

ORDINANCE NO. 22-10-01

AN ORDINANCE LICENSING AND PROVIDING FOR THE REGULATION OF THE SALE OF ALCOHOLIC LIQUOR WITHIN THE VILLAGE OF THIRD LAKE, LAKE COUNTY, ILLINOIS AND REPEALING ORDINANCE NO. 22-06-04

BE IT ORDAINED by the President and Board of Trustees of the Village of Third Lake, Lake County, Illinois, as follows:

SECTION ONE: PURPOSE

It is the policy of the Village to limit the sale of alcoholic liquor at retail primarily to the sale in its original package or by restaurants. It is not deemed conducive to the promotion of this public policy to allow the sale of alcoholic liquor at retail for consumption on the premises where sold as a sole or primary business to be conducted within the Village. Further, it is the policy of the Village to limit the purchase, consumption or possession of alcoholic liquor to persons of the age of twenty one (21) years or older and to prevent intoxication, disorderly conduct, trespasses, unruly disturbances at public or private assemblies, and similar conduct that often results from the purchase, consumption or possession of alcoholic liquor by persons under the lawful age.

SECTION TWO: DEFINITIONS

All words and phrases defined in an act entitled "An Act Relating to Alcoholic Liquors" approved January 31, 1934, as amended from time to time, as set forth generally in 235 Illinois Compiled Statutes 5/1-1 *et seq.*, are hereby incorporated and made a part of this Ordinance. Unless the context otherwise requires, the following, as used in this Ordinance, shall be construed as follows:

CONTROL OF PREMISES: To be in control of a premises or to have a premises under one's control shall mean a legal or beneficial ownership, rental, lease or license. Control may also exist where none of the aforesaid legal relationships apply, but where an adult is otherwise clearly in charge of and controlling a particular premises.

DELIVERY OF ALCOHOLIC LIQUOR: The sale, gift or exchange of an alcoholic liquor from one person to another, with or without consideration. Delivery includes furnishing of any alcoholic liquor of whatever kind or nature from one person to another.

FALSE IDENTIFICATION: Any document used for identification or proof of age that has been altered or defaced or that contains false or misleading information or that contains a name that is not the actual name of the person using it.

IMPAIRMENT: Any diminution or compromise of a person's physical, mental or perceptual abilities due to the consumption of alcoholic liquor. Impairment does not require that the blood alcohol content be in excess of any particular gram of alcohol to milliliters of blood or breath ratio.

LIQUOR CONTROL ACT: The provisions of "An Act Relating to Alcoholic Liquors", approved January 31, 1934, as amended, and as set forth in 235 ILCS 5/1-1 *et seq.*

OPERATION OF A MOTOR VEHICLE: Operation of a motor vehicle shall include physical control of a motor vehicle. It shall mean the operation or control of a motor vehicle anywhere in the Village of Third Lake, whether on private property or public property. To be in physical control,

the person need not be actually driving the motor vehicle and the vehicle need not be running. If there is only one person inside of a motor vehicle that person shall be presumed to be in physical control, regardless of the person's location in the vehicle. If there is only one person in a front seat or front passenger area of a motor vehicle, that person shall be presumed to be in physical control regardless of the person's location in the front passenger area. If there are persons in the vehicle, but not in the front passenger area, the owner of the vehicle or the person to whom permission was given to operate the vehicle, shall be presumed to be in physical control of the vehicle.

PARENT: A natural or adoptive parent or a court designated guardian.

UNDERAGE PERSON: Any person under twenty-one (21) years of age.

VICARIOUS LIABILITY: The liability that is implied as a matter of law even though the person may not have directly caused an injury to another person.

SECTION THREE: LOCAL LIQUOR CONTROL COMMISSIONER

- A. Village President to Serve as Commissioner: The Village President shall be the Local Liquor Control Commissioner as defined in the Liquor Control Act and shall be charged with the administration of the Liquor Control Act and of such ordinances and resolutions related to alcoholic liquor as may be enacted by the President and Board of Trustees of the Village.
- B. Compensation: The compensation, if any, otherwise provided for the office of Village President, shall be deemed to include compensation to the President for acting in his capacity as Local Liquor Control Commissioner.
- C. Powers and Duties: The Local Liquor Control Commissioner shall have all of the powers and duties set forth in the Liquor Control Act, including:
 - 1. To grant 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. In addition to the suspension of a local license, the Local Liquor Control Commissioner may levy a fine on the licensee. The fine imposed shall not exceed one thousand dollars (\$1,000.00) for each violation. Each day on which a violation continues shall constitute a separate violation. Not more than ten thousand dollars (\$10,000.00) in fines may be imposed against any licensee during any license year.
 - 2. To enter or to authorize any law enforcement officer to enter, at any time, upon a premises licensed hereunder, to determine whether any of the provisions of the State statutes or the ordinances of the Village, or any rules or regulations adopted by the Local Liquor Control Commissioner 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.
 - 3. To receive a complaint from any citizen within the Village when any provision of the State statutes or this Ordinance have been or are being violated and act upon such complaint in the manner provided by law.
 - 4. To receive local liquor license fees and deposit same to the credit of the Village.

