

**CHAPTER 3**  
**REGULATION OF ALCOHOLIC BEVERAGES**

**SECTION 3-1: DEFINITIONS**

All words and phrases used in this chapter and not otherwise defined in this chapter, which are defined in "An Act Relating to Alcoholic Liquors," approved January 31, 1934, as amended (235 ILCS 5/1-2 et seq.) shall have the meaning accorded to such words and phrases in such Act. Unless the context otherwise requires, the following terms as used in this chapter shall be construed according to the following definitions:

**"ALCOHOLIC LIQUOR"** means any alcohol, spirits, wine, beer, ale, or other liquid or solid, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed as a beverage by a human being.

**"BEER"** means a beverage obtained by the alcoholic fermentation of an infusion or concoction of barley or other grains, malt, or hops in water, and includes, among other things, beer, ale, stout, lager beer, porter, and the like.

**"DRUG OFFENSES"** means criminal offenses involving the possession, use, sale, or other transfer of illicit drugs or illegal or controlled substances.

**"MINOR"** means any person under twenty-one (21) years of age.

**"ORIGINAL CONTAINER"** means, for the purposes of this section only, a container that is (i) filled, sealed, and secured by a retail licensee's employee at the retail licensee's location with a tamper-evident lid or cap or (ii) filled and labeled by the manufacturer and secured by the manufacturer's original unbroken seal.

**"PREMISES"** means the zoning lot in connection which a license under this title has been granted for the sale and/or consumption of alcoholic liquor and on which such activities are licensed to take place, and any common areas adjacent thereto relating to a unit in a multi-unit strip mall or similar property.

**"PRIVATE FUNCTION"** means a prearranged private party, function, or event for a specific social or business occasion, either by invitation or reservation and not open to the general public, where the guests in attendance are served in a room or rooms designated and used exclusively for the private party, function, or event.

**"SALE"** means any transfer, exchange, or barter in any manner, or by any means whatsoever, and means all sales made by any person, whether principal proprietor, agent, servant, or employee.

**"SEALED CONTAINER"** means a rigid container that contains a mixed drink or a single serving of wine, is new, has never been used, has a secured lid or cap designed to prevent consumption without removal of the lid or cap, and is tamper-evident. "Sealed container" includes a manufacturer's Original container as defined in this subsection. "Sealed container" does not include a container with a lid with sipping holes or openings for straws or a container made of plastic, paper, or polystyrene foam.

**"SELL AT RETAIL"** and **"SALE AT RETAIL"** refer to and mean sales for use or consumption and not for resale in any form.

**"TAMPER-EVIDENT"** means a lid or cap that has been sealed with tamper-evident covers, including, but not limited to, wax dip or heat shrink wrap.

**"VIDEO GAMING PARLOR"** means an establishment of which the primary purpose of video gaming and/or the service of alcohol and in which the service of food is only complementary or accessory to the video gaming and/or service of alcohol.

**"WINE"** means any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables, containing sugar, including such beverages when fortified by the addition of alcohol or spirits.

### **SECTION 3-2: LIQUOR COMMISSIONER**

The President of the Village Board of Trustees ("Mayor") is authorized to be the Lena Liquor Commissioner ("Liquor Commissioner") and shall be charged with the administration and enforcement of this chapter and of such ordinances and resolutions relating to alcoholic liquor as may be enacted as authorized by the Liquor Control Act, 235 ILCS 5/1-1 et seq. as amended.

### **SECTION 3-3: POWERS AND DUTIES OF LIQUOR COMMISSIONER**

The Lena Liquor Commissioner shall have the following powers, duties, and functions with respect to local liquor licenses:

- A. To grant and/or suspend for not more than thirty (30) days or revoke for cause, all local licenses issued to persons or entities for premises within the Village;
- B. To enter or to authorize any law enforcing officer to enter, at any time, upon the premises licensed under this chapter to determine whether any of the provisions of state law or Village ordinance or any rules or regulations adopted by the Village or by the Illinois Liquor Control Commission have been or are being violated, and at such time to examine the premises of the licensee in connection therewith. Any person or persons appointed by the Liquor Commissioner pursuant to Section 3-3 (E) shall have the powers given to the Liquor Commissioner by this section;
- C. To receive complaints from any citizen within the Village that any provision of the Liquor Control Act or this chapter or any rules or regulations adopted pursuant to such Act or this chapter, have been or are being violated and to act upon such complaints in the manner set forth in this chapter;
- D. To designate a Village employee to receive liquor license fees;
- E. To examine or cause to be examined, under oath, any applicant for a local license or for a renewal of a license, or any licensee upon whom notice of revocation, violation, or suspension has been served, or any licensee against whom a citation proceeding has been instituted by the State of Illinois Liquor Commission or any witness relevant to such proceeding; to examine or cause to be examined, the books and records of any such applicant or licensee; and to hear testimony and take evidence for his or her information in the performance of his or her duties, and for such purposes to issue subpoenas which shall be effective in any part of this state. For the purposes of obtaining any of the information desired by the Village Liquor Commissioner, he or she may authorize an agent to act on his or her behalf;
- F. To conduct a background check on any applicant which may include fingerprinting.
- G. To order random, unannounced general building code, maintenance and health safety inspections of all places wherein alcoholic liquor is licensed to be sold.

### **SECTION 3-4: LICENSE REQUIRED**

- A. No person shall sell or offer for sale, at retail, in the Village, any alcoholic liquor without a local liquor license. Notwithstanding the foregoing to the contrary, a person may sell or offer for sale alcoholic liquor at retail if such person is acting as an employee of a person who has a valid liquor license in the Village for the premises on which the alcoholic liquor is being sold or offered for sale.
- B. No person who owns legal or equitable title to real estate in the Village shall allow another person to sell or offer for sale alcoholic liquor on the premises unless the person selling or offering for sale the alcoholic liquor has obtained and maintains a valid local retailer's liquor license for such premises.
- C. Multiple persons shall not sell or offer for sale alcoholic liquor at retail on any premises unless each person selling or offering for sale the alcoholic liquor has obtained a local liquor license for such premises unless such persons are acting as an employee of person who has a valid liquor license in the Village for the premises on which the alcoholic liquor is being sold or offered for sale.
- D. A liquor license allows the licensee to sell and offer for sale at retail alcoholic liquor only on the premises specified in such license; and no person shall sell or offer for sale alcoholic liquor at multiple locations, places, or premises, unless such person obtains a separate license for each separate location, place, or premises.
- E. A liquor license shall allow the licensee to sell and offer for sale at retail alcoholic liquor for use or consumption, only, and not for resale in any form.
- F. It is unlawful to consume on the licensed premises alcoholic liquors other than those furnished by the licensee, the bringing in of liquor by patrons for personal consumption on the licensed premises is prohibited.

