

VILLAGE OF BURNHAM

ORDINANCE NO. 2014-O-007

AN ORDINANCE AMENDING SECTION 6-21., SECTION 6-93., AND SECTION 6-99. OF THE CODE OF ORDINANCES, VILLAGE OF BURNHAM, ILLINOIS

WHEREAS, the Village of Burnham, Cook County, Illinois (the "Village") has elected by referendum on March 11, 1980 to become a home rule unit, and, accordingly, pursuant to the provisions of the Constitution of the State of Illinois of 1970, particularly, Article VII, Section 6(a) thereof, the Village is a home rule unit; and

WHEREAS, pursuant to the powers of a home rule unit set forth in Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970, the Village may exercise any power and perform any function pertaining to its government and affairs including, but not limited to the power to regulate for the protection of the public health, safety, morals and welfare; to license; to tax; and to incur debt; and

WHEREAS, the Corporate Authorities of the Village deem it advisable and in the best interest of the residents of the Village that the fines levied by local liquor control commissioner on the licensee for any violation of the provisions of Chapter 6 Alcoholic Beverages of the Code of Ordinances, Village of Burnham, Illinois, or of any of the provisions of the Liquor Control Act of 1934, 235 ILCS 5/1-1 et seq., as amended, or of any provision of the Code of Ordinances, Village

of Burnham, Illinois, or of any valid ordinance or resolution enacted by the village president and the board of trustees, or of any applicable rule or regulations established by the local liquor control commissioner or the Illinois Liquor Control Commission which is not inconsistent with law should be increased; and

WHEREAS, the Corporate Authorities of the Village deem it advisable and in the best interests of the residents of the Village that no license for the sale of alcoholic liquor shall be issued to any person, partnership, member of a partnership, manager of a partnership, corporation, officer, manager, or director thereof, or stockholder or stockholders owning in the aggregate more than five percent of the stock of such corporation, or club, officer or manager of such club that has any taxes, fees, assessments, fines or penalties owed to the Village or to the State of Illinois as of the date of the application; and

WHEREAS, the Corporate Authorities of the Village deem it advisable and in the best interests of the residents of the Village that the total maximum number of liquor licenses authorized to be issued should be reduced to the total maximum number of liquor licenses currently issued to licensees at the effective date of this ordinance.

BE IT ORDAINED by the Village President (Mayor) and Board of Trustees of the Village of Burnham, Cook County, Illinois, in the exercise of its home rule power, as follows:

Section 1. The Corporate Authorities of the Village hereby find that all the recitals contained in the preambles of this Ordinance are full, true and correct and do incorporate them into this Ordinance by this reference.

Section 2. Section 6-21. of the Code of Ordinances, Village of Burnham, Illinois is hereby amended to read as follows:

Sec. 6-21. Revocation; suspension; fine.

The local liquor control commissioner may revoke or suspend for not more than 30 days any retail liquor license issued by him if he determines that the licensee has violated any of the provisions of this chapter or any of the provisions of the Liquor Control Act of 1934, 235 ILCS 5/1-1 et seq., as amended, or any provision of the Code of Ordinances, Village of Burnham, Illinois, or any valid ordinance or resolution enacted by the village president and the board of trustees, or any applicable rule or regulations established by the local liquor control commissioner or the Illinois Liquor Control Commission which is not inconsistent with law. In lieu of suspension or revocation, the local liquor commissioner may instead levy a fine on the licensee for each violation. The fine imposed shall be not less than \$300.00 nor more than

\$1,000.00 for the first violation within a 12-month period, not less than \$400.00 nor more than \$1,500.00 for the second violation within a 12-month period, and not less than \$500.00 nor more than \$2,500.00 for a third or subsequent violation within a 12-month period. Each day on which a violation continues shall constitute a separate violation. However, no such license shall be so revoked or suspended except after a public hearing by the local liquor control commissioner with a three-day written notice to the licensee affording the licensee an opportunity to appear and defend. All such hearings shall be open to the public and the local liquor control commissioner shall reduce all evidence to writing and shall maintain an official record of the proceedings. 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 reason for such conclusion and without notice or hearing, order the licensed premises closed for not more than seven days, giving the licensee an opportunity to be heard during that period, except

if such licensee shall also be engaged in the conduct of another business on the licensed premises, such order shall not be applicable to such other business. All license fees paid shall be forfeited upon such revocation. The licensee, after the receipt of such order of suspension or revocation, shall have the privilege within a period of 20 days after the receipt of such order of suspension or revocation of appealing the order to the Illinois Liquor Control Commission for a decision sustaining, reversing or modifying the order of the local liquor control commissioner. If the Illinois Liquor Control Commission affirms the local commissioner's order to suspend or revoke the license at the first hearing, the appellant shall cease to engage in the business for which the license was issued, until the local liquor control commissioner's order is terminated by its own provisions or reversed upon rehearing or by the courts.

