

## **CHAPTER 10: DEALERS IN INTOXICATING LIQUORS**

|             |  |
|-------------|--|
| Sec. 10.101 | Definitions                                    |
| Sec. 10.102 | License required                               |
| Sec. 10.103 | Classes  |
| Sec. 10.104 | Amount of Fees                                 |
| Sec. 10.105 | Application for licenses                       |
| Sec. 10.106 | Approval of license                            |
| Sec. 10.107 | Consumption on premises                        |
| Sec. 10.108 | Application for renewals and approval          |
| Sec. 10.109 | Posting license                                |
| Sec. 10.110 | Restrictions on license                        |
| Sec. 10.111 | Payment of Fees                                |
| Sec. 10.112 | Certain Acts and Practices Prohibited          |
| Sec. 10.113 | Sale to Minors, etc. Prohibited                |
| Sec. 10.114 | Gambling and Gambling Devices Prohibited       |
| Sec. 10.115 | Inspection by Officers and Conduct of Business |
| Sec. 10.116 | Transfer of License                            |
| Sec. 10.117 | Revocation of License                          |
| Sec. 10.118 | Sale of Food on Premises                       |
| Sec. 10.119 | Penalties                                      |
| Sec. 10.120 | Appeal of Liquor Commissioner Findings         |

## CHAPTER 10: DEALERS IN INTOXICATING LIQUORS

**Sec. 10.101 Definitions:** Unless the context otherwise requires, the following terms as used in this ordinance shall be constructed according to the definitions given below.

- (1) "Alcoholic liquor" Any spirits, wine, beer, ale or other liquid containing more than one-half of one per cent of alcohol, by volume, which is fit for beverage purposes.
- (2) "Retail Sale" The sale for use or consumption, and not for resale.
- (3) "Restaurant" Any public place kept, used, maintained, advertised and held out to the public as a place where meals are served, and where meals are actually and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. The Restaurant or dining room is defined herein as a place where food is consumed by customers while sitting at tables or booths, but not including counter and counter stools which seating accommodates not less than forty (40) persons reasonably and comfortably seated, that is to say, it is the purpose of this definition not to define a restaurant as a place of smaller size or consisting primarily of counters or counters only. In addition, a restaurant or dining room defined herein is a place that has and maintains at all times a valid license from the Tazewell County Health Department to operate a restaurant. Finally, a restaurant is hereby defined as a place that regularly has main menu food choices available for customers and said food choices must be regularly placed on a written menu that is either posted on the wall or given to customers.
- (4) "Hotel" Every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which ten or more rooms are used for the sleeping accommodations of such guests and having one or more public dining rooms where meals are served to such guests, such sleeping accommodations and dining rooms being constructed in the same building or buildings, in connection therewith and such building or buildings, structure or structures, being provided with adequate and sanitary kitchen and dining room equipment and capacity.
- (5) "Club" A corporation organized under the laws of this State not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquors, kept, used and maintained by its members through the payment of annual dues, and owning, hiring or leasing a building or space in a building, of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members, and their guests, and provided with suitable and adequate kitchen and dining room space and equipment and maintaining a sufficient number of servants for cooking, preparing and serving food and meals for its members and their guests; PROVIDED that such club files with the Mayor at the time of its application for a license under this ordinance, two copies of a list of names and residences of its members, and similarly files within ten days of the election of any additional member his name and address; AND, PROVIDED FURTHER, that its affairs and management are conducted by a board of directors, executive committee or similar body chosen by the members at their annual meeting, and that no member or other officer, agent, or employee of the club is paid, or directly or indirectly receives, as salary, or other compensation, any profits from the distribution or sale of alcoholic liquor to the club or the members of the club or its guests introduced by members beyond the amount of such salary as may be fixed and voted at any annual meeting by the members or by its Board of Directors or other governing body out of the general revenue of the club.

**Sec. 10.102 License required:** It shall be unlawful to sell or offer for sale at retail in the Village any alcoholic liquor without a State of Illinois liquor license and a liquor license issued by the Village of Deer Creek or in violation of the terms of either such license.

