

AN ORDINANCE AMENDING THE PROVISIONS OF THE CARPENTERSVILLE MUNICIPAL CODE, CHAPTER 5.12, SECTIONS 5.12.030, 5.12.040 and 5.12.050 PERTAINING TO THE LICENSING OF ALCOHOLIC LIQUOR SALES AND SERVICE

WHEREAS, the President and Board of Trustees of the Village of Carpentersville have heretofore enacted an ordinance providing for the licensing of alcoholic liquor sales and service within the Village; and

WHEREAS, the President and Board of Trustees of the Village of Carpentersville have determined that it is in the best interests of the Village to amend Sections 5.12.030, 5.12.040 and 5.12.050 of the Carpentersville Municipal Code in accordance with the provisions of this ordinance.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Carpentersville, County of Kane, Illinois, as follows:

SECTION 1:

The Carpentersville Municipal Code, Title 5, "Business Licenses and Regulations", Chapter 5.12, "Alcoholic Liquor", Section 5.12.030. "Application for license" is hereby amended, and as amended shall read as follows:

5.12.030 Application for license.

Applications for a retail liquor dealers license shall be made to the liquor control commissioner in writing; signed by the applicant(s), if an individual or partnership, or by a duly authorized agent thereof, if a club or corporation or limited liability corporation, verified by oath or affidavit; shall be accompanied with nonrefundable application fee in the amount as provided in Chapter 20.02, "Fees" Section 20.02.010, "License and permit fees " of this code; and shall contain the following information and statements:

1. The name, birth date, and address of the applicant in the case of an individual. In the case of a partnership or limited liability partnership, the name, birth date, and address of the persons entitled to share in the profits thereof. In the case of a corporation, limited liability corporation, or a club, the name, birth date, and address of any officer, director, manager, member, and any shareholder owning an aggregate of more than five percent (5%) of the stock of a closely held corporation or twenty five percent (25%) of the stock of a publicly traded corporation.

2. The citizenship of the applicant, his or her place of birth and if a naturalized citizen, the time and place of his or her naturalization;

3. The character of business of the applicant; and in case of a corporation, limited liability corporation or club, the date of incorporation (in the case of a foreign corporation, the state where it was incorporated and the date of its becoming qualified under the Illinois Business Corporation Act to transact business in the state), and the purpose for which it was organized;

4. The length of time that said applicant has been in business of that character.

5. The amount of goods, wares and merchandise on hand at the time application is made;

6. The location and description of the premises of place and business which is to be operated under such license;

7. A statement whether applicant, its officers, directors, members, managers, any shareholder owning an aggregate of more than five percent (5%) of the stock of a closely held

corporation or twenty five percent (25%) of the stock of a publicly traded corporation, have made similar application for a similar other license on premises other than described in this application and the disposition of such application;

8. A statement that applicant, its officers, directors, members, managers, any shareholder owning an aggregate of more than five percent (5%) of the stock of a closely held corporation or twenty five percent (25%) of the stock of a publicly traded corporation, have never been convicted of a felony; has never been convicted of being the keeper of or is keeping a house of ill fame; has never been convicted of pandering or other crimes or misdemeanor opposed to decency and morality;

9. A statement that the applicant, its officers, directors, members, managers, any shareholder owning an aggregate of more than five percent (5%) of the stock of a closely held corporation or twenty five percent (25%) of the stock of a publicly traded corporation, have never been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor, or has forfeited his or her bond to appear in court to answer charges for any such violations;

10. A statement that the applicant does beneficially own the premises for which a license has been issued or does have a lease thereon for the full period for which the license is to be issued together with the name and address of the landlord;

11. A statement that the applicant, or any of its officers, directors, members, managers, any shareholder owning an aggregate of more than five percent (5%) of the stock of a closely held corporation or twenty five percent (25%) of the stock of a publicly traded corporation, are not law enforcing public officials, members of the village board and that no such persons have any interest in any way, either directly or indirectly, in the manufacture, sale or distribution of alcoholic liquor;

12. A statement that the applicant, its officers, directors, members, managers, any shareholder owning an aggregate of more than five percent (5%) of the stock of a closely held corporation or twenty five percent (25%) of the stock of a publicly traded corporation, have never been convicted of a gambling offense as prescribed in 720 ILCS 5/28-1(a)(3) through (a)(10) or 720 ILCS 5/28-3 of the aforementioned statute;

13. A statement that the applicant, its officers, directors, members, managers, any shareholder owning an aggregate of more than five percent (5%) of the stock of a closely held corporation or twenty five percent (25%) of the stock of a publicly traded corporation, do not have a federal gaming device stamp or a federal wagering stamp issued by the federal government for the current tax period;

14. A statement that the premises to be licensed has not been issued by the federal government for the current tax period a federal gaming device stamp or a federal wagering stamp;

15. A statement:

a. That if a co-partnership, all members of the co-partnership are qualified to obtain a license;

b. That if a close corporation, 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, is eligible to receive a license pursuant to the laws of the state and the municipality. That if a publicly traded corporation, any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than twenty-five percent (25%) of the stock of such corporation, is eligible to receive a license pursuant to the laws of the state and the municipality. That if a limited liability corporation, limited liability partnership or partnership, that any partner, manager, or member is eligible to receive a license pursuant to the laws of the state and the municipality.

