

ORDINANCE NO. _____

**AN ORDINANCE CREATING A CLASS Q BYOB PERMIT FOR RETAIL TOBACCO
STORES WITHIN THE CITY OF CREST HILL**

WHEREAS, the City Council of the City of Crest Hill has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs and protect the public health, safety, and welfare of its citizens; and

WHEREAS, Section 4-1 of the Illinois Liquor Control Act (235 ILCS 5/4-1) authorizes the Corporate Authorities to determine the number, kind, and classification of liquor licenses that authorize the sale of alcoholic liquor at retail within the City's corporate limits; and

WHEREAS, the Corporate Authorities of the City previously exercised the authority granted by Section 4-1 of the Liquor Control Act, enacting Chapter 5.08 (Alcoholic Beverages) of the City of Crest Hill Code of Ordinances (the "City Code"); and

WHEREAS, pursuant to Section 11-20-3 of the Illinois Municipal Code, the Corporate Authorities of the City have the authority to regulate certain businesses, including Retail Tobacco Stores 65 ILCS 5/11-20-3; and

WHEREAS, the Corporate Authorities have determined that it is necessary and expedient to create a new classification of permit within its Liquor Code, specifically a Bring Your Own Bottle (BYOB) permit, which may be issued only to a Retail Tobacco Store as defined by the Smoke Free Illinois Act; and

WHEREAS, the Corporate Authorities have determined that amending the City Code to include a new classification of BYOB permit available only to a Retail Tobacco Store, as set out in this Ordinance, is in the best interests of the City and its citizens.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CREST HILL, WILL COUNTY, ILLINOIS, PURSUANT TO ITS STATUTORY AUTHORITY, AS FOLLOWS:

SECTION 1: The City Council hereby finds that all the recitals contained in the preamble to this Ordinance are true, correct, and complete and are hereby incorporated by reference hereto and made a part hereof.

SECTION 2: There is hereby created a Class Q BYOB Permit within the City of Crest Hill and Title 5 (Business Licenses and Regulations), Chapter 5.08 (Alcoholic Beverages) is hereby amended by adding Sections 5.08.260 through 5.08.300 regarding the Class Q BYOB Permit for Retail Tobacco Stores, as follows:

Section 5.08.260- CLASS Q BYOB PERMIT FOR RETAIL TOBACCO STORES CREATED.

- (A) There is hereby created a Class Q BYOB Permit (Available only to a Retail Tobacco Store as defined in Section 10 of the Smoke Free Illinois Act, 410 ILCS 82/1 et. seq.). A Class Q BYOB Permit shall authorize the on-premises consumption of a customer's own bottle (BYOB) of unopened beer, wine and/or liquor brought onto the premises of a business operating as a Retail Tobacco Store as defined in Section 10 of the Smoke Free Illinois Act, 410 ILCS 82/1 et. seq. but solely as a complement to the sale, purchase, and/or on-site consumption of tobacco products.
- (B) It shall be expressly permissible for a Retail Tobacco Store as defined in Section 10 of the Smoke Free Illinois Act, 410 ILCS 82/1 et. seq. in the City of Crest Hill to allow customers to bring in their own alcoholic beverages and for the Retail Tobacco Store to provide glassware or other vessels to those customers, provided they have a City-issued Class Q BYOB Permit for the same.

Section 5.08.270- APPLICATION REQUIREMENTS, ELIGIBILITY AND FEE FOR A CLASS Q BYOB PERMIT.

- (A) To qualify for a Class Q BYOB Permit, the Retail Tobacco Store must have a current Class B Tobacco Dealer's License issued by the State of Illinois and a Business License and/or Tobacco Dealer's License issued by the City of Crest Hill. Further, the qualifying business must not be in arrears in any fees owed to the City, and no person owning more than 5% of the business shall have been convicted of a felony or a misdemeanor involving dishonesty, such as fraud or theft.
- (B) The fee for a Class Q BYOB Permit shall be \$1,000.00 annually, and will expire at midnight on December 31, unless renewed for the next calendar year pursuant to Section 5.08.290. The fee for a BYOB Permit issued during the calendar year shall not be prorated and no refund for a partial year shall be made by the City.
- (C) A Class Q BYOB Permit shall not be issued to:
1. A person who is not of good character and reputation in the community. A person who is not a citizen of the United States.
 2. A person who has been convicted of a felony under the laws of the state.
 3. A person who has been convicted of pandering or other crimes or misdemeanors opposed to decency and morality. A person whose Crest Hill Business License has been revoked for cause.
 4. A person who at the time of application for renewal of any liquor license issued hereunder would not be entitled to such license upon a first application.