*Revised: January 2007 Ord. #523*

**Sec. 10.103 Classes:** Licenses to sell alcoholic liquor at retail are hereby divided into three classes:

- (1) Class A: Class "A" licenses shall authorize the retail sale of alcoholic liquors on the premises of any tavern, for consumption on the premises as well as other retail sales of such liquor. No more than one (1) Class "A" license shall be issued in the Village.
- (2) Class B: Class "B" licenses shall authorize the retail sale of alcoholic liquors in packages, and not for consumption on the premises where sold. No more than one (1) class "B" licenses shall be issued in the Village.
- (3) Class C: Class "C" licenses shall authorize the retail sale of alcoholic liquors on the premises of any restaurant, for consumption on the premises. No more that two (2) Class "C" licenses shall be issued in the Village.
- (4) Class D: Class "D" licenses shall authorize the retail sale by a person, firm, or entity that holds a valid Class "C" license of alcoholic liquors in packages and not for consumption on the premises where sold. No more than two (2) Class "D" licenses shall be issued in the Village. It is a condition precedent to receive a Class "D" liquor license that the applicant must already hold a Class "C" liquor license. In the event that a person, firm or entity holds a Class "D" liquor license, and for any reason the holder of the Class "D" liquor license no longer holds a Class "C" liquor license, the holder of the Class "D" liquor license shall automatically lose its Class "D" liquor license and shall forfeit any fees it has previously paid to the Village.

**Sec. 10.104 Amount of Fees:** The annual fee for Class "A", Class "B" and Class "C" licenses shall be the sum of Five Hundred Dollars (\$500.00) and must be paid in on installment at the time of filing the application. The annual fee for Class "D" shall be a \$50.00 annual fee, which shall be paid in full at the time of filing an application.

*Revised January 2010 Ord. #558*

**Sec. 10.105 Application for license:** Any person desiring a license under this ordinance shall make application therefore upon blanks furnished by the Village Clerk, and such application shall be sworn to and shall show the following.

1. The name and address of the applicant;
2. That he is a citizen of the United States;
3. That he has never been convicted of a felony
4. His place of birth, and if a naturalized citizen the time and place of naturalization;
5. The location he proposes to operate under the license required;
6. The proposed location is not within one hundred (100) feet of any church, school, hospital, home for aged persons or for veterans, their wives or children, provided, however, this restriction shall not apply to hotels, clubs, food shops, or other places where the sale of alcoholic liquors to the general public for consumption on the premises is not the principal business carried on;
7. Whether or not he sells or proposes to sell food for human consumption on the premises, or off, or both;
8. Any applicant for licenses shall be required to show satisfactorily that he is of good moral character.

9. The type of license he is applying for. If the license applied for is a Class “C” license then the applicant shall describe the seating capacity of the restaurant.

In case of a partnership, the information required by this section shall be furnished as to each partner, and in case of a club, association or corporation, as to the principal officers of such association, club or corporation

**Sec. 10.106 Approval of license:** The Village Clerk shall at the next regular or adjointed meeting of the Village Board, or at a special meeting called for that purpose, present and read all applications for licenses presented and filed, and the Village Council shall have the sole right to direct or refuse the issuance of the license so requested, and in the event the Council directs a license to be issued, a license shall be issued by the Village Clerk upon the payment of the license fee required by this ordinance.

**Sec. 10.107 Consumption on premises:** It shall be unlawful for anyone not having a license to sell or offer for sale any alcoholic liquor for consumption on the premises where sold, or to permit the same to be consumed on the premises where sold.

**Sec. 10.108 Application for renewals and approval:** Applications for renewal of yearly licenses shall be filed with the Village Clerk on or before the regular meeting of the Village Council held in the month previous to the time said license expires; and the Village Clerk shall present and read all applications as presented at the respective meetings hereinabove set forth, and the Village Council shall have the sole right to direct or refuse the issuance of such renewal, and in the event the Village Council directs a new license to be issued, said license shall be issued by the Village Board upon the payment of the license fee; provided, however, that no renewal or new license shall be granted if charges or complaints have been filed against the licensee and are indisposed of, and in no case until the complaint or charges are found to be not true. An application for a “C” license shall be accompanied by a copy of the Tazewell County Health Department license which authorizes the applicant to operate a restaurant and said license must be in force and effect as of the date of renewal.