16. Whether a previous license issued by any state or subdivision thereof, or by the federal government has been revoked, and the reasons therefore; and

17. If applicable, the date of the filing of the "Assumed Name" of the business with the county clerk.

SECTION 2:

The Carpentersville Municipal Code, Title 5, "Business Licenses and Regulations", Chapter 5.12, "Alcoholic Liquor", Section 5.12.040. "Restriction on issuance of licenses" is hereby amended, and as amended shall read as follows:

5.12.040 Restriction on issuance of licenses.

No such license shall be issued to:

- A. A person who is not a resident of the village.
- B. A person who is not a citizen of the United States.
- C. A person who has been convicted of a felony under any Federal or State law, provided however, that if the conviction occurred more than seven (7) years from the date of application, a license may be granted if the liquor commissioner determines that such person has been sufficiently rehabilitated to warrant the public trust after considering matters set forth in the person's application, provided by the applicant and the commissioner's investigation. The burden of proof of sufficient rehabilitation shall be on the applicant.
- D. A person who has been convicted of being the keeper or is keeping a house of ill fame.
- E. A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality.
- F. A person whose license issued under this Chapter or under the applicable laws of the State has been revoked for cause.
- G. A person who at the time of application for renewal of any license issued under this Chapter would not be eligible for such license upon a first application.
- H. A co-partnership, unless all of the members of such co-partnership shall be qualified to obtain a license.
- I. A corporation or limited liability corporation, if any officer, manager, member or director thereof, or any stockholder or stockholders owning in the aggregate more than five percent (5%) of the stock of such corporation if a close corporation or more than twenty five percent (25%) of the stock of a publicly traded corporation, would not be eligible to receive a license under this Chapter for any reason other than citizenship and residence within the village.
- J. A corporation or limited liability corporation, unless it is incorporated in Illinois, or unless it is a foreign corporation which is qualified under the laws of the State of Illinois to transact business in Illinois.
- K. A person whose place of business is conducted by a manager or agent unless the manager or agent possesses the same qualifications required by the licensee, for any reason other than citizenship or residence within the village.
- L. 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 Act or has forfeited his bond to appear in court to answer charges for any such violation;
- M. A person who does not beneficially 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.
- N. Any law-enforcing public official or officer, the liquor control commissioner, the president of the village board of trustees, any member of a village board of trustees or the immediate family of any of the above. No such official shall be interested in any way, either directly or indirectly, in the manufacture, sale or distribution of alcoholic liquor, except that

license may be granted to such official in relation to premises which 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;

O. A person who is not a beneficial owner of the business to be operated by the licensee;

P. A person who has been convicted of a gambling offense under state or federal law.

Q. A person to whom a Federal gaming device stamp or a Federal wagering stamp has been issued by the Federal government for the current tax period, or if any of the partners have been issued a Federal gaming device stamp or Federal wagering stamp by the Federal government for the current tax period;

R. A co-partnership to which a Federal gaming device stamp or a Federal wagering stamp has been issued by the Federal government for the current tax period, or if any of the partners have been issued a Federal gaming device stamp or Federal wagering stamp by the Federal government for the current tax period;

S. A corporation or limited liability corporation, if any officer, manager member or director thereof, or any stockholder owning in the aggregate more than five percent (5%) of the stock of such corporation if a close corporation or more than twenty five percent (25%) of the stock of a publicly traded corporation has been issued a Federal gaming device stamp or a Federal wagering stamp for the current tax period;

T. Any premises for which a Federal gaming device stamp or a Federal wagering stamp has been issued by the Federal government for the current tax period.

U. Any person who has provided false or misleading information upon the application for license.

V. Any person who intends to sell or provide alcoholic liquors for use or consumption on his or her premises who does not have liquor liability insurance coverage for the premises in an amount at least equal to the requirements of law.

W. Any person who has outstanding indebtedness to the village.

SECTION 3:

The Carpentersville Municipal Code, Title 5, "Business Licenses and Regulations", Chapter 5.12, "Alcoholic Liquor", Section 5.12.050. "Investigation of license applicant – premises" is hereby amended, and as amended shall read as follows:

5.12.050 Investigation of license applicant, premises.

A. Application for a liquor license shall be forwarded to the fire chief, building commissioner and zoning official, who shall cause an investigation of such applicant and proposed premises and to report his or her findings to the liquor commissioner in writing, within thirty (30) days from the date when the application was forwarded to them.

B. Before any license may be issued to an applicant each stockholder owning an aggregate of more than: 1) five percent (5%) of the stock of a closely held corporation; or 2) twenty five percent (25%) of the stock of a publicly traded corporation; and each manager and member of a limited liability corporation shall be fingerprinted by the police department. An investigation will be performed to enable the commissioner to ascertain whether the issuance of a license will comply with all applicable regulations of the village. If the applicant is a publicly traded corporation, the commissioner may accept the fingerprints from another jurisdiction for persons not residing or working within fifty (50) miles of the village.

SECTION 4:

Those sections, paragraphs, and provisions of Chapter 5.12 of the Village of Carpentersville Municipal Code which are not expressly amended or repealed by this Ordinance are hereby re-enacted, and it is expressly declared to be the intention of this Ordinance not to repeal or amend any portions of the Village of Carpentersville Municipal Code other than those expressly amended or repealed in Sections 1, 2 and 3 of this Ordinance.

SECTION 5:

The invalidity of any section or provision of this Ordinance hereby passed and approved shall not invalidate other sections or provisions thereof.

SECTION 6:

The provisions of this Ordinance shall be in full force and effect upon its passage, approval and publication, in accordance with law.

Motion made by Trustee _____, seconded by Trustee _____, that the Ordinance be passed.

ADOPTED BY THE PRESIDENT AND BOARD OF TRUSTEES of the Village of Carpentersville, Illinois, at a regular meeting thereof held on the 16th day of March 2010, pursuant to a roll call vote as follows:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED by me this ____ day of _____, 2010.

Village President

(SEAL)

ATTEST:

Village Clerk