5. To examine, or cause to be examined, under oath, any applicant for a local license or for the renewal thereof, or any licensee upon whom notice of revocation or suspension has been served in the manner hereinafter provided, or any licensee against whom a citation proceeding has been instituted by the Illinois Liquor Control Commission; 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 information in the performance of his duties, and for such purpose to issue subpoenas which shall be effective in any part of this State. For the purpose of obtaining any of the information desired by the Local Liquor Control Commissioner under this subsection, he may authorize his agent to act on his behalf.
6. To order, by issuance of a written order, any licensed premises closed for not more than seven (7) days, giving the licensee an opportunity to be heard during that period, if the Local Liquor Control Commissioner has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the Village; except, that if such licensee shall also be engaged in the conduct of another business or businesses on the licensed premises, such order shall not be applicable to such other business or businesses.
7. To make such reasonable rules and regulations as he may deem necessary in the performance of his duties.

SECTION FOUR: LICENSE REQUIRED

Except as otherwise provided for by the Liquor Control Act, it shall be unlawful to sell or offer for sale at retail, to deliver or to keep with the intention of selling at retail or delivering alcoholic liquor within the Village without having a local retail liquor dealer's license. Further, it shall be unlawful to sell or offer for sale at retail or to deliver alcoholic liquor within the Village in violation of the terms of a local retail liquor dealer's license issued by the Village.

SECTION FIVE: APPLICATION FOR LICENSE

Applications for such licenses shall be made to the Local Liquor Control Commissioner, in writing, under oath, and signed by the applicant, in accordance with the directions set forth in the application. License personal interest forms shall be completed in writing, under oath, for each person signing the application and each manager employed or to be employed at the licensed premises. Complete application for any license renewal (i.e., liquor license application and all liquor license personal interest forms, and all attachments thereto) shall be submitted at least thirty (30) days prior to the beginning of any license year. Failure to do so may result in a delay in the renewal license being issued.

SECTION SIX: RESTRICTIONS ON ISSUANCE OF LICENSE

- A. No such license shall be issued under this Ordinance to any person not eligible for a State retail liquor dealer's license nor to any applicant made ineligible under the Liquor Control Act as it may from time to time be amended.
- B. No such license shall be authorized for issuance and no such license shall be issued or renewed if the applicant, or any sole proprietor, partner, co-partner, member, officer,

manager, director, or any stockholder or stockholders owning in the aggregate more than 5% of the stock thereof (either individually or in the foregoing capacities) is a debtor to the Village for any reason whatsoever, regardless of whether the debt has been discharged such that the Village can no longer collect such debt in any legal proceeding and regardless of whether such debt is owed by any of the foregoing (i) individually/personally, or (ii) in the capacity as a sole proprietor, partner, co-partner, member, officer, manager, director, or any stockholder or stockholders owning in the aggregate more than 5% of the stock of any other legal entity, other than the applicant, that is a debtor to the Village for any reason whatsoever, and regardless of whether the debt has been discharged such that the Village can no longer collect such debt in any legal proceeding.

SECTION SEVEN: EXAMINATION AND INVESTIGATION OF APPLICANT/LICENSEE

- A. Examination: The Local Liquor Control Commissioner shall have the right to examine, or cause to be examined, under oath, any applicant for a local retail liquor dealer's license or for a renewal thereof, or any licensee upon whom notice of revocation or suspension has been served, or records of any such applicant or licensee, to hear testimony and take proof for his information in the performance of his duties, and for such purpose to issue subpoenas which shall be effective in any part of this State. For the purpose of obtaining any of the information desired by the Local Liquor Control Commissioner under this Section, he may authorize his agent to act on his behalf, as provided by statute. The failure of any applicant or licensee to appear at the time and place fixed by the Local Liquor Control Commissioner for his examination or to produce books and records requested, unless for good cause shown, shall be deemed to be an admission that the objections or charges are true, and that the applicant is not qualified to receive a license.
- B. Investigation: No license shall be issued until the applicant(s) shall have been investigated by the Local Liquor Control Commissioner and a report filed in the records of said Commissioner approving the new applicant(s).

SECTION EIGHT: LICENSE CLASSIFICATIONS

The Local Liquor Control Commissioner shall have the right to grant local retail liquor dealer's licenses for the selling at retail of alcoholic liquor. Such licenses shall be divided into the following classes and none other:

CLASS A which shall permit the sale of alcoholic liquor for consumption on the premises where sold when the primary business conducted upon said premises is that of a restaurant.

- A. For the purposes of this class of license, a restaurant shall be defined as any public place, kept, used, maintained, advertised and held out to the public as a place where the primary business is the service of complete meals off of a printed menu and prepared in the premises' kitchen, and where complete meals are actually and regularly served, and where adequate provision is made for on premises sanitary kitchen and dining room equipment and capacity and a sufficient number of employees to prepare, cook and serve complete meals for its customers off of such menu. The mere availability and service at any premises of cold or hot sandwiches, hors d'oeuvres, popcorn, nachos, pretzels, potato chips, hot dogs or other snack foods will not, standing alone, be deemed sufficient to constitute such premises a restaurant within the meaning of this paragraph, it being the intent of this paragraph that the primary business conducted on premises to be licensed as

restaurants hereunder shall be the service of complete meals ordered off of a printed menu and prepared in the kitchen located on the licensed premises.

- B. Alcoholic liquor may be sold in a restaurant only during the period when patrons of the restaurant are offered a complete meal off of a printed menu. The menu must be the regular breakfast, lunch and/or dinner menu of such licensee. Said complete meals shall be prepared in the licensed premises' kitchen. Alcoholic liquor may only be sold in a restaurant during the period when the licensed premises' kitchen facilities are open, adequately staffed and able to prepare complete meals from said menu(s).
- C. There shall be a common entrance for both those areas where complete meals are served at tables and areas where alcoholic liquor may otherwise be served.
- D. The opening and closing hours of any area in a restaurant where alcoholic liquor may be served shall be the same as those areas where complete meals are served at tables.
- E. The license shall be available for premises with dining room facilities regularly available for forty (40) or more persons and premises having regular dining facilities with a floor area of not less than six hundred (600) square feet; no part of the required floor area to be satisfied by basement dining facilities.
- F. Class A licenses shall be issued only to restaurants that have dining facilities as stated.