**Sec. 10.109 Posting license:** Every person licensed in accordance with the provisions of this Chapter shall immediately post and keep posted while in force, in a conspicuous place on the premises the license so issued. Whenever such license shall be lost or destroyed, a duplicate in lieu thereof shall be issued by the Village Clerk on payment to said Clerk of a fee of Five Dollars (\$5.00).

**Sec. 10.110 Restriction on license:** No such license shall be issued to:

1. A person who is not a resident of the Village.
2. A person who is not of good character and reputation in the community in which he resides.
3. A person who is not a citizen of the United States.
4. A person who has been convicted of a felony under the laws of the State of Illinois.
5. A person who has been convicted of being the keeper or is keeping a house of ill fame.
6. A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality.
7. A person whose license issued to him under this ordinance has been revoked for cause.
8. A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application.
9. A co-partnership, unless one of the members of such co-partnership shall be qualified to obtain a license.

10. A corporation, if any officer, manager, or director thereof, or any stockholder or stockholders owning in the aggregate more than five percent (5%) of the stock of such corporation, would not be eligible to receive a license hereunder for any reason other than citizenship and residence within the political subdivision.
11. A person whose place of business is conducted by a manager or agent unless said manager or agent possesses the same qualifications required of the licensee.
12. A person who has been convicted of a violation of any Federal or State law concerning the manufacture, possession or sale of alcoholic liquor, subsequent to the passage of this ordinance, or shall have forfeited his bond to appear in court to answer charges for any such violation.
13. 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.
14. A corporation unless a principal officer of said corporation shall be a bona fide resident of the Village of Deer Creek, Illinois. Principal officer means President, Secretary, or Treasurer.
15. Any law enforcement public official, the President of the Board of Trustees and any member of the Village Board of Trustees shall have no direct interest in the manufacture, sale or distribution of alcoholic liquor, except that a license may be granted to such official in relation to the premises that are not located within the territory subject to the jurisdiction of that official if the issuance of such license is approved by the State Liquor Control Commission. However any Trustee that has an interest in a liquor license issued by the Village of Deer Creek as of the date that this Ordinance is adopted may continue to hold that liquor license, and any renewal thereof, through April 30, 2009 at 11:59 p.m. To prevent any conflict of interest, any Village Trustee that currently holds a liquor license and may continue to hold a liquor license issued by the Village of Deer Creek until April 30, 2009 cannot participate in any meetings, hearings or decisions on matters impacting the manufacture, sale or distribution of alcoholic liquor.
16. Any person, association, or corporation not eligible for a State Retail Liquor Dealer's license.
17. Any license that is held by a Trustee or a license in which a Trustee has an interest, must expire on April 30, 2009 no matter when the license is issued. The fee for a liquor license will not be changed or adjusted even if the licensee receives a license that is less than twelve months due to the special provisions that are provided for within Sec. 10.110 15 which allows for grandfathering of an existing license that is held by a Trustee or in which a Trustee has an interest in until April 30, 2009.

*Revised: August 2005 Ord. #514*

*Revised: July 2008 Ord. #537*

**Sec. 10.111 Payment of Fees:** All fees shall be paid to the Village Clerk at the time application is made. In the event license applied for is denied, the fee shall be returned to the applicant. If the license is granted, then the fee shall be deposited in the general fund or in such other as shall have been designated by the Council by proper action.