Section 3. Section 6-93. of the Code of Ordinances, Village of Burnham, Illinois is hereby amended to read as follows:

Sec. 6-93. Ineligible persons.

No license for the sale of alcoholic liquor shall be issued under this chapter 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 any federal or state law, unless the local liquor control commissioner determines that such person has been sufficiently rehabilitated to warrant the public trust after considering matters set forth in such person's application and the local liquor control commissioner's investigation. The burden of proof of sufficient rehabilitation shall be upon the applicant.
- (5) A person who has been convicted of being a keeper of, 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 under this chapter or whose license issued by the Illinois Liquor Control Commission has been revoked for cause.
- (8) 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.
- (9) A partnership, unless all of the members of such partnership shall be qualified to obtain a license and in addition, is a resident of the Village.
- (10) A corporation, if any officer, manager, or director thereof, or any stockholder or stockholders owning in the aggregate more than five percent of the stock of such corporation, would not be eligible to receive a license under this chapter for any reason other than citizenship and residence in the Village.
- (11) A corporation unless it is incorporated in Illinois, or unless it is a foreign corporation which is qualified under the Business Corporation Act of 1983, 805 ILCS 5/1.01, to transact business in Illinois.

- (12) A person whose place of business is conducted by a manager or agent, unless such manager or agent possesses the same qualifications required of the licensee to obtain a license.
- (13) 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 chapter, or who has forfeited his bond to appear in court to answer charges for any such violation.
- (14) A person who has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of cannabis, narcotics or other controlled substances, or who has forfeited bond to appear in court to answer charges for any such violation.
- (15) 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.

- (16) A person who is not a beneficial owner of the business to be operated by the licensee.
- (17) Any law enforcing public official, including members of local liquor control commissions, any mayor, alderman, or member of the city council or commission, any president of the village board of trustees, any member of a village board of trustees, or any president or member of a county board; and no such official shall be interested directly in the manufacture, sale or distribution of alcoholic liquor, except that a license may be granted to such official in relation to 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 Illinois Liquor Control Commission.
- (18) A person who is ineligible for or fails to receive a license to sell alcoholic liquor at retail from the Illinois Liquor Control Commission.
- (19) A person who has been convicted of a gambling offense as prescribed by any of subsections (a)(3) through

(a)(11) of section 28-1 of, or as proscribed by section 28-1.1 or 28-3 of, the Criminal Code of 1961 (720 ILCS 5/28-1(a)(3) through (a)(11), 720 ILCS 5/28-1.1, 720 ILCS 5/28-3), or as proscribed by a statute replaced by any of the aforesaid statutory provisions.

- (20) 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.
- (21) A partnership to which a federal gaming device stamp or a federal wagering stamp has been issued by the federal government for the current period, or if any of the partners have been issued a federal gaming device stamp or a federal wagering stamp by the federal government for the current tax period.
- (22) A corporation, or any officer, manager or director thereof, of any stockholder owning in the aggregate more than 20 percent of the stock of such corporation has been issued a federal gaming device stamp or a federal wagering stamp for the current tax period.

- (23) 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.
- (24) A partnership, corporation, or club unless the person who has been designated or who shall serve as manager of the premises for such partnership, corporation, or club as required by section 6-92 possesses the same qualifications required of the licensee to obtain a license and in addition, is a resident of the village.
- (25) A person who knowingly files false or incomplete information on a liquor license application pursuant to section 6-92.
- (26) A person, or partnership, or a member of a partnership, or a manager of a partnership, or corporation, or officer, manager, or director thereof, or stockholder or stockholders owning in the aggregate more than five percent of the stock of a corporation, or club, or, officer, director, member or manager of a club that has any taxes, fees, assessments, fines or penalties owed to the Village or to the State of Illinois as of the date of the application.

Section 4. Section 6-99. of the Code of Ordinances, Village of Burnham, Illinois is hereby amended to read as follows:

Sec. 6-99. Number.