5. A corporation, if an officer, manager, or director thereof, or any stockholder or stockholders owning in the aggregate more than 5% of the stock of such corporation would not be eligible to receive a Liquor License for any reason other than citizenship and residence within the City.
 6. A person who has been convicted of a violation of any federal or state law concerning the manufacture, possession, or sale of alcoholic liquor after January 31, 1934, or shall have forfeited his or her bond to appear in court to answer charges for any such violation.
 7. A person who does not own the premises for which a license is sought or does not have a lease thereon for the full period for which the license is to be issued; a purchaser under the terms of a real estate installment contract shall be deemed to be the owner of the premises for the purpose of this Section.
 8. Any person, association, or corporation which would not be eligible to receive a state retail liquor dealer's license.
- (D) In addition to the foregoing, any Retail Tobacco Store seeking a Class Q BYOB Permit shall have been in business for at least 12 months and have demonstrated compliance with City Ordinances and no inordinate number of calls for police service and no complaints of selling tobacco to minors or underage consumers.
- (E) An applicant seeking a Class Q BYOB Permit shall be required to submit a copy of the lease, deed, or other document demonstrating that the applicant has, or will have, the right to establish the proposed business pursuant to the City of Crest Hill Zoning Ordinance and other applicable Federal, State and/or Local Codes.
- (F) The owner of a qualifying business may apply for the Class Q BYOB Permit by completing the application document provided by the City Clerk, which shall include a sworn statement and an agreement to submit to a background check, and payment of the \$1,000 annual fee, which shall be paid in full before the Permit will be issued. The \$1,000 annual fee is in addition to all other Business License or other fees applicable to businesses within the City of Crest Hill.

SECTION 5.08.280- RESTRICTIONS AND PROHIBITIONS.

- (A) It shall be unlawful and strictly prohibited for any Retail Tobacco Store as defined in Section 10 of the Smoke Free Illinois Act, 410 ILCS 82/1 et. seq. to allow any person to consume alcohol on the premises unless it holds a valid current Class Q BYOB Permit.
- (B) No person under the age of 21 shall be allowed to consume alcohol on the premises of any business holding a Class Q BYOB Permit.
- (C) It shall be unlawful and a violation of the Class Q BYOB Permit for the Permit Holder, Owner, Manager, and/or Employees of the Class Q BYOB Permit holder to allow public intoxication on the business premises and the Class Q BYOB Permit Holder or authorized representative(s) shall promptly remove or have removed any customers who are intoxicated, and, if necessary, shall promptly call for police assistance when necessary.

- (D) A Retail Tobacco Store as defined in Section 10 of the Smoke Free Illinois Act, 410 ILCS 82/1 et. seq. which has been issued a Class Q BYOB Permit shall not allow customers to consume any alcoholic beverage on the premises without first being served cigars or other tobacco products. It shall be unlawful and a violation of the Class Q BYOB Permit to allow customers to consume alcohol without also consuming cigars and/or other tobacco products.
- (E) It shall be unlawful and a violation of the Class Q BYOB Permit for any Retail Tobacco Store, including the holder of a Class Q BYOB Permit, to allow gambling of any kind on the premises. The Class Q BYOB Permit is not considered a pouring license, and a Retail Tobacco Store which is issued a Class Q BYOB Permit shall not be considered a liquor licensee of the City.
- (F) It shall be unlawful and a violation of the Class Q BYOB Permit for any employee or owner of a Retail Tobacco Store issued a Class Q BYOB Permit to consume alcohol on the premises or be intoxicated while working at the premises.
- (G) It shall be unlawful and a violation of the Class Q BYOB Permit to allow consumption of alcohol outside the Permitted Business.
- (H) A Class Q BYOB Permit Holder shall also provide storage lockers and/ or a secured storage area for customers to keep their alcoholic beverages on premises, but each such individual locker shall be keyed or coded individually so that no one other than the customer assigned that locker shall have access to it. The Class Q BYOB Permit Holder may maintain a master key or combination for the purposes of cleaning out the lockers in the event of disuse by a customer or other legitimate business reasons.
- (I) No opened alcohol may be removed from the premises. If a locker is unavailable, the Class Q BYOB Permit Holder shall provide a designated secured area for the storage of unconsumed alcohol or discard any opened alcohol.
- (J) The hours of a Retail Tobacco Store holding a CLASS Q BYOB Permit shall be limited to the hours that the Retail Tobacco Store is open to the public. However, the CLASS Q BYOB Permit shall allow on-premises alcohol consumption for private or after-hours events held at the Retail Tobacco Store provided that the on-site consumption of alcohol shall in no event be allowed during the prohibited times as outlined in Section 5.08.180 of the Crest Hill City Code.
- (K) The Retail Tobacco Store holding a Class Q BYOB Permit shall be permitted to charge a fee for providing glassware, ice, or opening bottles, which is sometimes known as "corkage fee." However, the owner and employees of the Class Q BYOB Permit Holder shall not be permitted to pour any alcoholic beverage. The Class Q BYOB Permit holder shall also be permitted to charge locker fees.
- (L) The Class Q BYOB Permit Holder shall also provide to the City a certificate of insurance reflecting General Liability in the amount of \$1,000,000 each occurrence, and Liquor Liability coverage \$250,000 each occurrence. At the time of Permit issuance (and renewal), and at any time the foregoing insurance policies are renewed or changed, the Class Q BYOB Permit Holder shall provide to the City a certificate of insurance naming the City of Crest Hill as an additional insured on the Permittee's General Liability and Liquor Liability Insurance Policies.