**SECTION 3-5 PRIVILEGE GRANTED BY LICENSE, NATURE OF LICENSE AS PROPERTY, TRANSFERABILITY**

- A. A license issued under this chapter is purely a personal privilege, and shall remain in effect through the date stated on the license, unless sooner revoked as provided in this chapter, but in no event for longer than one year. A liquor license does not constitute property, may not be sold, transferred, or assigned to another person, may not be attached, garnished, executed, or otherwise alienated or transferred, voluntarily or involuntarily, encumbered, or hypothecated. A local liquor license entitles only the licensee and the licensee's employees to sell alcoholic liquor at retail in the Village of Lena. One person may not obtain a liquor license for another person. Such license shall not descend 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, may continue the business of the sale or manufacture 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 of such decedent, or such insolvency or bankruptcy until the expiration of such license but not longer than six months after the death, bankruptcy or insolvency of such licensee pursuant to terms of the Illinois Liquor Control Act (235 ILCS 5/6-1).
- B. A local liquor licensee must apply for renewal in order to continue selling or offering for sale at retail alcoholic liquor in the Village after the expiration of a license, and a renewed license may only be granted if the licensee is then qualified to receive a license and the premises for which the renewal license is sought is suitable for

renewal of said license. No licensee has a right to renewal; the renewal of a liquor license is a privilege and not a vested right. A person may only be granted a license that currently exists; and nothing in this chapter shall prohibit the Village from decreasing the number of licenses issued within the Village at any time. No liquor license issued hereunder shall be renewed if the licensee is delinquent to the Village in regard to any taxes or fees payable to the Village or is delinquent in filing any required tax returns or paying any amounts owed to the State of Illinois until the applicant has paid the delinquent amount and, in the case of delinquencies owed to the state, the applicant is issued a certificate by the department of revenue stating that all delinquent returns or amounts owed have been paid by guaranteed remittance or the payment agreement to pay all amounts owed has been accepted by the department.

### **SECTION 3-6: LICENSE APPLICATION REQUIREMENTS**

- A. Applications for a new liquor license shall be completed online on the Village's website or at Village Hall by the applicant, if the applicant is an individual, or by a duly authorized agent of the applicant if the applicant is not an individual, verified by oath or affidavit, and shall provide information as required by the Village including but not limited to:
  - I. Business plan
  - II. Consent to background check which may include fingerprinting.
  - III. List of employees
  - IV. Proof of Dram shop insurance
  - V. Copy of lease agreement (if the applicant does not own the property)
  - VI. Articles of incorporation
  - VII. Certificate of Good Standing for the Illinois Secretary of State's Office
  - VIII. Site plan showing the location of proposed alcohol sales and tables
  - IX. Application fee, equivalent to a yearly license fee; once approved, the remainder of the pro-rated yearly fee
  
- B. All new applicants for Class A, B, BB, C, E, P, GC, or R licenses to sell alcoholic liquor at retail in the Village of Lena shall be presented to the Village of Lena's Liquor Commissioner. The applicant shall, by certified mail, send a notice prepared by the Village, including date and time of the Village Board Meeting when the Liquor License will be voted upon, to adjacent property owners. Applicants shall provide certified mail receipts as proof of mailing to Village as part of completed application. The Liquor Commissioner will provide the opportunity for the public and adjacent property owners to be heard at the public Village Board Meeting. This provision does not apply to a renewal or transfer of an existing Class A, B, BB, C, E, P, GC, or R license, but shall apply to any new application. This provision shall also not apply to a change in ownership at an existing liquor license location where the new owner maintains the same class(es) of license(s). However, should 90 days elapse between the date on which the prior license holder closed for business and the date on which the new license holder opens for business, then the provisions of this subparagraph shall apply to the new license holder.
  
- C. An application fee must accompany a new liquor license application for a Class A, B, C, E, R, GC, or BB license. The application fee is equal to the annual fee for a liquor license and is not required for license renewal applications. If the liquor license is denied, the applicant shall be entitled to a refund of all fees paid to the Village less one hundred dollars as an administrative fee. Once a licensee is issued, a pro-rated

fee will be determined based on the month in which the liquor license is issued as compared to the number of months remaining in the Village's fiscal year. The Village's fiscal year is May 1st through April 30th of each year.

- D. All other licenses shall be approved by the Liquor Commissioner. The Liquor Commissioner is empowered to grant licenses subject to the provisions set forth in the state law and this chapter. It shall be the duty of the Commissioner to check the applicant's record with the Stephenson County Sheriff's Department, Illinois State Police, and the Federal Bureau of Identification. If any applicant for a liquor license shall not have resided in the county for at least ten years immediately prior to their application, the commission shall have the duty to inquire of the police department, county sheriff, and state's attorney in the county wherein the applicant has resided during the ten years immediately prior to the date of their application.
  