In addition, at least sixty percent (60%) of the gross sales (in dollars) at the licensed premises must be derived from food sales (excluding all alcoholic beverage sales). Each licensee shall keep an accurate accounting of the dollar amount of sales derived from food sales and alcoholic beverage sales.

CLASS A-1 which shall permit the sale of alcoholic liquor for consumption on the premises where sold when the primary business conducted upon said premises is that of a restaurant.

- A. For the purposes of this class of license, a restaurant shall be defined as any public place, kept, used, maintained, advertised and held out to the public as a place where the primary business is the service of complete meals off of a printed menu and prepared in the premises' kitchen, and where complete meals are actually and regularly served, and where adequate provision is made for on premises sanitary kitchen and dining room equipment and capacity and a sufficient number of employees to prepare, cook and serve complete meals for its customers off of such menu. The mere availability and service at any premises of cold or hot sandwiches, hors d'oeuvres, popcorn, nachos, pretzels, potato chips, hot dogs or other snack foods will not, standing alone, be deemed sufficient to constitute such premises a restaurant within the meaning of this paragraph, it being the intent of this paragraph that the primary business conducted on premises to be licensed as restaurants hereunder shall be the service of complete meals ordered off of a printed menu and prepared in the kitchen located on the licensed premises.
- B. Alcoholic liquor may be sold in a restaurant only during the period when patrons of the restaurant are offered a complete meal off of a printed menu. The menu must be the regular breakfast, lunch and/or dinner menu of such licensee; provided, however, that between the hours of 9:00 p.m. and the closing hour of the restaurant, a limited menu may be provided, so long as the kitchen remains open and complete meals are available. Said

complete meals shall be prepared in the licensed premises' kitchen. Alcoholic liquor may only be sold in a restaurant during the period when the licensed premises' kitchen facilities are open, adequately staffed and able to prepare complete meals from said menu(s).

- C. There shall be a common entrance for both those areas where complete meals are served at tables and areas where alcoholic liquor may otherwise be served.
- D. The opening and closing hours of any area in a restaurant where alcoholic liquor may be served shall be the same as those areas where complete meals are served at tables.
- E. The license shall be available for premises with dining room facilities regularly available for fifty (50) or more persons and premises having regular dining facilities with a floor area of not less than seven hundred fifty (750) square feet; no part of the required floor area to be satisfied by basement dining facilities.
- F. Class A-1 licenses shall be issued only to restaurants that have dining facilities as stated.

In addition, at least sixty percent (60%) of the gross sales (in dollars) at the licensed premises must be derived from food sales (excluding all alcoholic beverage sales). Each licensee shall keep an accurate accounting of the dollar amount of sales derived from food sales and alcoholic beverage sales.

CLASS B which shall permit the sale of beer and wine for consumption on the premises where sold when the primary business conducted upon said premises is that of a restaurant.

- A. For the purposes of this class of license, a restaurant shall be defined as any public place, kept, used, maintained, advertised and held out to the public as a place where the primary business is the service of complete meals off of a printed menu and prepared in the premises' kitchen, and where complete meals are actually and regularly served, and where adequate provision is made for on premises sanitary kitchen and dining room equipment and capacity and a sufficient number of employees to prepare, cook and serve complete meals for its customers off of such menu. The mere availability and service at any premises of cold or hot sandwiches, hors d'oeuvres, popcorn, nachos, pretzels, potato chips, hot dogs or other snack foods will not, standing alone, be deemed sufficient to constitute such premises a restaurant within the meaning of this paragraph, it being the intent of this paragraph that the primary business conducted on premises to be licensed as restaurants hereunder shall be the service of complete meals ordered off of a printed menu and prepared in the kitchen located on the licensed premises.
- B. Beer and wine may be sold in a restaurant only during the period when patrons of the restaurant are offered a complete meal off of a printed menu. The menu must be the regular breakfast, lunch and/or dinner menu of such licensee. Said complete meals shall be prepared in the licensed premises' kitchen. Beer and wine may only be sold in a restaurant during the period when the licensed premises' kitchen facilities are open, adequately staffed and able to prepare complete meals from said menu(s).
- C. There shall be a common entrance for both those areas where complete meals are served at tables and areas where beer and wine may otherwise be served.
- D. The opening and closing hours of any area in a restaurant where beer and wine may be

served shall be the same as those areas where complete meals are served at tables.

- E. The license shall be available for premises with dining room facilities regularly available for fifty (50) or more persons and premises having regular dining facilities with a floor area not less than seven hundred fifty (750) square feet; no part of the required floor area to be satisfied by basement dining facilities.
- F. Class B licenses shall be issued only to restaurants that have dining facilities as stated. In addition, at least sixty percent (60%) of the gross sales (in dollars) at the licensed premises must be derived from food sales (excluding all alcoholic beverage sales). Each licensee shall keep an accurate accounting of the dollar amount of sales derived from food sales and alcoholic beverage sales.

CLASS C which shall permit the retail sale of alcoholic liquor for consumption on the premises.

CLASS D which shall permit the sale of alcoholic liquor in sealed packages, but not for consumption on the premises where sold. Holders of Class D licenses shall be permitted to conduct alcoholic liquor sampling or tasting promotions upon the licensed premises; provided, that no charge shall be made therefor.