- (M) The Class Q BYOB Permit Holder shall defend, indemnify, and hold harmless the City of Crest Hill, its agents, employees, elected and appointed officials from any and all claims or causes of action arising out of the consumption of alcoholic beverages on the premises. The City shall have the sole ability and right to choose defense counsel on any such claim for which the Class Q BYOB Permit Holder is obligated to defend and indemnify the City.
- (N) Any violation of this Section shall be considered grounds for suspension or revocation of the Class Q BYOB Permit by the Mayor who may decide to suspend or revoke the Permit, but only after a hearing which shall be held within 14 days of service of written notice of the alleged violation on the Class Q BYOB Permit Holder. In the event of suspension or revocation, the Permit Holder may appeal to the City Council, whose majority decision shall stand as the final administrative act of the City.

SECTION 5.08.290- TERM OF PERMIT; RENEWALS; FORFEITURES.

- (A) Term of Permit: A Class Q BYOB Permit shall be valid until December 31 following issuance, unless sooner terminated, revoked, or suspended as provided in this Section, and shall be renewed on or before January 15 of the following year.
- (B) Renewal of Permit: Any Class Q BYOB Permit Holder may apply for renewal of the Permit at the expiration thereof, provided that the Permit Holder remains qualified to receive a Class Q BYOB Permit and the premises for which such renewed Permit is sought continues to be suitable for such purpose. The renewal of any Class Q BYOB Permit is not and shall not be construed as a vested right which shall in any case prevent the Liquor Control Commissioner and City Council from decreasing or increasing the number of Class Q BYOB Permits to be issued within the City.
- (C) Cessation Of Business; Forfeiture Of Permit: Any Class Q BYOB Permit Holder who ceases to do business or closes the Retail Tobacco Store business for a period of more than thirty (30) successive days shall be subject to having the Class Q BYOB Permit declared forfeited and lapsed by order of the Local Liquor Control Commissioner.
- (D) Failure To Renew: Failure to renew a Class Q BYOB Permit, including the full payment of the required Permit fee, prior to January 15 of the following year may be considered by the Local Liquor Control Commission as the Permit Holder's abandonment of any request to renew the Permit.

SECTION 5.08.300- REVOCATION; SUSPENSION; PENALTIES; FINES; COSTS.

- (A) The Local Liquor Control Commissioner or appointed Deputy Local Liquor Control Commissioner may revoke or suspend a Class Q BYOB Permit if it is determined that the Permit Holder has violated any of the provisions of the Liquor Control Act, any provision of this Code, or any applicable rule or regulation established by the Local Liquor Control Commissioner or the Illinois Liquor Control Commission which is not inconsistent with law. In addition to any suspension or revocation, the Local Liquor Control Commissioner or Deputy Local Liquor Control Commissioner may levy a fine on the Permit Holder.
- (B) Any Class Q BYOB Permit Holder violating any provision of Sections 5.08.260,

5.08.270, 5.08.280, 5.08.290, or 5.08.300 shall be fined not less than \$250 nor more than \$750.00 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

- (C) In addition to any other penalties imposed pursuant to this Section, any person who violates any regulation of this Sections 5.08.260, 5.08.270, 5.08.280, 5.08.290, or 5.08.300 may be required to complete a duly licensed Beverage Alcohol Sellers and Servers Education and Training ("BASSET") program. Failure to complete the BASSET program when so required shall constitute a violation of this Code and may result in suspension or revocation of the Class Q BYOB Permit.
- (D) The imposition of a fine under this section shall not affect the right of the Local Liquor Commissioner to seek the imposition of additional penalties, including but not limited to, suspension or revocation of the Permit due to any alleged violations.
- (E) The total number of BYOB Permits issued to Retail Tobacco Stores shall be one (1).

SECTION 3: In the event that any provision or provisions, portion or portions, or clause or clauses of this Ordinance shall be declared to be invalid or unenforceable by a Court of competent jurisdiction, such adjudication shall in no way affect or impair the validity or enforceability of any of the remaining provisions, portions, or clauses of this Ordinance that may be given effect without such invalid or unenforceable provision or provisions, portion or portions, or clause or clauses.

SECTION 4: That all ordinances, resolutions, motions, or parts thereof, conflicting with any of the provisions of this Ordinance, are hereby repealed to the extent of the conflict.

SECTION 5: That the City Clerk is hereby directed to publish this Ordinance in pamphlet form.

SECTION 6: That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

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PASSED THIS 5TH DAY OF FEBRUARY, 2024.

	Aye	Nay	Absent	Abstain
Alderman John Vershay				
Alderman Scott Dyke				
Alderwoman Claudia Gazal				
Alderman Darrell Jefferson				
Alderperson Tina Oberlin				
Alderman Mark Cipiti				
Alderman Nate Albert				
Alderman Joe Kubal				
Mayor Raymond R. Soliman				

Christine Vershay-Hall, City Clerk

APPROVED THIS 5TH DAY OF FEBRUARY, 2024.

Raymond R. Soliman, Mayor

ATTEST:

Christine Vershay-Hall, City Clerk