcoholic liquor to him.

(b) It shall be unlawful for any person under the age of twenty-one (21) years to misrepresent his age for the purpose of purchasing or receiving alcoholic liquor in any tavern, liquor store or other place in the County.

SECTION 4. License not to be transferred, encumbered or subject to laws of descent and distribution; exception.

A license shall be purely a personal privilege, good for not to exceed one (1) year after issuance unless sooner revoked as in this chapter provided, and shall not constitute property, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such license shall not descent by the laws of testate or intestate devolution, but it shall cease upon the death of the licensee, provided that executors or administrators of the estate of any deceased licensee, and the trustee of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor under order of the appropriate court, and may exercise the privileges of the deceased or insolvent or bankrupt licensee after the death, bankruptcy or insolvency of such licensee until the expiration of such license, but not longer than six (6) months after the death bankruptcy or insolvency of such licensee. A refund shall not be made of that portion of the licensee fee paid for any period in which the licensee shall be prevented from operating; except in case of entry into the armed forces or death of the licensee.

SECTION 5. Activities Prohibited on Licensed Premises

(a) No illegal gambling devices shall be kept on the premises or used for the purpose of gambling upon the licensed premises, nor shall any illegal gambling be allowed upon the licensed premises.

(b) No pinball machines, or other coin-in-slot mechanical amusement devices, shall be kept on a licensed premises, unless such premises shall hold a current license for such pinball machine or other coin-in-slot mechanical amusement device, such license to be issued pursuant to the provisions of all applicable laws.

(c) No licensee, and no officer, agent, partner or employee of any licensee shall purchase or possess a Federal Occupational Wagering stamp, issued by the internal revenue authorities of United States, for the licensed premises.

(d) No licensee or employee of a licensee shall knowingly permit or commit upon the licensed premises, any act violating the laws of any jurisdiction wherein the licensed premises exists.

(e) No licensee shall permit indecent, lewd or obscene entertainment to be performed upon the licensed premises.

SECTION 6. Sanitation. All premises and equipment and utensils used for the retail sale or storage for sale purposes of alcoholic liquors shall be kept in a sanitary condition. All licensed premises shall have running water at any service bar, and shall have and maintain clean and sanitary toilets and toilet rooms, with separate toilet facilities for men and for women. All licensees shall keep and maintain the licensed premises in full compliance with the law of Illinois regulating the condition of premises used for the storage or sale of food for human consumption.

Article VI - Suspension and Revocation.

SECTION 1. Grounds. Any license issued by the Commissioner under the authority of this Resolution may be revoked or suspended for a period not to exceed thirty (30) days by the Commissioner for any of the following reason:

- (a) Violation of any provision of this Resolution or the Regulations promulgated by the Commissioner including an act unauthorized by the terms of the class of license held.
- (b) Violation of any provisions of the Illinois Liquor Control Law or the Rules and Regulations of the Illinois Liquor Control Commission.
- (c) Violation of any statutes, laws, regulations, or ordinances of any jurisdiction wherein the licensed premises exists.
- (d) Making a false statement as to any fact, material or not, in the application for a license hereunder.
- (e) Any act, occurrence or event which would cause the licensee to be ineligible for a new license under the provisions of this resolution.
- (f) Closing, abandonment, or cessation of the licensed business for a period of more than thirty (30) days.

SECTION 2. Complaint. Any five residents of Mercer County may file a written complaint with the Commissioner stating that any licensee, subject to the jurisdiction of the Commissioner, has committed any act or omission constituting grounds for suspension or revocation. Such written complaint shall be in the form prescribed by the Commissioner and shall be signed and sworn to by the parties complaining. Such complaint shall state the particular provision, rule or regulation believed to have been violated and the facts upon which such belief is based.

SECTION 3. Hearing. If the Commissioner finds that the complaint substantially charges a violation of applicable law, and that from the facts alleged there is reasonable cause for such belief, he shall set the matter for hearing and shall serve upon the licensee a copy of the complaint and notice of the time and place of such hearing.

SECTION 4. Notice. Notice as herein required shall be given by mailing the notice and complaint to the licensed place of business by registered mail, postage prepaid, or by leaving a copy of said notice and complaint at the licensed place of business or by posting a copy of said notice and complaint upon the licensed premises, provided that said notice be so given at least three days before the date set for hearing.

SECTION 5. Complaint by Commissioner. The Commissioner or any member of the Mercer County Board may file a written complaint with Commissioner in the same form and manner, and in conformity with the same procedure, as set forth above.

Article VII - Violations and Penalties.

SECTION 1. Acts of Agent or Employee. Every act or omission of whatsoever nature constituting a violation of any of the provisions of this Resolution, by any officer, director, manager or other agent, or employee of any licensee, shall be deemed and held to be the act of such licensee and said licensee shall be subject to suspension or revocation of his license and subject to criminal prosecution and punishment in the same manner as if said act or omission had been done or omitted by him personally.

SECTION 2. Separate Offenses. Each act in violation of any section of this Resolution constitutes a separate offense, and for single continuing acts a separate offense shall be deemed committed each day during or on which the violation occurs or continues.

SECTION 3. Penalties. Any person, partnership, club, firm, association or corporation who shall violate any provision of this Resolution, or any of the rules or regulations of the Commissioner shall be fined not less than \$200.00 nor more than \$500.00 for a first offense, and for any offense at any time subsequent, not less than \$500.00 nor more than \$1000.00. Any penalty imposed hereunder shall in no way affect the power of the Commissioner to revoke or suspend the license of the licensee.