(a) The maximum number of Class A, Class A-L, Class B, Class B-L, Class E, Class E-L, Class F, Class F-L, Class A-E, Class A-E-L, Class B-E, and Class B-E-L licenses combined is hereby set at five. The maximum number of Class C license is hereby set as one. The maximum number of Class G license is hereby set at one. The maximum number of Class H license is hereby set as one. The maximum number of Class I license is hereby set as one. No new license shall be issued after the effective date of the ordinance from which this section is derived until the number of licenses shall be less than five for Class A, Class A-L, Class B, Class B-L, Class E, Class E-L, Class F, Class F-L, Class A-E, Class A-E-L, Class B-E, and Class B-E-L licenses combined; less than one for Class C license; less than one for Class G license; less than one for Class H license; less than one for Class I license; provided, however, that all those who hold a license and are otherwise qualified may obtain such renewal license. It is the intent of

this chapter that all who are eligible at this date may continue to secure their license until the number five is reached for Class A, Class A-L, Class B, Class B-L, Class E, Class E-L, Class F, Class F-L, Class A-E, Class A-E-L, Class B-E, and Class B-E-L licenses combined, until the number one is reached for Class C license, until the number one is reached for Class G license, and until the number one is reached for Class H license; until the number one is reached for Class I license provided further, however, that the surviving spouse and/or the legal heirs of any licensee under this chapter shall be permitted to secure a license the same as though the present licensee were still alive, and the number set as a limitation shall not in any way affect the right of such surviving spouse and/or legal heirs to continue in such business, provided that such surviving spouse and/or legal heirs are otherwise eligible under the provisions of this chapter and make application within 60 days of the death of such licensee. The provisions relating to renewal of licenses set forth in this subsection (a) shall in no way apply in case a license is revoked or permitted to lapse.

(b) It shall be unlawful to construct, operate or maintain any building or premises which sells or offers for sale at retail any alcoholic liquor in the village, unless there is first obtained the written consent of the legal and/or equitable owners of a majority of the adjacent land on that street within 200 feet of the lot line of the proposed building or premises. For the purpose of computing such 200-foot distance, any property owned by a municipality or quasi-municipal corporation shall be excluded.

(c) Any building or premises which is duly licensed to sell at retail any alcoholic liquor on the effective date of the ordinance from which this section is derived is hereby designated an “existing dram shop” and shall not be required to comply with the provisions of this section.

Section 5. All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 6. If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance or the application thereto any person or circumstance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and

such decision shall not affect the validity of the remaining sections, subsections paragraphs, sentences, clauses, or phrases of this Ordinance or the application of such portion to other persons or circumstances but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any portion.

Section 7. This Ordinance shall be in full force and effect after its passage, approval and publication according to law.

Section 8. This Ordinance and each of its terms shall be the effective legislative act of a home rule municipality without regard to whether such Ordinance should (a) contain terms contrary to the provisions of current or subsequent non-preemptive state law, or, (b) legislate in a manner or regarding a matter not delegated to municipalities by state law. It is the intent of the Corporate Authorities of the Village of Burnham that to the extent that the terms of this Ordinance should be inconsistent with any non-preemptive state law, that this Ordinance should supersede state law in that regard within its jurisdiction.

Section 9. This Ordinance shall be published in pamphlet form by the authority of the Village President (Mayor) and Board of Trustees of the Village of Burnham, Cook County, Illinois.

PASSED by the Village President (Mayor) and Board of Trustees of the Village of Burnham, Cook County, Illinois, this 25th day of November, 2014.

ROLL CALL:

AYES: Trustees John Cap Jr., Reynaldo Espino, Grace Garcia, Brenda Greer, Carmella Richardson and Travis Claybrooks

NAYS: None

ABSENT:



VILLAGE CLERK

APPROVED by me this 25th day of November, 2014.



VILLAGE PRESIDENT (MAYOR)

ATTEST:



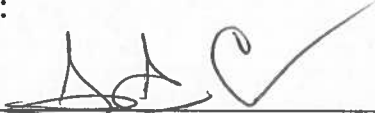
VILLAGE CLERK

(SEAL)

Recorded in Village Records: December 1, 2014

Published in pamphlet form by authority of the Village President (Mayor) and Board of Trustees of the Village of Burnham, Cook County, Illinois on December 1,, 2014.

ATTEST:



VILLAGE CLERK

(SEAL)