- E. Applications for a liquor license renewal shall be completed online on the Village's website or at Village Hall by the applicant, if the applicant is an individual, or by a duly authorized agent of the applicant if the applicant is not an individual, verified by oath or affidavit, and shall provide information as required by the Village including but not limited to:
  - I. List of Employees
  - II. Proof of Dram shop insurance
  - III. Copy of lease agreement (if the applicant does not own the property)
  - IV. Certificate of Good Standing for the Illinois Secretary of State's Office
  - V. Annual license fee
  - VI. Previous year license returned to the Village once the new license has been issued

### **SECTION 3-7 CONDITIONS PRECEDENT TO THE ISSUANCE OF LICENSES**

The following conditions must be met by the applicant who must be a principal, director or officer (for a corporation), member or manager (for an LLC), partner or the equivalent of the entity the applicant represents, or (in the case of an entity that is publicly traded, has interstate locations, or has four or more locations) the people who have management responsibility for the operation of the business at the location where the business sells alcoholic liquor pursuant to which the license is being issued (the "responsible parties") prior to the issuance of a license:

- A. The applicant must be a naturalized citizen or a lawful resident alien of the United States;
  
- B. The applicant must represent that the following are true and correct in respect to all principals, directors and officers (for a corporation), members and managers (for an LLC), partners or (in the case of an entity that is publicly traded, has interstate locations, or has four or more locations) the people who have management responsibility for the operation of the premises at which alcoholic liquor will be sold in the Village pursuant to the liquor license ("responsible parties"):
  - I. None of the responsible parties have been convicted of a felony under any federal or state law, except as stated in the application (the Village Liquor Commissioner has the discretion to determine that a convicted felon has been sufficiently rehabilitated to warrant the public trust necessary for a liquor license to be issued or that a person who has been convicted of a

- felony will not have sufficient involvement in the operation of the business that includes the sale of alcoholic liquor as to warrant denial of a license);
- II. None of the responsible parties have been convicted of being the keeper or is keeping a house of ill fame;
  - III. None of the responsible parties have been convicted of pandering or other crime or misdemeanor opposed to decency and morality;
  - IV. None of the responsible parties have been convicted of a state or federal drug offense;
  - V. None of the responsible parties have been involved in a business for which a liquor license has been revoked for cause (if the applicant cannot make this representation, the applicant must list out the responsible parties who have been involved in a business for which a liquor license has been revoked and state the circumstances related to the revocation);
  - VI. Neither the applicant nor any responsible party are ineligible for a liquor license under the terms and conditions of this chapter;
  - VII. Neither the applicant nor any responsible party are ineligible for a state retail liquor license;
  - VIII. Neither the applicant nor any of the responsible parties have been convicted of a violation of any federal or state law concerning the manufacture, possession, or sale of alcoholic liquor, or who have forfeited his or her bond to appear in court to answer charges for any such violation;
  - IX. Neither the applicant nor any of the responsible parties are a law enforcing public official, a member of any local Liquor Commission, the Mayor, or members of the Lena Village Board of Trustees;
  - X. Neither the applicant nor any responsible party have been convicted of a gambling offense as proscribed by any of subsections (a)(3) through (a)(10) of section 18-1, or as proscribed by section 28-3 of the Criminal Code of 1961, approved July 18, 1961, as previously or hereafter amended, or as proscribed by a statute replacing any of the statutory provisions stated in this subsection;

### **SECTION 3-8: CONDITIONS SUBSEQUENT TO THE ISSUANCE OF LICENSES**

The following conditions must be met by the licensee subsequent to the issuance of a license:

- A. The licensee must obtain a state liquor license for selling any alcoholic liquor before engaging in any alcoholic liquor sales.
- B. The licensee must file all federal, state, or local tax returns when due;
- C. The licensee must not file any fraudulent federal, state, or local tax returns;
- D. The licensee must pay all federal, state, and local taxes when due or have entered into a written agreement for the paying of taxes;
- E. The licensee shall keep adequate books and records of its alcoholic liquor sales and make them available for inspection upon reasonable advance notice;
- F. The licensee must report any new-hires associated with the sale of alcohol to the Village Liquor Commissioner.

- G. The licensee shall secure and display the certificates or sub-certificates of the state and local liquor licenses;
- H. The licensee shall not be guilty of any willful or repeated violation of any rule or regulation of the Illinois Department of Revenue;
- I. The licensee shall pay all taxes, fees, fines, and other amounts owed to the Village when they are due and must not be more than thirty (30) days overdue on any such obligation owed to the Village;
- J. The licensee shall not willfully or repeatedly be in violation of any provision of this chapter or the state Liquor Control Act.
- K. Upon approval of a liquor license by the Village Board of Trustees, a Certificate of Occupancy must be applied for and issued to the business owner before a liquor license can be issued

**SECTION 3-9: CHANGE IN PERSONNEL OR OWNERSHIP**

In the event one or more members of a firm or partnership withdraw from such business, the business may be continued by the remaining person or persons, partner, or partners under the same liquor license for the remainder of the period for which the license was issued to the licensee or licensees. The change in ownership, however, shall be reported immediately to the Village and the change shall be shown immediately on the original license application then in effect filed. The failure by any licensee hereunder to comply with the provisions of any part of this section shall be considered and deemed cause for the revocation and cancellation of the liquor license issued under this chapter by the Liquor Commission. In the event the total of fifty percent (50%) or more of the stock of any corporation, or membership interest in an LLC, or interest in a Partnership, is transferred or sold to another person, corporation, LLC, partnership or other entity, such transfer or sale shall require a new license be obtained from the Liquor Commissioner and a new license fee be paid as provided in this chapter. A Certificate of Occupancy must be applied for and issued to the business owner before a new liquor license can be issued.

**SECTION 3-10: DRAM SHOP INSURANCE REQUIRED**

No license shall be granted to an applicant until such applicant shall furnish evidence satisfactory to the Village Liquor Commissioner that such applicant is covered by a policy of dram shop insurance covering the full term of the license issued by a responsible insurance company authorized and licensed to business in the state insuring such applicant against liability which such applicant may incur under the provisions of 235 ILCS 5/6-21. The Village shall be given at least ten (10) days' written notice from such insurance carrier prior to cancellation, termination, or amendment of any such dram shop insurance policy.

**SECTION 3-11: DURATION OF LICENSE**

All licenses issued under this chapter shall be valid for not to exceed one year after issuance unless sooner revoked or suspended. Each license issued under this chapter shall terminate on the 30th day of April following the date of issuance.

**SECTION 3-12: LICENSE RENEWAL**

Any licensee may renew his or her license at the expiration of such license; provided, that he or she is then qualified to receive a license and the premises for which such renewal license is sought are suitable for such purpose; provided further, that the renewal privilege provided for in this section shall not be construed as a vested right which shall in

any case prevent the Village Board from decreasing the number of licenses to be issued with the Village as more fully set forth in Section 3-29 of this chapter.

Upon renewal, the licensee shall submit to the Village Liquor Commissioner the renewal application. If the license is held by a corporation or LLC, the licensee shall also submit a Certificate of Good Standing from the Illinois Secretary of State's Office certifying that the corporation is in good standing.

