

1 Sec. 6-13. - Allowed areas.

2 (a) A liquor license shall be issued only to establishments
3 located in those portions of the city hereinafter classified
4 as predominantly business in character, unless otherwise
5 provided.

6 (b) It is determined for the purposes of this chapter that the
7 following described portions of the city are predominantly
8 business in character:

9 (1) Downtown, as defined herein.

10 (2) Shopping centers, as defined herein.

11 (3) Contiguous areas of at least fifteen (15) acres which
12 are zoned under the terms of Ordinance No. 3100 amended,
13 known as "Aurora Zoning Ordinance" and the map attached
14 thereto as B-2 Business District-General Retail, B-3
15 Business and Wholesale District, BB Business-Boulevard
16 District, ORI Office, Research and Light Industry District
17 or M-1 Manufacturing District, Limited or combinations of
18 said districts. In addition, any land zoned PDD-Planned
19 Development District shall be included to the extent that
20 such land has been designated for uses similar to the
21 above zonings. Any area zoned R-1, R-2, R-3, R-4, R-5, B-
22 1, M-2, downtown core, downtown fringe is specifically
23 excluded from said business districts.

24 (c) (1) Nothing contained in this section shall preclude the
25 issuance of a liquor license to Class B-Fraternal Society
26 or Club, Class E-Restaurant or Class F-Beer and Wine
27 Restaurant establishments in portions of the City of
28 Aurora classified as predominantly business in character.

29 (2) No new Class A, Class B, Class E or Class F licenses may
30 be issued after January 1, 2003 to any establishment that
31 is within five hundred (500) feet of a residential
32 property without the applicant obtaining a special use
33 permit allowing the issuance of said license, provided the
34 property has adequate off-street parking, and complies
35 with all other requirements of the Code. However, if the
36 license is located in the downtown or a shopping center,
37 as defined above, then a Class E or F license may be
38 issued without the need for a special use permit so long
39 as the license complies with all other requirements of the
40 Code. Current Class A, Class B, Class E and Class F
41 establishments in portions of the city located within five
42 hundred (500) feet of a residential property shall not be
43 required to obtain a special use permit in order to renew
44 their existing liquor license.

1 (d) No license shall be issued for the sale at retail of any
2 alcoholic liquor within one hundred (100) feet of a church,
3 grade school, middle school, alternative school or high
4 school, hospital, or home for indigent persons. However, if
5 the license is located in the downtown or a shopping center,
6 as defined above, then a Class D, E, F, J, K, I or M license
7 may be issued if the license is not located within one
8 hundred (100) feet of a grade school, middle school,
9 alternative school or high school.

10 (1) The liquor commissioner may grant a reduction of the
11 distance requirement in this subsection (d), based on a
12 finding from an administrative hearing officer that such a
13 reduction would not detrimentally affect the church, grade
14 school, middle school, alternative school or high school,
15 hospital or home for indigent persons within one hundred
16 (100) feet of the premise proposed to be licensed. If a
17 reduction is granted, applicants must still comply with all
18 other application requirements associated with the issuance
19 of a liquor license.

20 (2) The hearing officer shall consider the following factors
21 in reviewing a reduction in the distance requirement:

22 (i) The type of activity to be conducted at the premises
23 proposed to be licensed and the days and times during which
24 such activity will take place;

25 (ii) The size of the applicant's business and the affected
26 establishment;

27 (iii) The availability of adequate parking for patrons of
28 both the applicant's business and the affected establishment;

29 (iv) Whether the applicant is seeking a license to permit
30 consumption of liquor at its premises or for the sale of
31 package goods;

32 (v) Reports from the police regarding the location, as well
33 as the history of activity conducted at or in conjunction
34 with the premises and any associated infractions or
35 violations of state law or local ordinances;

36 (vi) The relevant geography and location of the applicant's
37 business;

38 (vii) The legal nature and history of the applicant; and

39 (viii) The measures the applicant proposes to implement to
40 maintain quiet and security in conjunction with the
41 establishment.

1 (3) An applicant seeking a distance requirement reduction
2 shall make a written submission to the city clerk for review by
3 an administrative hearing officer. Upon receiving a completed
4 application the city clerk shall notify the alderman's office.
5 The application shall present all factors the applicant believes
6 to be relevant to whether a reduction is appropriate. Aldermen
7 and/or representatives of the City will also have an opportunity
8 to submit information they believe to be relevant to the hearing
9 officer's recommendation. The request for reduction shall be
10 accompanied by an additional fee of one thousand dollars
11 (\$1,000) to defer the costs of the administrative hearing
12 officer. The hearing officer shall review the information
13 provided and shall incorporate it in to the hearing officer's
14 decision for the liquor commissioner's review and approval.