**Sec. 10.112 Certain Acts and Practices Prohibited:** No obstruction shall be allowed or permitted to remain which prevents or tends to prevent a full and unobstructed view from the street of any room wherein alcoholic liquor is sold. The word "obstruction" as herein used includes screens, frosted windows, shades, window blinds, curtains, partitions or any object whatsoever; nor shall any colored lights be used which tend to make the view of such room from the street less distinct. No alcoholic liquor shall be sold, given away or consumed on the licensed premises except between the hours of

6:00 a.m. and 2:00 a.m. on Monday through Saturday, and between 12:00 noon on Sunday and 2:00 a.m. on Monday for Class “A”, Class “C”, and Class “D” licenses; and between the hours of 6:00 a.m. and 1:00 a.m. on Monday through Saturday, and between 12:00 noon on Sunday and 1:00 a.m. on Monday for Class “B” licenses. In addition, any licensee that holds a Class “A” or Class “C” license must close its business and insure that all patrons and customers are removed therefrom within ten minutes after closing. Only employees who are working and are being compensated for their services at the time they are present in the premises shall be allowed to be on the premises after the required closing time. No premises that have any class of liquor license shall lock its doors or otherwise prohibit access by the public to its facility at any time, including but not limited to, “private” parties or functions. All liquor license holders shall allow access to the premises at all times by police officers of the Village. The foregoing hours for the sale of alcoholic beverages for Class A, C, and D liquor license holders may be extended on New Year’s Day and on other appropriate special occasions if approval is obtained in advance from the Village Council. No employee, or agent of a Licensee, or the liquor Licensee themselves shall consume alcohol while working on the premises.

*Revised: January 2007 Ord. #523*

**Sec. 10.113 Sale to Minors, etc. Prohibited:** No licensee shall sell, give or deliver alcoholic liquor to any minor contrary to the laws of the State of Illinois as they may from time to time be passed or to any intoxicated person or any person known to him to be a habitual drunkard, spendthrift, or insane, feeble-minded, or distracted person.

**Sec. 10.114 Gambling and Gambling Devices Prohibited:** No gambling shall be permitted in any establishment licensed under this ordinance, nor shall any gambling devices be used or kept in such establishment for the purpose of gambling.

**Sec. 10.115 Inspection by Officers and Conduct of Business:** A Licensee or the proprietor or proprietors of the establishment licensed shall not permit any disorderly conduct, fighting, quarrelling or immoral practices in the premises or on any adjoining land that is owned by the Licensee or the Licensee’s landlord. A Licensee shall notify appropriate law enforcement officials by calling 911 in the event of any disorderly conduct, fighting, quarrelling or immoral practices that are observed no matter where the actual activity occurs. At all times any village or police officer shall be permitted to inspect the place of business of a Licensee.

*Revised: January 2007 Ord. #523*

**Sec. 10.116 Transfer of License:** A license shall be purely a personal privilege and shall be good for the time specified therein unless sooner revoked as in this ordinance provided, and shall not constitute property, nor shall it be subject to attachment, garnishment, or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such license shall not descend by the laws of testate or in testate devolution, but 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 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 the decedent, or such insolvency or bankrupt until the expiration of such license but not longer than six months after the death, bankruptcy or insolvency of such licensee.

**Sec. 10.117 Revocation of License:** Either the Village Council or the Village President shall have the right and authority to revoke or suspend any license issued under this ordinance upon proof of any violation of said ordinance, and the willful mis-statement or false statement of any material fact in the

application shall be a violation of said ordinance. Any license issued under this ordinance that has been revoked for any reason is subject to all conditions required for renewal including the payment of annual fees in full and a completed application for renewal must be submitted for approval before license may be issued.

**Sec. 10.118 Sale of Food on Premises:** Any person granted a Class “C” license under this ordinance shall sell or offer for sale food for human consumption on the premises licensed pursuant to the Tazewell County Health Department.

**Sec. 10.119 Penalties:** Any person who violates any of the provisions of this ordinance shall, upon conviction, be punished by a fine of not less than One Hundred Dollars (\$100.00) or more than One Thousand Dollars (\$1000.00).

**Sec. 10.120 Appeal of Liquor Commissioner Findings:** All appeals, including but not limited to appeals to the State Liquor Control Commissioner by a Village Liquor Licensee of a decision, order or action by the local Liquor Control Commissioner, or designee, having the effect of fining a licensee, suspending or revoking the village Liquor License shall be limited to the review of the official record of the formal proceedings before the Commissioner.

*Revised: June 1992 Ord. #359, November 1994 Ord. #382, July 1996 Ord. #408, August 1997 Ord. #423, November 1997 Ord. 425, April 2005 Ord. #510*