CLASS E which shall permit the sale of beer and wine in sealed packages, but not for consumption on the premises where sold. Holders of Class E licenses shall be permitted to conduct beer and wine sampling or tasting promotions upon the licensed premises; provided, that no charge shall be made therefore.

CLASS F which shall only be issued for special public events and shall authorize the retail sale on the premises specified of alcoholic beverages for consumption on said premises. A Class F license shall not be issued for more than forty-eight (48) hours' duration, except that by action of the corporate authorities, it may be extended so as to have a total duration of not more than one week. In addition to the usual requirements for applicants of liquor licenses in the Village, whoever is approved by the Local Liquor Control Commissioner for a Class F license must provide to the Village, through the Village Clerk for approval by the Commissioner, an insurance policy saving the Village harmless from any damage or injury sustained by anyone both as to personal injury and property damage in such amounts and companies as required by the Local Liquor Control Commissioner before any application for a Class F license shall be approved by the Local Liquor Control Commissioner. Class F license applications must be filed with the Clerk at least fifteen (15) days prior to the special event in connection with which same is issued.

SECTION NINE: LICENSE FEES

- A. Fees Established: The fees for the various classes of licenses authorized in this Ordinance shall be as follows:

<u>License</u>	<u>License Fee</u>
A	\$1,400.00
A-1	\$1,400.00
B	\$1,100.00

C	\$1,000.00
D	\$1,200.00
E	\$1,100.00
F	\$100.00

- B. Proration of License Fee: There shall be no proration of license fees for any reason.
- C. Disposition of Fees: At the time application is made to the Local Liquor Control Commissioner for the original issuance or renewal of a license of any class, the applicant shall pay to the Village the fee hereinabove provided for the class of license for which the application is filed. In the event the license applied for is issued or renewed, the fee shall be applied to the license; however, in the event the license applied for is denied, the fee, except for a processing charge of two hundred dollars (\$200.00) shall be returned to the applicant, except for a Class F license. In the event a Class F license is denied, then the entire fee paid with the application shall be returned to the applicant.
- D. Forfeiture of License Fee: Whenever any license hereunder has been revoked as provided for in this Ordinance, the licensee shall incur a forfeiture of all monies that have been paid for said license.

SECTION TEN: NUMBER OF LICENSES

The number of liquor licenses shall not exceed the following:

- Class A- six (6)
- Class A-1 – none authorized
- Class B- one (1)
- Class C- one (1)
- Class D- three (3)
- Class E- three (3)
- Class F- no limit

SECTION ELEVEN: INSURANCE REQUIRED

- A. No license shall be granted to any applicant until such applicant shall furnish evidence satisfactory to the Local Liquor Control Commissioner that such applicant is covered by a policy of liquor liability insurance.
- B. Each licensee shall furnish the Local Liquor Control Commissioner with a certificate of such insurance and in the event of cancellation, the Local Liquor Control Commissioner shall be notified immediately of such cancellation.

SECTION TWELVE: CERTIFICATE OF CONFORMANCE

At the time of the application for a license, the applicant shall submit a certification from the Lake County Board of Health that the proposed licensed premises are in conformity with all of the regulations and ordinances of the County.

SECTION THIRTEEN: TERM OF LICENSE, RENEWALS, FORFEITURES

- A. Term of License: All licenses, except Class F licenses, shall be valid for a period not to exceed one year after issuance, unless sooner terminated, revoked or suspended as provided in this Ordinance. Except as otherwise provided, all licenses shall expire on April 30 next following their issuance.
- B. Renewal of License: Any licensee may apply for renewal of a license at the expiration thereof; provided, that he 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 herein provided for shall not be construed as a vested right which shall in any case prevent the President and Board of Trustees from decreasing the number of licenses to be issued within the Village or to be issued within the Village within any class.
- C. Cessation of Business; Forfeiture of License: Any licensee who ceases to do business or closes his place of business for a period of more than thirty (30) successive days shall be subject to having his license declared forfeited and lapsed by order of the Local Liquor Control Commissioner.

SECTION FOURTEEN: TRANSFER OF LICENSE, CHANGES IN LICENSEE

- A. Transfer of License: A license shall be a purely personal privilege, good for a period of not to exceed one year after issuance, unless sooner revoked, 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 cease upon the death of the licensee and shall not descend by the laws of testate or intestate succession; 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 sale of alcoholic liquor under the 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 no longer than six (6) months after the death, bankruptcy or insolvency of such licensee.
- B. Changes in Licensee:
 - 1. Any changes in partnership, officers, directors, or persons holding directly or beneficially more than five percent (5%) of the stock or ownership interest, or managers of establishments licensed under this Ordinance, shall be reported in writing to the Local Liquor Control Commissioner within ten (10) days of the change. All new personnel shall meet all of the standards of this Ordinance and must otherwise qualify to hold a liquor license. In addition, a processing fee of two hundred dollars (\$200.00) must be submitted.
 - 2. When a license has been issued for a partnership and a change of ownership occurs resulting in a partnership interest by one who is not eligible to hold a liquor license, said license shall terminate.
 - 3. When a license has been issued to a corporation or other organization and a change takes place in officers, directors, managers or shareholders of more than five percent

(5%) of the stock resulting in the holding of such office, position or such shares of stock by one who is not eligible for a license, said license shall terminate.

4. When a license has been issued to an individual who is no longer eligible for a license, said license shall terminate.