15 (4) If the liquor commissioner grants a liquor license
16 with a distance reduction, the factors that were deemed relevant
17 to the hearing officer's finding may be included in a plan of
18 conduct. Any such plan of conduct shall be deemed a part of the
19 license, and compliance with the plan of conduct shall be a
20 necessary condition to the continued validity of the license.
21 Failure to comply with one or more elements of the plan of
22 conduct shall subject the licensee to suspension or revocation
23 of the liquor license.

24 (e) No Class A-Tavern license shall be issued for any location
25 that is within five hundred (500) feet of any location for
26 which any existing license is held except in the "downtown"
27 or "shopping centers."

28 (f) Nothing contained in this section shall preclude the
29 issuance of a Class G-Package Beer and Wine License to
30 establishments with more than ten thousand (10,000) square
31 feet devoted exclusively to retail sales and whose primary
32 purpose is other than the sale of alcoholic liquors;
33 provided, that said establishment has met the appropriate
34 zoning regulations, has adequate off-street parking and has
35 complied with the other requirements of this Code.

36 (g) Outdoor seating areas serving alcohol shall be permitted
37 only on the premises of those licensees holding a Class A, B,
38 D, E, F, H, P, or S license. Nothing contained in this
39 section shall preclude the approval and issuance of an
40 outdoor seating area for a licensee located within the
41 "downtown" area, defined as the downtown core and downtown

1 fringe areas as defined from time to time, or "shopping
2 centers" as defined in this article, provided that said
3 establishment has met the other requirements as set forth in
4 this section and has provided a business plan that includes,
5 but is not limited to, a detailed plan to contain noise and
6 music within its premises, as well as security and parking
7 issues.

8 (1) Each licensee that desires to operate an outdoor seating
9 area, must submit a permit request to the local liquor
10 control commissioner. The local liquor control
11 commissioner shall have final approval over any and all
12 requests for an outdoor seating area. The application for
13 outdoor seating area shall include:

14 a. A hard copy of a dimensioned plan drawn to scale
15 including property lines showing the sidewalk or other
16 outdoor space and all existing public improvements and
17 encroachments such as light posts, benches, planters,
18 fencing, trash receptacles, fences, trees and tree
19 grates in the area, bicycle racks and newspaper boxes.
20 The diagram shall also include the location of the curb
21 relative to the building and proposed location of all
22 furniture and equipment to be placed on the sidewalk or
23 area. There shall be a single entry into the outdoor
24 seating area from within the licensed premise and that
25 entryway must be from within the licensed premise
26 except for establishments located downtown. For
27 businesses in the downtown a security plan must be
28 submitted detailing the means to be taken to provide
29 for adequate control of the area.

30 b. Proof that the applicant has written approval from the
31 owner of the property for the outdoor seating area to
32 be used by the applicant if the applicant or the City
33 of Aurora is not the owner of the property.

34 c. The applicant for an outdoor seating area shall
35 provide the city with copies of the certificates of
36 insurance for the required policies for each type of
37 insurance naming the City as an additional, non-
38 contributory insured party:

39 1. Worker's compensation insurance in at least the
40 required statutory limits;

41 2. Comprehensive general liability insurance,
42 including owner's protective liability insurance and
43 contractual liability insurance covering claims for
44 personal injury and property damage with limits of
45 at least two million (\$2,000,000.00) dollars per

1 occurrence, and two million (\$2,000,000.00) dollars
2 for any single injury; and

3 3. The required insurance policies shall each provide
4 that they shall not be changed or cancelled during
5 the life of the licensee period or until thirty (30)
6 days after written notice of such change has been
7 delivered to the city.

8 (2) The outdoor area upon which alcoholic beverages will be
9 served must be clearly designated and segregated by use of
10 a temporary or permanent fence or barrier approved by the
11 city that is no less than twenty four-inches (24") in
12 height and no more than seventy-two inches (72") in height
13 and provided with required, unobstructed exits as
14 prescribed herein and by the City of Aurora Code as
15 adopted from time to time.

16 a. Barrier designs. A variety of styles and designs are
17 permissible for outdoor seating areas.

