

1 Sec 6-13 Allowed Areas

2 (a) Generally.

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

6 1. For the purposes of this chapter the following described portions of the city are
7 predominantly business in character:

8 a. Downtown, as defined herein.

9 b. Shopping centers, as defined herein.

10 c. Contiguous areas of at least fifteen (15) acres which are zoned as B-2
11 Business District—General Retail, B-3 Business and Wholesale District,
12 BB Business—Boulevard District, ORI Office, Research and Light
13 Industry District or M-1 Manufacturing District, Limited or combinations
14 of said districts under the chapter 49 of this code and the zoning map
15 attached thereto. In addition, any land zoned PDD-Planned
16 Development District shall be included to the extent that such land has
17 been designated for uses similar to the above zonings. Any area zoned R-
18 1, R-2, R-3, R-4, R-5, B-1, M-2, downtown core, downtown fringe is
19 specifically excluded from said business districts.

20 ~~2.—Nothing contained in this section shall preclude the issuance of a liquor license~~
21 ~~to Fraternal Society or Club, Restaurant or Beer and Wine Restaurant~~
22 ~~establishments in portions of the city classified as predominantly business in~~
23 ~~character.~~

24 (b) Distance Requirements.

25 (1) No new liquor licenses may be issued to any establishment that is within five hundred
26 (500) feet of a residential property without the applicant obtaining the approval of the
27 liquor commissioner through the hearing process established in section 6-13(d)(2-4),
28 provided the property has adequate off-street parking, and complies with all other
29 requirements of the Code. However, if the business is located in the downtown or a
30 shopping center, as defined ~~herein above~~, then a liquor license may be issued without
31 obtaining the approval for a reduction of the distance requirement from the liquor
32 commissioner after an administrative hearing ~~the need for a conditional use permit~~ so
33 long as the business complies with all other requirements of the Code. Licensees
34 identified as Taverns, Fraternal Societies or Clubs, Package Liquor and Auditoriums
35 prior to January 1, 2003 in portions of the city located within five hundred (500) feet of a
36 residential property shall not be required to obtain approval from the liquor
37 commissioner in order to renew their existing liquor license.

38 (2) No license shall be issued for the sale at retail of any alcoholic liquor within one
39 hundred (100) feet of a church, grade school, middle school, alternative school or high

1 school, hospital, or home for indigent persons. However, if the license is located in the
2 downtown or a shopping center, as defined above, then a Class D license may be issued
3 if the license is not located within one hundred (100) feet of a grade school, middle
4 school, alternative school or high school. The one hundred (100) feet measurement is to
5 be taken from property line to property line, except when determining the distance
6 between a church and a liquor license applicant, the distance of one hundred (100) feet
7 shall be measured to the nearest part of any building used for worship services or
8 educational programs and not to property boundaries.

9 (3) Distance Reduction Hearings. The liquor commissioner may grant a reduction of the
10 distance requirements in ~~this~~ subsections (b)(1) and (b)(2) (d), based on a finding from
11 an administrative hearing officer that such a reduction would not detrimentally affect
12 the residences within five hundred (500) feet of the premises, or the church, grade
13 school, middle school, alternative school or high school, hospital or home for indigent
14 persons within one hundred (100) feet of the premise proposed to be licensed. If a
15 reduction is granted, applicants must still comply with all other application
16 requirements associated with the issuance of a liquor license.

17 1. The hearing officer shall consider the following factors in reviewing a reduction
18 in the distance requirement:

- 19 a. The type of activity to be conducted at the premises proposed to be
20 licensed and the days and times during which such activity will take
21 place;
- 22 b. The size of the applicant's business and the affected establishment;
- 23 c. The availability of adequate parking for patrons of both the applicant's
24 business and the affected establishment;
- 25 d. Whether the applicant is seeking a license to permit consumption of
26 liquor at its premises or for the sale of package goods;
- 27 e. Reports from the police regarding the location, as well as the history of
28 activity conducted at or in conjunction with the premises and any
29 associated infractions or violations of state law or local ordinances;
- 30 f. The relevant geography and location of the applicant's business;
- 31 g. The legal nature and history of the applicant; and
- 32 h. The measures the applicant proposes to implement to maintain quiet
33 and security in conjunction with the establishment.