### **SECTION 3-13: LICENSED PREMISES: LOCATION RESTRICTIONS**

- A. No license shall be issued for the sale at retail of any alcoholic liquor within one hundred (100) feet of any church, school (other than an institution of higher learning), hospital, substance abuse rehabilitation center, home for aged or indigent persons or for veterans, their spouses or children or any military or naval station, provided, that this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs, or to restaurants, food shops or other places where sale of alcoholic liquors is not the principal business carried on. The distance of one hundred (100) feet shall be measured to the nearest part of any building used for services or educational programs, and not the property boundaries.
- B. Nothing in this section shall prohibit the issuance of a license to a church or private school to sell at retail alcoholic liquor if any such sales are limited to a period when groups are assembled on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors. Whereas, a Class SE Liquor License would be required.

### **SECTION 3-14: LICENSE REVOCATION OR SUSPENSION**

The Village Liquor Commissioner may, in accordance with law and the provisions of the Liquor Control Act, 235 ILCS 5/1-1 et seq., as amended, revoke or suspend any license issued under his or her authority if he or she determines that the licensee has violated any of the provisions of said Act or of any ordinance or resolution enacted by the corporate authorities of the Village or any applicable rule or regulation established by the Liquor Commissioner or the Illinois Liquor Control Commission which is not inconsistent with law. However, no such license shall be so revoked or suspended except after a public hearing before the Village Board by the Liquor Commissioner with a three-day written notice of the violation to the licensee, affording the licensee an opportunity to appear and defend, such notice to begin the day following delivery by certified mail or by the Lena Police Department acting as agents. All such hearings shall be open to the public in accordance with the Illinois Open Meetings Act and the Liquor Commissioner shall reduce all evidence to writing and shall maintain an official record of the proceedings. Such record may include a record of the proceedings taken and prepared by a certified court reporter or certified shorthand reporter who shall file such record of the proceedings within five days after the notice of the filing of an appeal from the Village Liquor Commissioner's ruling. The appellant licensee shall pay for the cost of the transcript. If a court reporter is not utilized, then the proceeding must be recorded, and then transcribed following the hearing.

- A. In lieu of or in addition to suspension or revocation the Liquor Commission may instead levy a fine on the licensee for violations of any of the provisions in the Statutes of the State of Illinois, any valid ordinance or resolution of the Village, or any applicable rule or regulation established by the Liquor Commissioner or State Commission which is not inconsistent with law. The fine imposed shall not exceed Two Thousand Five Hundred Dollars (\$2,500) for each violation; each day on which a violation continues shall constitute a separate violation. Not more than Fifteen Thousand Dollars (\$15,000) in fines under this Section may be imposed against any licensee during the period of his license. Proceeds from such fines shall be paid into the general corporate fund of the municipal treasury.



- B. If the Liquor Commissioner has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the community, he or she may, upon the issuance of a written order stating the reason for such conclusions and without notice or hearing, order the licensed premises closed for not more than seven days, giving the licensee an opportunity to be heard during that period; except, if the licensee is also engaged in another business on the licensed premises, such order shall not be applicable to such other business.
- C. The Village Liquor Commissioner shall within five days after such hearing, if he or she determines after such hearing that the license should be revoked or suspended, or that the licensee shall be fined, state the reason or reasons for such determination in a written order, and either the amount of the fine, the period of suspension, or that the license has been revoked and shall serve a copy of such order within the five days upon the licensee.
- D. At the discretion of the Liquor Commissioner, a hearing before the Village Board may be conducted in front of a certified court reporter or certified shorthand reporter who shall prepare a certified official record of the proceedings and file the record within five days after notice of the filing of an appeal to the Illinois Liquor Control Commission. The appellant/licensee shall pay the cost of the transcript. The appeal shall be limited to a review of the official record of the proceedings. If a court reporter is not used, the proceeding must be recorded and transcribed at the conclusion of the hearing.

**SECTION 3-15: LIST OF LICENSES AND REVOCATIONS**

The Village Liquor Commissioner shall keep or cause to be kept a complete record of all licenses issued by him or her and shall furnish the Village administrator, deputy clerk, and public safety supervisor a copy of such record. Upon the issuance of any new license, or the revocation of any old license, the Village Liquor Commissioner shall give written notice of such action to each of such officers, and in case of revocation a written notice shall be given to the licensee whose license has been revoked. All notices provided for in this section shall be given forty-eight (48) hours from the time of any such action or actions. Notice shall also be given to the Illinois Liquor Control Commission of the revocation of any and all such licenses.

**SECTION 3-16: FORFEITURE OF FEES UPON LICENSE REVOCATION**

Whenever any license under this chapter has been revoked, as provided for in this chapter, the licensee shall incur a forfeiture of all moneys that have been paid for such license.

**SECTION 3-17: LICENSED PREMISES: USE AFTER REVOCATION OF LICENSE**

When any license has been revoked for any cause, no license shall be granted to such licensee for the period of one year thereafter for the conduct of the business of manufacturing, distributing, or selling alcoholic liquor in the premises described in such revoked license.

**SECTION 3-18: LICENSED PREMISES: SANITARY CONDITIONS REQUIRED**

All premises used for the retail sale of alcoholic liquor, or for the storage of such liquor for sale, shall be maintained in full compliance with the ordinances and/or the Stephenson County Health Code regulating the condition of premises used for the storage or sale of food for human consumption.

**SECTION 3-19: LICENSED PREMISES: CHANGE OF LOCATION**

A license issued under this chapter shall permit the sale of alcoholic liquor only in the

premises described in the application and license. Such location may be changed only when and upon the written permit to make such change is issued by the Village Liquor Commissioner. No change of location shall be permitted unless the proposed new location is in compliance with the provisions of this chapter and the Lena Zoning ordinance.

**SECTION 3-20: PROHIBITED SALES AND POSSESSION: MINORS**

- A. No licensee or officer, associate, member, representative, agent, or employee of such licensee shall sell, give, or deliver alcoholic liquor to any person under the age of twenty-one (21) years, or to any intoxicated person. No person after purchasing or otherwise obtaining alcoholic liquor shall sell, give, or deliver such alcoholic liquor to another person under the age of twenty-one (21) years except in the performance of a religious ceremony or service. It is unlawful for any person to misrepresent his or her age for the purpose of purchasing or obtaining alcoholic liquor in any place in the Village where alcoholic liquor is sold.
  