SECTION FIFTEEN: CONDITIONS OF LICENSE

- A. Display of License: All local retail liquor dealer's licenses issued in accordance with the provisions of this Ordinance shall be displayed in a prominent place in the licensed establishment, or as otherwise provided herein.
- B. Hours of Sale, After Hours Activity:
 1. No person holding a license issued pursuant to this Ordinance, shall sell, or permit to be sold, offer for sale, give away or deliver any alcoholic liquor between the hours of one o'clock (1:00) a.m. and six o'clock (6:00) a.m. All patrons and customers shall leave the premises not later than fifteen (15) minutes following the closing hours herein established; except, that on New Year's Eve in any given year, holders of such licenses shall be permitted to remain open to sell alcoholic liquor for one additional hour.
 2. In the case of restaurants and licensees selling packaged liquors, where the sale of alcoholic liquor is conducted on premises which are utilized primarily for other retail sale activities, such establishments may be kept open for business after the hours of sale set forth herein above, but no alcoholic liquor may be sold, offered for sale, given away, delivered or consumed after said closing hours, and no person shall be permitted to remain in or upon that portion of the premises used for the sale or dispensing of alcoholic liquor. Holders of Class D and E licenses shall, after the hours of sale set forth herein above, cause all alcoholic liquor to be stored or contained in locked cabinets and/or coolers so that no member of the public may have access thereto.
- C. Refilling Original Packages: No person licensed under this Ordinance 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 shall be unlawful for any person to have in his possession for sale at retail any bottles, casks or other containers of alcoholic liquor, except in original packages.
- D. Solicitation: It shall be unlawful for any licensee, his manager or other person in charge of any licensed premises where alcoholic liquor is sold or offered for sale for consumption thereon to engage, employ or permit the engagement or employment of any person nor shall any person be permitted to remain on said premises, who shall solicit any patron or customer thereof to purchase alcoholic or nonalcoholic liquor for said person, or any other person therein; nor shall any person, whether employee, entertainer or otherwise, solicit any patron or customer therein to purchase alcoholic or nonalcoholic liquor for said person or any other person therein; provided, however, that nothing herein contained shall prohibit any adult manager, bartender, waiter or waitress who shall be regularly employed therein from accepting and serving the order of a patron or customer in the regular course of employment as such manager, bartender, waiter or waitress.

- E. Gambling: It shall be unlawful to permit any gambling on any premises licensed to sell alcoholic liquor except as permitted pursuant to a Gaming license. No electronic product promotion sweepstakes kiosks shall be permitted on any premises licensed to sell alcoholic liquor. For purposes of this paragraph, “electronic product promotion sweepstakes kiosks” shall mean any machine that, in addition to dispensing coupons for merchandise upon the deposit of money into the machine, also allows the player to wager credits by playing electronic sweepstakes games and to cash out by pressing a button that prints the total credits won on a ticket/coupon that can be redeemed for cash.
- F. Lewdness: It shall be unlawful for any licensee hereunder to permit or allow any lewd person to remain in and about any such premises, or to allow any soliciting or prostitution practices or lewdness.
- G. Intoxication, Disorderliness: It shall be unlawful for any licensee, individually or through his agents or employees, to allow intoxicated persons to loiter on or about that part of the premises described in the license, which part is in use by or in view of the general public or permit any conduct which shall tend to disturb the people or quiet of the neighborhood or the premises.
- H. Peddling Liquor: It shall be unlawful to peddle alcoholic liquor in the Village.

SECTION SIXTEEN: BUILDING AND LOCATION RESTRICTIONS

- A. Location Restrictions: No license shall be issued for the sale at retail of any alcoholic liquor for any location, when otherwise prohibited by the Liquor Control Act as it may from time to time be amended.
- B. Multiple Locations: Where two (2) or more locations, places or premises are under the same roof or at one street address, a separate local retail liquor dealer's license shall be obtained or each such location, place or premises selling or delivering alcoholic beverages.
- C. Change of Location: All licenses issued hereunder shall embrace only one place of business. A license issued hereunder shall permit the sale of alcoholic liquor only on the premises described in the application and license. A license may be transferred upon the approval of the Local Liquor Control Commissioner from one location or premises to another only when and upon the written permit to make such change is issued by the Local Liquor Control Commissioner and upon the payment of two hundred dollars (\$200.00). No change of location shall be permitted unless the proposed new location is in compliance with the provisions and regulations of this Ordinance.

SECTION SEVENTEEN: SANITARY CONDITIONS

- A. Premises: All premises used for the retail sale of alcoholic liquor, or for the storage of such liquor for sale, shall be kept in full compliance with the ordinances regulating the condition of premises used for the storage or sale of food for human consumption.
- B. Employees: It shall be unlawful to employ in the premises used for the retail sale of alcoholic liquor any person who is afflicted with, or who is a carrier of, any contagious, infectious or venereal disease; and it shall be unlawful for any person who is afflicted with

or is a carrier of any such disease to work in or about any premises or to engage in any way in the handling, preparation or distribution of such liquor, except as may be otherwise required by Federal Law.