34 2. An applicant seeking a distance requirement reduction shall submit ~~make an~~
35 application ~~a written submission to the city clerk~~ on a form provided by the city
36 clerk's office for review by an administrative hearing officer. Upon receiving a
37 completed application the city clerk shall notify the alderman's office. The
38 application shall present all factors the applicant believes to be relevant to

1 whether a reduction is appropriate. Aldermen and/or representatives of the city
 2 will also have an opportunity to submit information they believe to be relevant to
 3 the hearing officer's recommendation. Applicants shall bear all costs
 4 associated with the hearing officer's review and court reporter fees for said
 5 review. The hearing officer shall review the information provided and shall
 6 incorporate it into the hearing officer's decision for the liquor commissioner's
 7 review and approval.

- 8 3. If the liquor commissioner grants a liquor license with a distance reduction, the
 9 factors that were deemed relevant to the hearing officer's finding may be
 10 included in a plan of conduct. Any such plan of conduct shall be deemed a part
 11 of the license, and compliance with the plan of conduct shall be a necessary
 12 condition to the continued validity of the license. Failure to comply with one (1)
 13 or more elements of the plan of conduct shall subject the licensee to
 14 suspension or revocation of the liquor license.

15 ~~(4) No Tavern license, as defined in section 6-2, shall be issued for any location that is~~
 16 ~~within five hundred (500) feet of any location for which any existing license is held~~
 17 ~~except in the "downtown" or "shopping centers."~~

18 ~~(5) Nothing contained in this section shall preclude the issuance of a Class A—Package~~
 19 ~~Beer and Wine License to establishments with more than ten thousand (10,000) square~~
 20 ~~feet devoted exclusively to retail sales and whose primary purpose is other than the sale~~
 21 ~~of alcoholic liquors; provided, that said establishment has met the appropriate zoning~~
 22 ~~regulations, has adequate off-street parking and has complied with the other~~
 23 ~~requirements of this Code.~~

24 (c) Permanent Outdoor Seating for On-Site Consumption Liquor Licensees.

25 (1) Outdoor seating areas serving alcohol shall be permitted only on the premises of those
 26 licensees holding an On-Site Consumption license. Nothing contained in this section
 27 shall preclude the approval and issuance of an outdoor seating area for a licensee
 28 located within the "downtown" area, defined as the downtown core and downtown
 29 fringe areas as defined from time to time, or "shopping centers" as defined in this
 30 article, provided that said establishment has met the other requirements as set forth in
 31 this section and has provided a business plan that includes, but is not limited to, a
 32 detailed plan to contain noise and music within its premises, as well as security and
 33 parking issues.

- 34 1. Each licensee that desires to operate an outdoor seating area, must submit a
 35 permit request to the local liquor control commissioner. ~~The local liquor control~~
 36 ~~commissioner~~ who shall have final approval over ~~any and~~ all requests for an
 37 outdoor seating area. The application for outdoor seating area shall include:

- 38 a. A hard copy of a dimensioned plan drawn to scale including property
 39 lines showing the sidewalk or other outdoor space and all existing public
 40 improvements and encroachments such as light posts, benches,

1 planters, fencing, trash receptacles, fences, trees and tree grates in the
2 area, bicycle racks and newspaper boxes. The diagram shall also include
3 the location of the curb relative to the building and proposed location of
4 all furniture and equipment to be placed on the sidewalk or area. There
5 shall be a single entry into the outdoor seating area from within the
6 licensed premise and that entryway must be from within the licensed
7 premise except for establishments located downtown. For businesses in
8 the downtown a security plan must be submitted detailing the means to
9 be taken to provide for adequate control of the area.

10 b. ~~Proof that the applicant has~~ Written approval from the owner of the
11 property for the outdoor seating area to be used by the applicant if the
12 applicant or the city is not the owner of the property.

13 c. ~~The applicant for an outdoor seating area shall provide the city with~~
14 ~~copies of the~~ Certificates of insurance for the required policies for each
15 type of insurance naming the city as a primary, noncontributory,
16 additional insured party:

17 1) Worker's compensation insurance in at least the required Illinois
18 statutory limits;

19 2) Comprehensive general liability insurance, including owner's
20 protective liability insurance and contractual liability insurance
21 covering claims for personal injury and property damage with
22 limits of at least ~~two million (\$2,000,000.00)~~ one million
23 (\$1,000,000) dollars per occurrence, and two million
24 ~~(\$2,000,000.00)~~ dollars in the aggregate; for any single injury;
25 and

26 3) Liquor liability insurance with limits of at least one million
27 (\$1,000,000) dollars per occurrence, and one million
28 (\$1,000,000) dollars in the aggregate;

29 4) Umbrella liability of two million (\$2,000,000) dollars per
30 occurrence; and

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

35 2. The outdoor area upon which alcoholic beverages will be served must be clearly
36 designated and segregated by use of a temporary or permanent fence or barrier
37 approved by the city that is no less than twenty four (24) inches in height and no
38 more than seventy-two (72) inches in height and provided with required,
39 unobstructed exits as prescribed herein and by this code as adopted from time
40 to time.