18 1. Sectional fencing. Sectional fencing (generally
19 defined as rigid fence segments that can be placed
20 together to create a unified fencing appearance) is
21 a desirable solution for outdoor seating areas using
22 barriers. Such fencing is portable, but cannot be
23 easily shifted by patrons or pedestrians, as can
24 less rigid forms of enclosures. Sectional fencing
25 must be of metal (aluminum, steel, iron or similar)
26 or of wood or composite construction. In the
27 downtown area fences shall be fabricated of
28 decorative metal. Chain link, plastic, vinyl, or
29 wood fences are prohibited.

30 2. Posts. Vertical support posts (stanchions,
31 bollards, etc.) must be constructed of wood, metal
32 (aluminum, steel, iron or similar), or composite
33 materials. In the downtown area posts shall be
34 fabricated of decorative metal.

35 3. Stanchion base must not be a tripping hazard. If a
36 stanchion or other vertical supporting device is
37 attached to a base, that base must be adequate to
38 support the stanchion as approved by the city. No
39 domed stanchion bases are permitted.

40 b. Freestanding or attached. Any barrier may be
41 freestanding without any permanent or temporary
42 attachments to buildings, sidewalks or other
43 infrastructure or may be attached to a building.

1 c. Planters. Planters may be used in addition to or in
2 place of other barrier designs. Planters and the plants
3 contained within them must meet the following
4 requirements:

5 1. Maximum height of planters. Planters may not exceed
6 a height of thirty- six (36) inches above the
7 ground. (this pertains to the planter only, not the
8 plants contained therein).

9 2. Maximum height of plants. Plants (or seasonal
10 displays of natural landscape material) may not
11 exceed a height of seventy-two (72) inches above the
12 level of the ground.

13 3. Planter material. All planters must have plants
14 (live, artificial, or seasonal) contained within
15 them. If the live plants within the planter die, the
16 plants must be replaced or the planter removed.
17 Empty planters with only dirt, mulch, straw,
18 woodchips or similar material are not permitted.

19 d. Natural barriers. Barriers may be natural in design
20 such as a hedge, shrub or other plant material approved
21 by the city.

22 e. Prohibited Barrier Styles.

23 1. Fabric inserts. Fabric inserts (whether natural or
24 synthetic fabric) of any size are not permitted to
25 be used as part of a barrier.

26 2. Chain-link and other fencing. The use of chain-
27 link, cyclone fencing, chicken wire or similar
28 appurtenances is prohibited for the outdoor seating
29 license. Materials not specifically manufactured for
30 fencing or pedestrian control (including but not
31 limited to such items as buckets, food containers,
32 tires, tree stumps, vehicle parts, pallets, etc.)
33 are not permitted and may not be used as components
34 of a barrier.

35 f. A separate emergency exit out of the outdoor café area
36 may be required before the request is approved.

37 (3) The proposed use shall not unreasonably interfere with
38 pedestrian or vehicular traffic or with access to parked
39 vehicles, and in no event shall the uses permitted by an
40 outdoor seating area reduce the open portion of any
41 sidewalk or walkway to less than five (5) feet in width
42 for more than two hundred (200) feet in length.

- 1 a. In order to allow adequate pedestrian traffic areas,
2 Federal and State accessibility requirements and
3 emergency access around outdoor dining areas, the
4 following dimensional requirements must be observed:
- 5 1. A space at least thirty-six (36) inches wide for
6 unobstructed ingress/egress must be maintained
7 between any restaurant doorway and the pedestrian
8 traffic corridor.
- 9 2. Location: Access openings should be placed in a
10 location that will not create confusion for visually
11 impaired pedestrians and as approved by the fire
12 department.
- 13 b. Design and placement of tables and chairs, as well as
14 other equipment shall comply with applicable
15 requirements of the Americans with Disabilities Act and
16 the Illinois Accessibility Act.
- 17 c. All applicable County Health Department sanitation
18 requirements shall be followed for outdoor food
19 handling. The permittee shall be responsible for
20 posting the outdoor seating area as to any special
21 Health Department requirements.
- 22 d. All public areas encompassed by the outdoor seating
23 area shall be maintained in a sanitary manner at all
24 times. Food scraps and containers shall be disposed of
25 in appropriate refuse containers on a regular basis
26 during the day by the permittee. Sweeping of refuse or
27 food scraps into tree grates is not permitted.
- 28 e. Licensees are responsible for emptying the public
29 trash containers placed by the city if they should
30 become full prior to the next regular pickup time.
- 31 f. Licensees shall see that the public areas encompassed
32 by their outdoor seating area are clean at the end of
33 each business day, so as not to have any food or drink
34 leftovers remaining which would pose an attraction to
35 animals or insects. Each permit holder shall wash, as
36 needed, the public area to remove any food or drink
37 residue that may attract animals and/or create a
38 pedestrian slip hazard.
- 39 g. No tables, umbrellas, enclosure fencing, or other
40 equipment shall be attached or affixed to the sidewalk,
41 parkway, poles or any other public facilities.
- 42 h. Partitions, chairs, tables, lighting, serving stations
43 and other amenities included in the outdoor seating

1 area shall be approved by the city. The outdoor seating
2 area shall be maintained in compliance with the
3 approved site plan.