Article VIII - Miscellaneous

SECTION 1. Repeal of Prior Resolutions. All prior resolutions heretofore adopted by the Past Board of Supervisors and the past and present Mercer County Board pursuant to the powers of said Board to control and regulate the sale of alcoholic liquor, are repealed as of the effective date of this Resolution.

SECTION 2. Power of entry. The Commissioner is given the power to enter or to authorize any law enforcement officer to enter at any time upon any premises licensed under this chapter to determine whether any of the provisions of this code or other Resolutions of the County or Illinois law or any rules or regulations adopted by him or by the State Liquor Control Commission have been or are being violated, and at such time to examine the premises of said licensee in connection therewith.

SECTION 3. Savings Provision. If any section, subsection, clause or phrase of this Resolution is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Resolution.

SECTION 4. When used in this Resolution, words importing the masculine gender include the feminine, words importing the singular number include the plural and words importing the plural number include the singular.

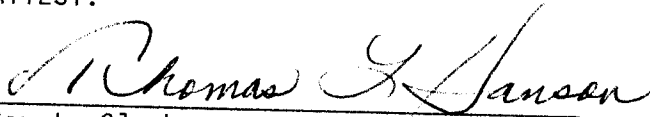
SECTION 5. Effective Date. This Resolution shall become effective immediately, except for outstanding licenses which will become effective on their license renewal date.

READ, ADOPTED and APPROVED by the County Board of the County of Mercer and State of Illinois this 8th day of April, 1997.



Chairman

ATTEST:



County Clerk

2007 AMENDMENT TO THE
LIQUOR CONTROL RESOLUTION
OF 1997 TO BAR ALCOHOL IN
ADULT ENTERTAINMENT ESTABLISHMENTS

WHEREAS the Liquor Control Act 235 ILCS 5/4-2 authorizes the Chairman of the County Board to enforce ordinances relating to alcoholic liquors in unincorporated areas of the County;

WHEREAS the Illinois Supreme Court as recently as 2006 has approved local regulation of alcohol sales and consumption to negate evil secondary effects attendant in sexually oriented business with alcohol/consumption by approving a complete ban on alcohol in such businesses City of Chicago v. Pooh Bah Enterprises 224 Ill.2d 390.

WHEREAS the Mercer County Board takes legislative notice of the Aledo City Ordinance and Peoria Adult Entertainment City Ordinances references particularly to empirical studies documenting the adverse secondary effects of such adult entertainment businesses to justify regulation of such adult entertainment business;

WHEREAS the Mercer County Board thru its Liquor Commissioner and Law Enforcement Committee has consulted with members of the local law enforcement community who confirmed the fact of a higher crime rate attendant to alcoholic consumption at adult entertainment businesses;

WHEREFORE it is resolved a new section 7 shall be added to Article V of the Liquor Control Resolution of 1997 as follows:

No alcohol may be sold, possessed or consumed at any business defined as sexually oriented adult use business. The following shall be considered sexually oriented use businesses for the purposes of this Ordinance:

- 1) Adult cabaret
- 2) Adult bookstore, adult novelty store, or adult video store
- 3) Adult motion picture theater
- 4) Adult novelty store

Definitions:

- 1) Adult Entertainment Cabaret: A public or private establishment which (i) features topless dancers, strippers, male or female impersonators; (ii) not infrequently features entertainers who display "specified anatomical areas;" or (iii) features entertainers who by reason of their appearance or conduct perform in a manner which is designed primarily to appeal to the prurient interest of the patron or entertainers who engage in or are engaged in explicit simulation of "specified sexual activities."

- 2) Adult Bookstore: An establishment having twenty-five percent (25%) or more of its sales or stock in trade, books, magazines, films for rent, sale or for viewing on premises by use of motion picture devices or by coin operated means, and periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities," or "specified anatomical areas," or an establishment with a segment or section devoted to the sale or display of such materials; or an establishment that holds itself out to the public as a purveyor or such materials based upon its signage, advertising, displays, actual sales, presence of video preview or coin operated booths, exclusion of minors from the establishment's premises or any other factors showing the establishment's primary purpose is to purvey such material.
- 3) Adult Motion Picture Theater: A building or area used for presenting materials distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observations by patrons therein.

Specified Sexual Activities: For the purpose of this Section, "specified sexual activities" means: (i) human genitals in the state of sexual stimulation or arousal; (ii) acts of human masturbation, sexual intercourse or sodomy; and (iii) fondling or other erotic touching of human genitals, pubic region, buttock or female breasts.

Specified Anatomical Areas: For the purpose of this Section, "specified anatomical areas" means:

(A) Less than completely and opaquely covered: (i) human genitals, pubic region, (ii) buttock, (iii) female breasts below a point immediately above the top of the areola; and

(B) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

- 4) Adult Novelty Store: An establishment having twenty-five (25%) or more of its sales or stock in trade consisting of toys, devices, clothing "novelties," lotions and other items distinguished or characterized by their emphasis on or use for "specialized sexual activities" or "specified anatomical areas" or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertizing, displays, actual sales, exclusion of minors from the establishment's premises or any other factors showing the establishment's primary purpose is to purvey such material.

ANY VIOLATION IS SUBJECT TO THE PENALTIES OF ARTICLE VIII OF THE LIQUOR CONTROL RESOLUTION.

ADOPTED this 7th day of August 2007.

THE COUNTY BOARD OF MERCER COUNTY, ILLINOIS

By: Thomas J. Harris
Chairman

ATTEST:
By: Thomas J. Hanson
County Clerk