- B. For the purpose of preventing the violation of this section, any licensee, or his or her agent or employee, may refuse to sell or serve alcoholic beverages to any person who is unable to produce adequate written evidence of identity and the fact that he or she is over the age of twenty-one (21) years. Adequate written evidence of age and identity of the person is a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act, or an identification card issued to a member of the Armed Forces. Proof that the defendant-licensee, or his or her employee or agent, demanded, was shown and reasonably relied upon such written evidence in any transaction, forbidden by this section is competent evidence and may be considered in any proceeding to enforce this section or to any proceedings for the suspension or revocation of any license based thereon. It shall not, however, be an affirmative defense if the agent or employee accepted the written evidence knowing it to be false or fraudulent.
  
- C. No person under the age of twenty-one (21) years shall present or offer to any licensee, his or her agent or employee, any written, printed, or photostatic evidence of age and identity which is false, fraudulent or not actually his or her own for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any alcoholic beverage, nor shall any person have in his or her possession any false or fraudulent written, printed, or photostatic evidence of age and identity. If a false or fraudulent driver's license or identification card is presented by a person less than twenty-one (21) years of age to a licensee or the licensee's agent or employee for the purpose of ordering, purchasing, attempting to purchase or otherwise obtaining or attempting to obtain the serving of any alcoholic beverage, the Lena Police Department shall upon the conviction of the person who presented the fraudulent license or identification, make a report of the matter to the Secretary of State on a form provided by the Secretary of State.
  
- D. No person under the age of twenty-one (21) years shall have any alcoholic beverage in his or her possession, nor shall any such person consume any alcoholic beverage. This section does not apply to possession by a person under the age of twenty-one (21) years or consumption in the performance of a religious ceremony or service.

- E. Except under the direct supervision and approval of the parents or parent, it is unlawful for any owner or occupant of any premises located within the Village to knowingly allow a person under twenty-one (21) years of age to remain on such premises while in the possession of alcoholic liquor or while consuming alcoholic liquors in violation of the Lena municipal code.

**SECTION 3-21: ENTRY PROHIBITED UNDER AGE TWENTY-ONE**

Persons under the age of twenty-one (21) years shall not enter and remain in that portion of a licensed premises that sells, gives, or delivers alcoholic liquor for consumption on the premises nor shall any person permit a person under the age of twenty-one (21) to enter and remain on such premises. The prohibition under this section shall not apply to any licensed premises such as, without limitation, a restaurant or food shop where selling, giving, or delivering alcoholic liquor is not the principal business of the licensee at those premises.

**SECTION 3-22: GAMBLING ON LICENSED PREMISES**

- A. It is unlawful to permit any gambling in or on a licensed premises, except as specifically authorized by the state pursuant to the Video Gaming Act (230 ILCS 40/1 et seq.), the Illinois Horse Racing Act of 1975 (230 ILCS 5/1 et seq.), or as otherwise specifically allowed by state statute, provided that the licensee is licensed to allow such gambling and strictly complies with all of the conditions, rules and regulations imposed on such gambling activity.
- B. Every licensee also licensed to allow video gaming pursuant to the Video Gaming Act shall strictly observe all of the provisions of the Video Gaming Act, including, but not limited to, the following:
  - I. Each and every video gaming terminal shall be licensed by the state before placement or operation, and the license of each and every video gaming terminal shall be maintained at the licensed premises where the video gaming terminal is operated.
  - II. No video gaming terminal may be played except during the legal hours of operation allowed for the consumption of alcoholic beverages at the licensed establishment.
  - III. No licensee shall cause or permit any person under the age of twenty-one (21) years to use or play a video gaming terminal.
  - IV. Video gaming terminals shall be located in an area restricted to persons over twenty-one (21) years of age the entrance to which is within the view of at least one employee, who is over twenty-one (21) years of age, of the establishment in which they are located.

**SECTION 3-23: REFILLING ORIGINAL PACKAGES**

No person licensed under this chapter shall fill or refill, in whole or in part, any original package of alcoholic liquor with the same or any other kind or quality of alcoholic liquor; and it is unlawful for any person to have in his or her possession for sale at retail any bottles, casks, or other containers containing alcoholic liquor, except in original packages.

**SECTION 3-24: HAPPY HOUR REGULATIONS**

No retail licensee or employee or agent of such licensee shall:

- A. sell more than one drink of alcoholic liquor for the price of one drink of alcoholic liquor;
- B. sell, offer to sell, or serve to any person an unlimited number of drinks of alcoholic

liquor during any set period of time for a fixed price, except at private functions not open to the general public or as provided in 235 ILCS 5/6-28;

- C. increase the volume of alcoholic liquor contained in a drink, or the size of a drink of alcoholic liquor, without increasing proportionately the price regularly charged for the drink on that day;
- D. encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or the awarding of drinks of alcoholic liquor as prizes for such game or contest on the licensed premises; or
- E. advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under subsections (A) through (D).

### **SECTION 3-25: ASSISTANCE TO LAW ENFORCEMENT OFFICERS**

It is unlawful for any licensee or employee or agent of such licensee to refuse, or fail to assist any law enforcement official, in the discharge of his or her duties upon the licensee's premises or the licensee's parking area when such law enforcement officer requests assistance.

### **SECTION 3-26: PROHIBITED CONDUCT**

The licensee shall not allow, permit, or suffer any of the following acts to occur on the licensee's premises, and shall not allow, permit, or suffer any person who engages in any of the following acts to remain on the licensed premises:

- A. Any lewdness or soliciting for prostitution;
- B. The following kinds of conduct:
  - I. The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts,
  - II. The actual or simulated touching, caressing, or fondling of the breasts, buttocks, anus, or genitals,
  - III. The actual or simulated displaying of the breasts, buttocks, pubic hair, anus, vulva, or genitals,
  - IV. The displaying of moving pictures or photographic slide presentations depicting acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual act;
- C. The possession, use, sale, or other transfer of illicit drugs or illegal or controlled substances;
- D. The perpetration of any felonious act or act of moral turpitude.