4 i. An inspection of the outdoor seating area shall be
5 made by the city prior to approval of the outdoor
6 seating area. Inspections may include, but are not
7 limited to, inspections by the building department,
8 police department and fire department prior to issuance
9 of the permit.

10 j. The arrangement and number of tables and chairs within
11 the authorized boundaries of the outdoor seating area
12 shall reflect the approved plan and shall not be
13 substantially changed, altered, added to or reduced
14 without the approval by the city during the annual
15 permit period.

16 k. The licensee has an affirmative duty to prohibit any
17 alcoholic liquor from leaving the permitted service
18 area, except in a package properly sealed, bagged and
19 receipted pursuant to Section 6-25(e) of the City of
20 Aurora Code of Ordinances.

21 l. The licensee shall indemnify, defend, protect, and
22 hold harmless the city, its corporate authorities,
23 officers, employees, agents and volunteers from and
24 against any and all claims, demands, losses, damages,
25 liabilities, fines, charges, penalties, administrative
26 and judicial proceedings and orders, judgments,
27 remedial actions of any kind, all costs and cleanup
28 actions of any kind, and all costs and expenses
29 incurred in connection therewith, including but not
30 limited to reasonable attorney's fees, expert witness
31 fees and costs of defense (collectively, the "Losses")
32 directly or proximately resulting from licensee's acts
33 or omissions, except to the extent that the city is the
34 sole legal cause of said losses. The foregoing
35 notwithstanding, under no circumstances shall the
36 issuance of any license provided for under the Aurora
37 Municipal Code, including but not limited to a liquor
38 license, to the licensee or any other person or entity
39 constitute an act of negligence or willful misconduct.
40 Nothing set forth in the said license shall be deemed a
41 waiver by the city of any defenses or immunities
42 relating to the licensee or its property, or to any
43 person or entity or their property, that are or would
44 be otherwise available to the city or its corporate
45 authorities, officers, employees, agents and volunteers

1 under the common law of the State of Illinois or the
2 United States of America. The provisions of this
3 section shall survive the expiration or earlier
4 termination of each approved outdoor seating area, or
5 the renewal thereof.

6 (4) For new outdoor seating areas approved after March 28,
7 2017, the permit shall be valid for the same term as the
8 liquor license. The holder of a permit shall re-apply on
9 an annual basis in conjunction with the renewal of the
10 annual liquor license. There is an initial application fee
11 of \$100.00. Renewals will comprise of submission of the
12 outdoor seating plan.

13 (5) In the event that the local liquor control commissioner
14 refuses to grant permission for an outdoor seating area,
15 he shall place on file in his office the rejected
16 application and a document setting forth the reasons for
17 his refusal to grant the permit. Copies of the rejected
18 application and the document setting forth the reasons for
19 refusal shall also be served by certified mail upon the
20 licensee at the address stated on the license application.

21 (6) The rejected applicant may, within ten (10) days from
22 the receipt of said notice of rejection, request a hearing
23 before the local liquor control commissioner, at which
24 time all interested parties shall be heard.

25 (7) The licensee must comply with all other provisions of
26 this Code.

27 (Code 1969, § 6-13; Ord. No. 086-5553, § 2, 9-2-86; Ord. No.
28 087-5622, § 1, 1-17-87; Ord. No. 088-85, § 1, 8-2-88; Ord. No.
29 089-66, § 1, 7-5-89; Ord. No. 092-120, § 1, 12-15-92; Ord. No.
30 094-91, § 1, 9-6-94; Ord. No. 002-158, § 5, 12-10-02; Ord. No.
31 004-43, § 3, 4-27-04; Ord. No. 005-18, § 3, 2-22-05; Ord. No.
32 008-24, § 2, 3-25-08; Ord. No. 010-030, § 1, 6-8-10; Ord. No.
33 017-014, § 3-28-17)