SECTION EIGHTEEN: ATTIRE

- A. Every licensee and every employee, associate, agent, member, officer, representative or independent contractor of such licensee, whether compensated or not, shall be properly and decently attired during the course of the sale, distribution, service, pouring, mixing, drawing, dispensing or delivery of alcoholic liquors of every description, either independently or in conjunction with food or foodstuffs, across a bar or at a table. Topless or similar costumes are prohibited.
- B. It shall be unlawful for any licensee or any employee, associate, agent, member, officer, representative or independent contractor of such licensee, whether compensated or not, at any time on the premises or in the course of the conduct of the business to which the license provided under this Ordinance applies, to:
 - 1. Expose his or her genitals, pubic hair, buttocks, natal cleft, perineum, anal region or pubic hair region.
 - 2. Expose any device, costume or covering which gives the appearance of or simulates the genitals, pubic hair, buttocks, natal cleft, perineum, anal region or pubic hair region.
 - 3. Expose any portion of the female breast at or below the areola thereof.
- C. It shall be unlawful for any licensee to permit or allow any person described in subsection A or B of this Section to violate any of the provisions hereof.

SECTION NINETEEN: PROHIBITED ACTS AND CONDITIONS

- A. Consumption of Liquor in Public: It shall be unlawful for any person to consume any alcoholic liquor, as defined by law, on any public way in the Village or in or about any motor vehicle upon a public way in the Village.
- B. Open Bottle Law: No person shall transport, carry, possess or have any alcoholic liquor in or upon or about any motor vehicle upon a public way in the Village, except in the original package and with the seal unbroken.
- C. 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, or to any person known by him to be a habitual drunkard, insane, mentally ill, mentally deficient or in need of mental treatment.
- D. Outdoor Events: Whenever there is an outdoor gathering on a premises which holds a liquor license from the Village, and over 500 individuals are expected to be in attendance, it shall be the duty of the liquor licensee to provide adequate personnel for security services on the property and for traffic control to and from adjacent public

roadways. At a minimum, two (2) security persons and one (1) traffic control person shall be provided. Such security and traffic control services shall be provided beginning thirty (30) minutes prior to the scheduled starting time of such gathering, continuing throughout the duration of the gathering and ending the earlier of (i) sixty (60) minutes after the scheduled end of the gathering or (ii) all of the individuals in attendance at the gathering have vacated the premises. The security personnel shall either be law enforcement officers or employees of a private security company trained for such purpose. The traffic control personnel shall be law enforcement officers. Not less than two (2) weeks prior to the scheduled event, the licensee shall provide evidence to the Village Administrator that the security and traffic control personnel required herein have been retained. Such evidence shall consist of written contracts or other documentation that is satisfactory in form to the Village Administrator.

SECTION TWENTY: MINORS

A. Sale, Possession and Consumption Prohibited:

1. No licensee nor any 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.
2. No person under the age of twenty one (21) years shall consume, purchase or accept delivery of alcoholic liquor or have alcoholic liquor in his or her possession within the Village; provided, the possession and dispensing or consumption of alcoholic liquor in the performance of a religious service or ceremony, the consumption by a person under the age of twenty one (21) under direct supervision and approval of the parent(s) or guardian(s) of such underage person in the privacy of the parent's or guardian's home, or the possession or delivery of alcoholic liquors in pursuance of a person's employment by a licensee under this Ordinance as allowed in subsection E of this Section is not prohibited.
3. 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 as allowed under subsection A of this Section.
4. It shall be unlawful for any person to knowingly or negligently permit, on premises under his or her control, the consumption of alcoholic liquor by an underage person unless such possession and/or consumption is otherwise permitted under subsection A2 of this Section. This Section shall apply to residential and commercial premises.
5. Any person found guilty of violating subsections A3 or 4 of this Section shall be fined in the mandatory amount of seven hundred fifty dollars (\$750.00).

- B. Presence on Licensed Premises: Except as permitted in subsection E of this Section, it shall be unlawful for any holder of a liquor license, or his agent or employee, to suffer or permit any person under the age of twenty one (21) years to be or remain in any room or compartment adjoining or adjacent to or situated in the room or place where such licensed premises is located; provided, that this subsection shall not apply to any person under the age of twenty one (21) years who is accompanied by his or her parent or guardian, or to that portion of any licensed premises which derives its principal business from restaurants

or the sale of service or commodities other than alcoholic liquor.

For the purpose of preventing the violation of this section, any licensee, or his 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 of the fact that he or she is over the age of twenty-one (21) years, as required by this Ordinance.

C. Identification Requirements:

1. If a licensee or his agent or employee believes, has reason to believe or should have reason to believe that a sale or delivery of alcoholic liquor is prohibited because the prospective recipient is underage, then he shall, before making such sale or delivery, demand presentation of at least two (2) separate forms of positive identification, each containing proof of age, each issued by a public officer in the performance of his official duties and one of those forms of identification must contain a picture of the holder thereof. A traffic citation shall not be accepted as identification or evidence of age.
2. No person shall transfer, alter or deface an identification card issued by a Federal, state, county or municipal government or subdivision or agency thereof, use the identification card of another, carry or use a false or forged identification card, or obtain an identification card by means of false identification.
3. No person shall purchase, accept delivery or have possession of alcoholic liquor by the use of an altered, forged or defaced identification card or by the use of an identification card of another person.
4. No person shall 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 at retail.
5. Any underage person found guilty of attempting to obtain delivery of alcoholic liquor by use of false proof of age identification shall be subject to a mandatory fine of seven hundred fifty dollars (\$750.00).

- D. Warning Signs: In every place in the Village where alcoholic liquor is sold, there shall be displayed at all times in a prominent place a printed card which shall be supplied by the Village Clerk, and which shall read substantially as follows:

WARNING: If you are under twenty-one (21) years of age, you are subject to a fine up to \$750.00 under the Ordinances of the Village of Third Lake, if you PURCHASE alcoholic liquor or MISREPRESENT YOUR AGE for the purpose of purchasing or obtaining alcoholic liquor. OFFICIAL PHOTO IDENTIFICATION will be required to prove age before purchase.