### **SECTION 3-27: EMPLOYEES: AGE**

It is unlawful to employ, in any premises used for the retail sale of alcoholic liquor, any person under the age of twenty-one (21) years where the duties of such employment involve or might involve the drawing, selling, pouring, mixing, or serving of any alcoholic liquor or attending any bar.

Wait staff or other persons, employed by a licensee with a Class R license, serving alcoholic beverages must be at or above the age of eighteen (18) years. Bussers or other staff employed by the licensee other than bartenders, retail check-out clerks or wait staff, may be under the age of eighteen (18) years. Employees must be twenty-one (21) years of

age or older to sell alcohol.

### **SECTION 3-28: CLASSIFICATION OF LICENSES**

- A. Class "A" licenses for on-premises consumption and retail carryout in original package shall permit the following:
  - I. The retail sale on the premises specified of alcoholic liquor for consumption on the premises;
  - II. The retail sale of such liquor for carryout from the premises in the original and unbroken packages only;
  - III. Video gaming is allowed with a supplemental "G" video gaming license subject to all of the state and local video gaming provisions;
  
- B. Class "B" licenses for retail carryout in original package and no on-premises consumption shall permit the following:
  - I. The retail sale of such liquor for carryout from the premises in the original and unbroken packages only;
  - II. May allow for alcoholic liquor taste testing and consumption with the area of the licensed premises used for taste testing or consumption related hereto may occur outside the area within the licensed premises used for display of packages alcoholic liquor;
  
- C. Class "C" licenses for on-premises consumption of beer and wine and retail carryout of beer and wine in original package shall permit the following:
  - I. The retail sale of beer and wine for consumption on the premises specified on the license;
  - II. The retail sale of beer and wine for carryout from the premises in the original and unbroken packaging only;
  - III. Video gaming is allowed with a supplemental "G" video gaming license subject to all of the state and local video gaming provisions;
  
- D. Class "E" license for holders of Class "A", Class "R", or Class "C" allows for special off-premises catering and is issued for the sole and exclusive propose of selling and serving alcoholic beverages during special functions at facilities located within the Village of Lena. Class E holders are only allowed to sell the type of alcohol that their other licenses permit. The License holder must specifically identify the off-premises location and provide said information to the Liquor Commissioner a minimum of 7 days prior to the off-site premises event on forms to be provided by the Village. The License holder must identify the duration of the off premises event which may not be more than 24 hours without specific authorization from the Liquor Commissioner. A license fee as provided in Section 3-30 shall be deposited by the licensee with the application for said Class "E" license.
  
- E. Class "R" license for on-premises consumption only for restaurants shall permit the following:
  - I. The retail sale of any alcoholic liquor on the premises for consumption on-premises as well as the retail sale of beer and wine only for carryout from the premises in the original and unbroken package only;
  - II. Wait staff or other persons, employed by a licensee with a Class R license, serving alcoholic beverages must be at or above the age of eighteen (18) years. Bussers or other staff employed by the licensee other than bartenders, retail checkout clerks or wait staff, may be under the age of eighteen (18) years. Employees must be twenty-one (21) years of age or older to draw, sell,

- pour, or mix alcohol
  - III. Bona fide full-service restaurants must have a full-service kitchen, provide full sit-down table service, and wait staff;
  - IV. At least 50% of sales is food; the Liquor Commissioner may require proof of such percentage before issuance of renewal of a Class "R" license;
  - V. Video gaming is allowed with a supplemental "G" video gaming license subject to all of the state and local video gaming provisions;
- F. Class "BB" license for on-premises consumption only to a bona fide video gaming parlor shall permit the following:
- I. The retail sale of alcoholic liquor on the premises for on-premises consumption provided the licensed premises also has, locates, maintains, and lawfully operates video gaming terminals (as defined under ILCS 40/1 et seq.) within the licensed establishment;
  - II. Video gaming shall not be allowed in a Class BB licensed premises without the licensee additionally obtaining a supplemental Class G video gaming license;
  - III. The licensed premises shall not exceed 1,500 square feet of patron accessible floor area;
  - IV. The number of patrons on the licensed premises at any given time shall not exceed four (4) times the number of licensed video gaming terminals at the premises;
  - V. The licensee must notify the Village of any change in the number of video gaming terminals in operation on the licensed premises;
  - VI. Live music, DJ, karaoke, and/or juke boxes are prohibited on the licensed premises. Notwithstanding the foregoing, a music system, operated solely by the licensee, shall be permitted so long as such system is operated at such levels so as to not be heard outside of the licensed premises;
  - VII. Licensee shall not be permitted to have a patio or beer garden of any kind;
  - VIII. No alcohol related signs which are visible from the outside of the licensed premises shall be permitted on the licensed premises;
  - IX. No games, other than the Video Gaming Terminals as defined under the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., shall be permitted on the licensed premises, including, but not limited to, pool tables, dartboards, and shuffle board;
  - X. Dispensing of draft beer from a tap is prohibited;
- Notwithstanding the provisions of Section 3-31 of the Code, the holder of a Class "BB" license shall not be permitted to have any alcoholic liquor sold, offered for sale, given away, purchased, obtained, attempted to be obtained, attempted to be purchased, accepted as a gift, carried out of or consumed by anyone, including the owners or employees thereof, on the licensed premises from 12:00 AM until 6:00 AM the same morning. All other provisions of Section 3-31 not in conflict with this paragraph shall remain the same and shall be applicable;
- G. Class "GC" license for on-premises consumption of beer and wine at gas stations and convenience stores shall permit the following:
- I. The retail sales of beer and wine only for on-premises consumption in conjunction with video gaming on the premises specified in the license;
  - II. Video gaming shall not be allowed in a Class GC licensed premises without the licensee additionally obtaining a supplemental Class G video