- 1 a. Barrier designs. A variety of styles and designs are permissible for
2 outdoor seating areas.
- 3 1) Sectional fencing. Sectional fencing (generally defined as rigid
4 fence segments that can be placed together to create a unified
5 fencing appearance) is a desirable solution for outdoor seating
6 areas using barriers. Such fencing is portable, but cannot be
7 easily shifted by patrons or pedestrians, as can less rigid forms
8 of enclosures. Sectional fencing must be of metal (aluminum,
9 steel, iron or similar) or of wood or composite construction. In
10 the downtown area fences shall be fabricated of decorative
11 metal. Chain link, plastic, vinyl, or wood fences are prohibited.
- 12 2) Posts. Vertical support posts (stanchions, bollards, etc.) must be
13 constructed of wood, metal (aluminum, steel, iron or similar), or
14 composite materials. In the downtown area posts shall be
15 fabricated of decorative metal.
- 16 3) Stanchion base must not be a tripping hazard. If a stanchion or
17 other vertical supporting device is attached to a base, that base
18 must be adequate to support the stanchion as approved by the
19 city. No domed stanchion bases are permitted.
- 20 b. Freestanding or attached. Any barrier may be freestanding without any
21 permanent or temporary attachments to buildings, sidewalks or other
22 infrastructure or may be attached to a building.
- 23 c. Planters. Planters may be used in addition to or in place of other barrier
24 designs. Planters and the plants contained within them must meet the
25 following requirements:
- 26 1) Maximum height of planters. Planters may not exceed a height of
27 thirty-six (36) inches above the ground. (this pertains to the
28 planter only, not the plants contained therein).
- 29 2) Maximum height of plants. Plants (or seasonal displays of
30 natural landscape material) may not exceed a height of seventy-
31 two (72) inches above the level of the ground.
- 32 3) Planter material. All planters must have plants (live, artificial, or
33 seasonal) contained within them. If the live plants within the
34 planter die, the plants must be replaced or the planter removed.
35 Empty planters with only dirt, mulch, straw, woodchips or similar
36 material are not permitted.
- 37 d. Natural barriers. Barriers may be natural in design such as a hedge,
38 shrub or other plant material approved by the city.
- 39 e. Prohibited barrier styles.

- 1 1) Fabric inserts. Fabric inserts (whether natural or synthetic fabric)
2 of any size are not permitted to be used as part of a barrier.
- 3 2) Chain-link and other fencing. The use of chain-link, cyclone
4 fencing, chicken wire or similar appurtenances is prohibited for
5 the outdoor seating license. Materials not specifically
6 manufactured for fencing or pedestrian control (including but not
7 limited to such items as buckets, food containers, tires, tree
8 stumps, vehicle parts, pallets, etc.) are not permitted and may
9 not be used as components of a barrier.
- 10 f. A separate emergency exit out of the outdoor cafe area may be required
11 before the request is approved.
- 12 (2) The proposed use shall not unreasonably interfere with pedestrian or vehicular traffic or
13 with access to parked vehicles, and in no event shall the uses permitted by an outdoor
14 seating area reduce the open portion of any sidewalk or walkway to less than five (5)
15 feet in width for more than two hundred (200) feet in length.
- 16 1. In order to allow adequate pedestrian traffic areas, federal and state
17 accessibility requirements and emergency access around outdoor dining areas,
18 the following dimensional requirements must be observed:
- 19 a. A space at least thirty-six (36) inches wide for unobstructed
20 ingress/egress must be maintained between any restaurant doorway and
21 the pedestrian traffic corridor.
- 22 b. Location: Access openings should be placed in a location that will not
23 create confusion for visually impaired pedestrians and as approved by
24 the fire department.
- 25 2. Design and placement of tables and chairs, as well as other equipment shall
26 comply with applicable requirements of the Americans with Disabilities Act and
27 the Illinois Accessibility Act.
- 28 3. All applicable county health department sanitation requirements shall be
29 followed for outdoor food handling. The permittee shall be responsible for
30 posting the outdoor seating area as to any special health department
31 requirements.
- 32 4. All public areas encompassed by the outdoor seating area shall be maintained
33 in a sanitary manner at all times. Food scraps and containers shall be disposed
34 of in appropriate refuse containers on a regular basis during the day by the
35 permittee. Sweeping of refuse or food scraps into tree grates is not permitted.
- 36 5. Licensees are responsible for emptying the public trash containers placed by
37 the city if they should become full prior to the next regular pickup time.