E. Employment of Minors:

1. It shall be unlawful for any licensee, or any officer, associate, member, representative, agent or employee of such licensee, to engage, employ or permit any person under the age of twenty one (21) years to attend bar and/or to draw, pour or

mix any alcoholic liquor in any licensed premises; provided, that the provisions of this subsection shall not be construed to prevent the employment of persons who are at least nineteen (19) years of age as waiters or waitresses in restaurants for the purpose of taking orders for and serving food and alcoholic liquor on the licensed retail premises.

2. It shall be unlawful for any licensee, or any officer, associate, member, representative, agent or employee of such licensee, to engage, employ or permit any person under twenty-one (21) years of age to sell any alcoholic liquor in any licensed premises.
- F. Parental Responsibility: It shall be unlawful for any parent or guardian to knowingly suffer or permit any minor child, of which he or she may be the parent or guardian, to violate any provision of this Ordinance.
- G. Proof that the licensee, or his employee or agent, demanded, was shown, and reasonably relied upon written evidence of identification, as required by subsection C of this Section, in any transaction forbidden by subsection A.1, B or E of this Section, is competent evidence and may be considered in any ordinance violation prosecution or in any proceedings for the suspension or revocation of any license based on a violation of subsection A.1, B or E of this Section.
- H. Vicarious Liability of a Parent or Other Person Facilitating the Use or Abuse of Alcoholic Liquor: The following persons shall be liable to any individual who has been injured by an alcohol-impaired underage person when the impairment is a contributing cause of the injury:
1. Any person who delivered to the underage person any alcoholic liquor which contributed to the impairment. The person making the initial delivery to an underage person remains liable to anyone injured by the same or different underage person regardless of how many times the alcoholic liquor changed hands.
 2. Any person in control of a premises, who knowingly or negligently fails to maintain supervision to such an extent that alcoholic liquor is consumed on the premises by an underage person.
 3. Any person who knowingly or negligently permits the operation of a motor vehicle under his or her control by an underage person, when the person knew or in the exercise of ordinary judgment should have known that the underage person was either impaired or had consumed any amount of alcoholic liquor within two (2) hours prior to when the permission was granted.

The vicarious liability established by this subsection shall not be subject to the limitations on damages as set forth in 235 Illinois Compiled Statutes 5/6-21.

- I. Operation of a Motor Vehicle by Underage Persons with Alcoholic Liquor in or on the Vehicle; or When the Underage Person Is Impaired Due to Alcoholic Liquor: The following shall apply when any underage person is found in the Village operating any motor vehicle in which or on which is found any alcoholic liquor of any kind or nature, or when the underage person is in a state of impairment due to consumption of alcoholic liquor:

1. The motor vehicle shall be subject to immediate impoundment by the Lake County Sheriff;
2. The motor vehicle may be released only to another person showing proof of ownership or lease rights to the motor vehicle:
 - a. If the vehicle operator is under eighteen (18) years of age and is the owner or lessor of the vehicle, then the vehicle may be released only to a parent or legal guardian of the underage owner;
3. The motor vehicle may not be released to any person who was a passenger in the motor vehicle at the time the alcoholic liquor was found unless at least twenty-four (24) hours have passed from the time of the finding;
4. The vehicle shall not be released until the person seeking the release has paid an administrative fee of two hundred fifty dollars (\$250.00) to the Lake County Sheriff, plus any towing or storage costs;
5. The following factors shall not be considerations in determining whether or not to impound the motor vehicle:
 - a. Whether the alcoholic liquor is in an opened or unopened container;
 - b. Whether the operator is the owner of the alcoholic liquor or the vehicle;

Whether the operator had knowledge of the existence of the alcoholic liquor within the motor vehicle.
6. The above obligations and penalties shall be in addition to the penalties that may be assessed in a court of law for any charges incident to the stop;
7. Any law enforcement officer, the Village and any of its officers or agents shall be absolutely immune from any liability or exposure to liability of any kind or nature for the enforcement or implementation of this subsection.

SECTION TWENTY-ONE: VIOLATION OF RETAILERS' OCCUPATION TAX ACT

In addition to other grounds specified in this Ordinance, the Local Liquor Control Commissioner may refuse the issuance or renewal of a retail liquor dealer's license or suspend or revoke such license for any of the following violations of the Retailers' Occupation Tax Act, approved June 28, 1933, as amended:

- A. Failure to make a tax return.
- B. The filing of fraudulent return.
- C. Failure to pay all or part of any tax or penalty finally determined to be due.
- D. Failure to keep books and records.

- E. Failure to secure and display a certificate or sub certificates of registration.
- F. Willful violation of any rule or regulation of the State Department of Revenue relating to the administration and enforcement of tax liability.

SECTION TWENTY-TWO: APPLICATION OF OTHER PROVISIONS

Nothing in this Ordinance shall excuse or relieve the licensee, owner, proprietor, or person in charge of any place in the Village where alcoholic liquor is sold from the restrictions and requirements of any other Village Ordinances or of the statutes of the State of Illinois.