- gaming license;
  - III. GC licensees may also simultaneously hold a Class B license;
  - IV. The service of beer and wine shall be ancillary to the operation of a gas station or convenience store that holds a valid video gaming license with the state and the Village. It shall not be advertised or otherwise held out to be a drinking establishment. No window or any other signage shall be permitted on the licensed premises or surrounding property that indicates that alcoholic beverages are available for consumption at the licensed premises. A Class "GC" license shall become void if gas station or convenience store operations cease at the licensed facility;
  - V. Any areas used to store alcoholic liquor not on display shall also be divided in such a manner so as to allow the liquor inventory to be secured from the remainder of the storeroom during any hours of operation when alcoholic liquor cannot be sold. No alcoholic beverages may be stored or displayed outside of any licensed premises;
  - VI. Any areas used for on-premises consumption of beer and wine shall be enclosed in a separate room (the "gaming room"), which shall comply with the Illinois Accessibility Code and all other applicable codes and regulations, shall be a minimum of 250 SF, shall require a building permit, shall be located in the principal building where the gas station or convenience store is located, shall have access to two bathrooms in the principal building where the gaming room is located, and shall have a glass door for ingress and egress;
  - VII. The entrance to the gaming room shall be visible to at least one employee of the establishment who is over 21 years of age, to ensure that no persons under 21 years of age are present in the gaming room. Entry to the gaming room shall only be accessible by patrons who are 21 years of age and older and the principal, proprietor, an agent, or an employee of the establishment;
  - VIII. Beer and wine shall only be served in bottles and cans;
  - IX. Beer and wine service shall only be provided to patrons who are actively playing on video gaming terminals;
  - X. Beer and wine shall only be consumed on-premises in the gaming room;
  - XI. The facility must obtain an occupancy/life safety inspection prior to the start of video gaming operations;
  - XII. In addition to the minimum number of parking spaces required per the Schedule of Parking Requirements for the Convenience Store & Gas Station use (Section.21-12-4 of the Zoning Chapter) there shall also be no less than one (1) parking space for each video gaming terminal. Depending on the resulting total number of parking stalls, this could require additional ADA accessible parking. Parking spaces at the gas pump may not be counted towards the parking spaces required for each video gaming terminal;
- H. Class "G" supplemental video gaming license may be obtained and shall be in effect for the year in which the license is obtained by the existing liquor licensees that qualify and pay the required fee as follows:
- I. Limited to liquor license classes of A, C, R, BB and GC that allow the retail sale of alcoholic liquors for consumption on the premises specified in the license;
  - II. Video gaming shall be supplemental to the primary business of the licensee (video gaming parlors do not qualify for a supplemental video gaming license);

- III. In the first year a Class G supplemental license is sought, an application requires Liquor Commission review with the applicant submitting a floor plan and description of the business with subsequent Village Board approval;
  - IV. The floor plan layout for an establishment with an approved supplemental video gaming license must maintain a substantially similar number of seats as approved in the initial supplemental license;
  - V. The licensed premises shall exceed 1,500 square feet of patron accessible floor area, excluding a Class "GC" and "BB" licensed premises and excluding areas not used for dining/video gaming purposes;
  - VI. The licensee shall identify the number of video gaming terminals on the premises and notify the Liquor Commissioner of any terminal additions;
  - VII. No signs advertising video gaming shall be visible to the street.
  - VIII. Any suspension or termination of an underlying liquor license shall result in the suspension or termination of a supplemental video gaming license; and any violation of a supplemental outdoor liquor license shall be considered a violation of the underlying liquor license;
  - IX. The annual fee for a Class "G" license as provided in Section 3-30 shall be paid annually at such time as liquor license renewals for the Licensed Establishment. The cost of this fee shall be shared equally between the terminal operator and the applicable licensed establishment, as required by the Illinois Video Gaming Act (230 ILCS 40/5).
- I. Class "P" license for on-premises consumption on outdoor patios or consumption within approved Outdoor Parklets or Sidewalk Cafes for existing license holders shall permit the following:
- I. Limited to liquor license classes of A, C, and R;
  - II. The licensee must supply the Liquor Commission with a site plan outlining the designated and limited outdoor patio area for consumption of alcoholic liquor;
  - III. The designated outside area shall be contiguous to the building in which the licensed activities take place and are full enclosed in such a way as to prevent unauthorized access to and from the designated outside area;
  - IV. The primary ingress and egress to the outside area must be through the building in which the licensed activities take place with emergency egress only directly from the outside area, unless there is no reasonably practicable way of providing ingress and egress through the building and sufficient measures are taken to restrict direct, unauthorized access;
  - V. Alcoholic liquor may not be consumed outside the premises except in the designated and enclosed outside area;
  - VI. The outside area may extend into a parking lot on the premises as long as sufficient remaining parking spaces are available as required by the Village Code;
  - VII. The site plan for the enclosure for the outside area must be submitted to the Liquor Commissioner and approved by the Village Board with the Licensee.
  - VIII. A licensee shall not allow entertainment with the use of amplified sound in the outside area except in conformance with the Village Code;
  - IX. The outside area shall have sufficient lighting to provide for the safety of the customers in conformance with the restrictions on lighting in the Village Code;
  - X. The operation and use of the outdoor area shall be carried on so as not to create a health or safety hazard, to create a nuisance or to interfere with the use and enjoyment of surrounding property;
  - XI. Any designated outside area adjacent to or within five hundred (500) feet of



the lot line of residential property may require screening and/or buffering in a way as to reduce noise;

- XII. The local Liquor Commissioner may impose special conditions that are unique to each licensee and licensed premises for the preservation of the health, safety, and welfare of the public and to minimize noise and other adverse impacts on adjacent properties; and any additional conditions imposed on a supplemental outdoor liquor license shall be described in writing and shall become part of the conditions for the license;
  - XIII. No alcoholic liquor may be stored outside, and no bar or direct location for taking and filling orders for alcoholic liquor shall be located outside. A window or similar restricted opening through which alcoholic liquor may be delivered after an order is filled shall not be considered a direct location for taking and filling orders;
  - XIV. Outdoor Parklets and Sidewalk Cafes approved in Chapter 6, Article III may allow for consumption as authorized by the License. The liquor may not be consumed on public right of way or public property, and must be carried directly to the Parklet or Sidewalk Café by an employee of the License holder or patron over the age of 21, and may not be carried out of the designated Parklet or Sidewalk Café approved area. The designated Parklet or Sidewalk Café must be delineated by a fence or removable barrier so as to control ingress and egress of alcoholic beverages, with signage indicating that alcoholic beverages may not be taken out of the designated Parklet or Sidewalk Café area.
  - XV. Applications may be reviewed and approved on a case-by-case basis if all preceding requirements are not met;
- J. Class "SE" license for special events held by not-for-profit organizations and/or other group, shall require the following:
- I. An applicant for such special event license, or renewal, must partner with an existing Class A, C, or R liquor license holder and shall comply with all state and Village ordinances;
  - II. Applicants shall also supply the Village with proof of the not-for-profit status of said organization;
  - III. Requests for such license shall be made to the Liquor Commissioner;
  - IV. Applicants shall supply the Village with a certificate of liquor liability for said event and shall add the Village of Lena as a certificate holder;
  - V. Proof of receiving a state special event liquor license shall be required prior to the event;
  - VI. Applicants shall submit a site plan of the area where alcoholic beverages will be sold and consumed with license application, which must be approved by the Village's Zoning Division.
  - VII. A license fee as provided in Section 3-30 shall be deposited by the licensee with the application for said special event liquor license.