- 1 6. Licensees shall see that the public areas encompassed by their outdoor seating
2 area are clean at the end of each business day, so as not to have any food or
3 drink leftovers remaining which would pose an attraction to animals or insects.
4 Each permit holder shall wash, as needed, the public area to remove any food or
5 drink residue that may attract animals and/or create a pedestrian slip hazard.
- 6 7. No tables, umbrellas, enclosure fencing, or other equipment shall be attached
7 or affixed to the sidewalk, parkway, poles or any other public facilities.
- 8 8. Partitions, chairs, tables, lighting, serving stations and other amenities included
9 in the outdoor seating area shall be approved by the city. The outdoor seating
10 area shall be maintained in compliance with the approved site plan.
- 11 9. An inspection of the outdoor seating area shall be made by the city prior to
12 approval of the outdoor seating area. Inspections may include, but are not
13 limited to, inspections by the building department, police department and fire
14 department prior to issuance of the permit.
- 15 10. The arrangement and number of tables and chairs within the authorized
16 boundaries of the outdoor seating area shall reflect the approved plan and shall
17 not be substantially changed, altered, added to or reduced without the approval
18 by the city during the annual permit period.
- 19 11. The licensee has an affirmative duty to prohibit any alcoholic liquor from leaving
20 the permitted service area, except in a package properly sealed, bagged and
21 received pursuant to section 6-25(e) of this code.
- 22 12. The licensee shall indemnify, defend, protect, and hold harmless the city, its
23 corporate authorities, officers, employees, agents and volunteers from and
24 against any and all claims, demands, losses, damages, liabilities, fines,
25 charges, penalties, administrative and judicial proceedings and orders,
26 judgments, remedial actions of any kind, all costs and cleanup actions of any
27 kind, and all costs and expenses incurred in connection therewith, including but
28 not limited to reasonable attorney's fees, expert witness fees and costs of
29 defense (collectively, the "Losses") directly or proximately resulting from
30 licensee's acts or omissions, except to the extent that the city is the sole legal
31 cause of said losses. The foregoing notwithstanding, under no circumstances
32 shall the issuance of any license provided for under the Aurora Municipal Code,
33 including but not limited to a liquor license, to the licensee or any other person
34 or entity constitute an act of negligence or willful misconduct. Nothing set forth
35 in the said license shall be deemed a waiver by the city of any defenses or
36 immunities relating to the licensee or its property, or to any person or entity or
37 their property, that are or would be otherwise available to the city or its
38 corporate authorities, officers, employees, agents and volunteers under the
39 common law of the State of Illinois or the United States of America. The
40 provisions of this section shall survive the expiration or earlier termination of
41 each approved outdoor seating area, or the renewal thereof.

1 (3) Term of Permanent Outdoor Dining Permits. ~~For new outdoor seating areas approved~~
2 ~~after March 28, 2017, t~~The permit shall be valid for the same term as the liquor license.
3 ~~The holder of a permit shall re-apply on an annual basis in conjunction with the renewal~~
4 ~~of the annual liquor license.~~ There is an initial application fee. Renewals will comprise of
5 submission of the outdoor seating plan if changes have been made since initial
6 approval. If there are no changes in the outdoor seating plan from the originally
7 approved plan, the designation of “Permanent Outdoor Seating” shall be placed on the
8 liquor license at the time of renewal each year.

9 (4) Denial of Application.

- 10 1. In the event that the local liquor control commissioner refuses to grant
11 permission for an outdoor seating area where alcohol service is allowed, he
12 shall place on file in his office the rejected application and a document setting
13 forth the reasons for his refusal to grant the permit. Copies of the rejected
14 application and the document setting forth the reasons for refusal shall also be
15 served by certified mail upon the licensee at the address stated on the license
16 application.
- 17 2. The rejected applicant may, within ten (10) days from the receipt of said notice
18 of rejection, request a hearing before the local liquor control commissioner, at
19 which time all interested parties shall be heard.

20 (5) The licensee must comply with all other provisions of ~~this Code~~ the code of ordinances.

21 (6) Temporary Outdoor Dining Permits are reviewed, issued and regulated pursuant to
22 Chapter 25, Section XV of the code of ordinances.