SECTION TWENTY-THREE: SUSPENSION OR REVOCATION OF LICENSE, FINES

- A. **Suspension or Revocation of License:** The Local Liquor Control Commissioner may, in accordance with the Liquor Control Act, revoke or suspend any license issued under the provisions of this Ordinance if he determines that the licensee has violated any of the provisions of the Liquor Control Act, this Ordinance or any other ordinance or resolution enacted by the corporate authorities of the Village, or any applicable rules or regulations established by the Local Liquor Control Commissioner or the Illinois Liquor Control Commission, or any State and/or Federal statute which is not inconsistent with this Ordinance.
- B. **Fine in Addition to Suspension:** In addition to suspension of a local license, the Local Liquor Control Commissioner may levy a fine on the licensee. The fine imposed shall not exceed one thousand dollars (\$1,000.00) for each violation. Each day on which a violation continues shall constitute a separate violation. Not more than ten thousand dollars (\$10,000.00) in fines may be imposed against any licensee during any license year.
- C. **Immediate Closure of Business:** If the Local Liquor Control Commissioner has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the Village, he may, upon the issuance of a written order stating the reasons or such conclusion and without notice or hearing, order the licensed premises closed for not more than seven (7) days, giving the licensee an opportunity to be heard during that period; except, that if the licensee is also engaged in another business on the licensed premises such order shall not be applicable to such other business.
- D. **Public Hearing:** No such license shall be so revoked or suspended, and no licensee shall be fined except after a public hearing by the Local Liquor Control Commissioner with a three (3) day written notice to the licensee affording the licensee an opportunity to appear and defend against the charges contained in such notice. The three (3) day notice provisions shall begin the day following delivery by certified or registered mail or by personal service.
- E. **Decisions:** The Local Liquor Control Commissioner shall, within five (5) days after such hearing, if he determines after such hearing that the license should be revoked or suspended or that the licensee should be fined, states the reason 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 serve a copy of such order within the five (5) days upon the licensee.

Review of the decisions of the Local Liquor Control Commissioner shall be limited to a review of the official record of the Local Liquor Control Commissioner.

- F. Costs: Any licensee determined by the Local Liquor Control Commissioner to have violated any of the provisions of the Liquor Control Act, or any ordinance or resolution of the Village, or any rule or regulation established by the Local Liquor Control Commissioner, or the Illinois Liquor Control Commission, shall pay to the Village the costs of the hearing before the Local Liquor Control Commissioner on such violation. The Local Liquor Control Commissioner shall determine the costs incurred by the Village for said hearing, including, but not limited to: court reporter fees, the costs of transcripts or records, attorney's fees, the cost of preparing and mailing notices and orders and all other miscellaneous expenses incurred by the Village or such lesser sum as the Local Liquor Control Commissioner may allow.

The licensee shall pay said costs to the Village within thirty (30) days of notification of the costs by the Local Liquor Control Commissioner. Failure to pay said costs within thirty (30) days of notification is a violation of this Section and may be cause for license suspension or revocation, or the levy of a fine.

In the event of an appeal to the Illinois Liquor Control Commission, and in cases where the appeal is taken pursuant to the Administrative Review Act, payment is due forty (40) days after the entry of an order finally affirming the determination of the Local Liquor Control Commissioner.

- G. Effect of License Revocation: When any license shall have been revoked for any cause, no license shall be granted to any licensee for the period of one year thereafter for the conduct of the business of selling alcoholic liquor at retail in the premises described in such revoked license.

SECTION TWENTY-FOUR: RECORDS KEPT

The Village Clerk shall keep a complete record of all local retail liquor dealers' licenses issued and shall immediately give written notice to the Lake County Sheriff of the issuance, renewal, revocation or suspension of any license. The Village Clerk shall process all applications for local retail liquor dealer's licenses and any renewal thereof. In addition, at the request of the Local Liquor Control Commissioner, the Village Clerk shall perform such other duties as may be necessary to administer the provisions contained in this Ordinance.

SECTION TWENTY-FIVE: VIOLATIONS AND PENALTIES

- A. Liability for Violations: Every act or omission of whatsoever nature constituting a violation of any of the provisions of this Ordinance by any officer, director, manager or other agent or employee of any licensee shall be deemed and held to be the act of such employer or licensee and such employer or licensee shall be punishable in the same manner as if such act or omission had been done or omitted by him personally.
- B. Penalties Generally: Unless another penalty is expressly provided for in this Ordinance, any person violating any provision of this Ordinance shall be fined not less than two hundred dollars (\$200.00) nor more than seven hundred fifty (\$750) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation

occurs or continues. In addition to any other penalty, a licensee found to have violated any provision of this Ordinance may be subject to having his license revoked, suspended or not renewed by the Local Liquor Control Commissioner, as otherwise provided in this Ordinance.

- C. License Revocation as Additional Penalty: Whenever any licensee shall have been convicted by any court of a violation of any of the provisions of the Liquor Control Act, or of this Ordinance or any other ordinances of the Village controlling or regulating the sale of alcoholic liquors, the licensee shall, in addition to all other penalties for such offense, incur a forfeiture of any local retail liquor dealer's license issued pursuant to this Ordinance and all monies that have been paid therefor.

SECTION TWENTY-SIX: REPEALER

That Ordinance No. 22-06-04 be and the same is hereby repealed, in its entirety.

SECTION TWENTY-SEVEN: GENERAL REPEALER

That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, expressly repealed.

SECTION TWENTY-EIGHT: EFFECTIVE DATE


That this Ordinance shall be in full force and effect ten (10) days from and after its passage, approval and publication in pamphlet form as provided by law.

This Ordinance was passed and approved on October 17, 2022 by a roll call vote as follows:


AYES: Hamster, Honegger, Mateja, Penny, Ruwitch, Van Zeyl

NAYES: none

ABSENT/NOT VOTING: none



Rodney Buckley
Village President

Attest:


Michelle Smith
Village Clerk

Passed: October 17, 2022
Approved: October 17, 2022
Pamphlet: October 17, 2022