The following restrictions are applicable for a special event license:

- a. A special event liquor license may not exceed three (3) consecutive days: nor more than four (4) total events per calendar year. Each license holder may not exceed more than four (4) events each calendar year;
- b. All sales and consumption pursuant to the special event liquor license issued in accordance with this Section shall be conducted within an enclosed area and such area shall have controlled entrances and exits and shall have adequate lighting;
- c. Any alcoholic beverages approved by the Commissioner sold pursuant

to a special event liquor license shall only be consumed within the area described in the license;

- d. All sales and consumption pursuant to the special event liquor license shall be conducted only during the hours specified on the license; to be set by the local Liquor Commissioner;
  - e. Unless specifically provided otherwise, all requirements of this Chapter 3 shall apply to licenses granted under this section.
- K. Class "SU" license for a special use that allows an establishment currently holding a Class A, C, or R liquor license to offer a portion of its inventory, approved by the Liquor Commissioner, from its licensed retail premises to a designated site, and to sell or offer for sale at retail, only at the designated site, the transferred alcoholic liquor for use and consumption, but not for resale in any form, shall require the following:
- I. Requests for such license shall be made to the Liquor Commissioner;
  - II. Applicants shall supply the Village with a certificate of liquor liability for said event and shall add the Village of Lena as a certificate holder;
  - III. Proof of receiving a state special use liquor license shall be required prior to the event;
  - IV. Applicants shall submit a site plan of the area where alcoholic beverages will be sold and consumed with Applicant's application and must be approved by the Village's Zoning Division.
  - V. A license fee as provided in Section 3-30 shall be deposited by the licensee with the application for said special use liquor license.

The following restrictions shall be applicable to a special use permit:

- a. A special use liquor license must be obtained for each location and may not exceed three (3) consecutive days: nor more than four (4) total events per calendar year. Each license holder may not exceed more than four (4) events each calendar year;
- b. All sales and consumption pursuant to the special use liquor license issued in accordance with this Section shall be conducted within an enclosed area and such area shall have controlled entrances and exits and shall have adequate lighting;
- c. Any alcoholic beverages approved by the Commissioner sold pursuant to a special use permit license shall only be consumed within the area described in the license;
- d. All sales and consumption pursuant to the special use liquor license shall be conducted only during the hours specified on the license; to be set by the local Liquor Commissioner;
- e. Unless specifically provided otherwise, all requirements of this Chapter 3 shall apply to licenses granted under this Section

### **SECTION 3-29: NUMBER OF LICENSES**

The number of licenses to be issued by the Village Liquor Commissioner for any given license year is hereby restricted as follows:

- A. Eight Class "A" licenses;
- B. Three Class "B" licenses;
- C. One Class "E" license
- D. One Class "C" license;
- E. Zero Class "BB" licenses; and
- F. One Class "GC" licenses;

G. One Class "R" licenses.

The Village Board reserves the right to reduce or increase the number of licenses to be issued by the Liquor Commissioner.

**SECTION 3-30: LICENSE FEES**

The license fees for the various Classes of Licenses shall be as follows:

Class	License Fee
A	\$1,000 Annually
B	\$1,000 Annually
C	\$450 Annually
R	\$750 Annually
GC	\$200 Annually
G	\$200 per gaming terminal annually, 1/2 paid by terminal operator
BB	\$1,000 Annually
P	\$100 Annually
E	\$100 per day
SE	\$100 per day
SU	\$100 per day

**SECTION 3-31: HOURS FOR ALCOHOL SALES**

- A. All alcoholic liquor licensees may sell, offer for sale, and/or may be consumed on premises between the hours of 6 am to 1 am, 7 days a week; except for establishments holding a Class "BB" liquor license which may lawfully sell, offered for sale/and/or consumed on the premises for which a license is currently issued from the hours of 6 am to 12 am, 7 days a week; except during the following hours:
  - I. Notwithstanding the foregoing to the contrary, alcoholic liquors may be sold, offered for sale and/or consumed until 2:00 a.m. immediately following the day that is a legal holiday and on December 31 (New Year's Eve) until 2:00 a.m. the following day.

**SECTION 3-32: SERVICE & EMPLOYEE EDUCATION PROGRAMS**

- A. No liquor licensee shall allow any patron to serve himself or herself and shall require all service of alcoholic liquor to be provided by employees and agents of the licensee at all times.
- B. All employees and agents of a licensee who screen patrons by age and/or who sell or serve alcoholic beverages shall, within ninety (90) days of employment participate in a program designated to educate or train persons to identify and address persons displaying problems with alcohol misuse or abuse. Such program shall be licensed by the State of Illinois and may include the BASSET, TAMS, and TIPS programs
- C. All liquor licensees shall be responsible to ensure that all employees and agents of

the licensee who screen patrons by age and/or who sell or serve alcoholic beverages to be trained as required in subsection (A) above and shall maintain a certificate of completion on the licensed premises for all employees and agents required to attend training.

**SECTION 3-33: PENALTY**

In addition to other penalties specifically set forth in this chapter, any person who violates this chapter shall be subject to a fine of not less than fifty dollars (\$100.00) nor more than seven hundred and fifty dollars (\$500.00) for each offense. An offense shall be deemed committed on each day during or on which a violation occurs.