

# Village of McLean

## Ordinance#

**13-01-07B**

**An Ordinance Amending the Village of McLean  
Municipal Code Said Municipal Code Being  
Ordinance No. 96-5-6A of the Village of McLean to  
Provide Amendments Relating to the Sale of Alcohol**

Adopted by the Village Board  
of the  
Village of McLean

**Published in pamphlet form by authority of the Village of McLean, McLean**

County, Illinois this 10th day of January, 2013.

**ORDINANCE NO. 13-01-07B**

AN ORDINANCE AMENDING THE VILLAGE OF MCLEAN MUNICIPAL CODE SAID MUNICIPAL CODE BEING ORDINANCE NO. 96-5-6A OF THE VILLAGE OF MCLEAN TO PROVIDE AMENDMENTS RELATING TO THE SALE OF ALCOHOL

**WHEREAS**, a petition containing the signatures of not less than 25% of the legal registered voters of the Village of McLean ("Village") and requesting the submission to the voters of the Village at the next ensuing election the proposition "Shall the prohibition of the sale at retail of alcoholic liquor be continued in the Village of McLean" ("Question") was filed in the proper form at least ninety days before the Consolidated election ("Election") in the office of the Village Clerk; and

**WHEREAS**, the Village Clerk certified the Question to be submitted at the Election to the County Clerk in accordance with the general election law; and

**WHEREAS**, the County Clerk gave notice of the submission of the Question to the voters of the City and said notice was published in the manner provided by the general election law; and

**WHEREAS**, a majority of the voters of the Village voting on the Question voted "No" at the Election held on March 20, 2012; and

**WHEREAS**, pursuant to Section 9-10 of the Illinois Liquor Control Act of 1934 (235 ILCS 5/1-1 et seq.) the prohibition of the sale at retail of alcoholic liquor within the Village has ceased; and

**WHEREAS**, the Village Board desires to provide for the licensing of the sale at retail of alcoholic liquor within the Village and to regulate persons licensed by the Village to sell alcoholic liquor within the Village in accordance with the Illinois Liquor Control Act of 1934.

**NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE BOARD OF THE VILLAGE OF MCLEAN, MCLEAN COUNTY, ILLINOIS, AS FOLLOWS:**

**SECTION 1.** The findings and recitations hereinabove set forth are adopted and found to be true.

**SECTION 2.** Chapter 111 of the Village Code of the Village of McLean is hereby deleted in its entirety and a new Chapter 111 is inserted in its place, which Chapter 111 is attached hereto and incorporated herein by referenced as Exhibit A.

**SECTION 3:** If any section or part of this Ordinance is held invalid, it shall not affect the validity of the remainder of this Ordinance.

**SECTION 4:** This Ordinance shall take effect 10 days after publication thereof as provided by law.

SECTION 5: Ordinance No. 96-5-6A of the Village of McLean, as amended by this Ordinance, shall remain in full force and effect and all previous amendments to Ordinance No. 96-5-6A shall remain in force and effect except as modified by this Ordinance.

PASSED in due form on a roll call vote by the Board of Trustees of the Village of McLean at a duly held meeting on the 7<sup>th</sup> day of Jan, 2013.

APPROVED:

James W. Adams  
President of the Board of Trustees of the  
Village of McLean

ATTEST:

Sharon C. Leopold  
Village Clerk

AYES: 5  
NAYS: 0  
ABSENT: 1

## CHAPTER 111: ALCOHOLIC BEVERAGES

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**GENERAL PROVISIONS**

**§ 111.01 ADOPTION OF LIQUOR CONTROL ACT BY REFERENCE.**

All provisions of the Illinois Liquor Control Act of 1934 (235 ILCS 511-1 *et seq.*) applicable to the licensing, sale, delivery, transfer, possession or consumption of alcoholic liquor within the corporate limits of the Village are hereby referred to, adopted and made a part hereof as if fully set forth in this Chapter, with such additions, deletions and changes, if any, as may otherwise be specifically provided for in this Chapter.

**§ 111.02 DEFINITIONS.**

(A) Whenever any words and phrases used in this Chapter are not defined herein but are defined in the Liquor Control Act, any such definition therein shall be deemed to apply to such words and phrases used in this Chapter, except when the context otherwise requires.

(B) The following capitalized words and phrases when used in this Chapter shall, for the purpose of this Chapter, have the meanings respectfully ascribed to them in this Section below, except when the context otherwise requires:

**ADULT ENTERTAINMENT FACILITY.** as defined in the Illinois Municipal Code (65 ILCS 5/1-1 *et seq.*).

**CHANGE IN FORM OF OWNERSHIP** means change in the legal structure or arrangement of ownership of a Licensee without a change in beneficial ownership.

**DEPUTY LIQUOR CONTROL COMMISSIONER** means such persons as may be appointed from time to time by the Local Liquor Control Commissioner to assist him or her in the local regulation and licensing of retail sales of alcoholic liquor.

**HOTEL** means every building or other structure kept, used, maintained, advertised and held out to the public to be a place where sleeping accommodations are offered for adequate

pay to travelers and guests, whether transient, permanent or residential, in which twenty-five (25) or more rooms are used for the sleeping accommodations of such guests.

**LICENSED PREMISE** means the premise described in a license or permit issued in accordance with this Chapter as the place where alcohol is permitted to be soled at retail.

**LICENSEE** means any person licensed in accordance with and under the provisions of this Chapter.

**LIQUOR CONTROL ACT** means the Liquor Control Act of 1934 of the State of Illinois (235 ILCS 5/1-1 et seq.), as supplemented and amended from time to time.

**LOCAL LIQUOR CONTROL COMMISSIONER** means the Village President of the Village under and pursuant to Section 4-2 of the Liquor Control Act.

**PERMITEE** means any person issued a valid permit in accordance with and under the provisions of this Chapter.

**SPECIAL EVENT** means any public or private event including, but not limited to, any banquet, picnic, reception, fundraiser, promotion, convention, show, bazaar, fair, carnival, recreational activity, entertainment or any similar assembly of individuals for any like purpose.

## **LICENSES**

### **§ 111.10 LICENSE REQUIRED.**

It shall be unlawful and a violation of this Section for any person to sell or offer for sale at retail any alcoholic liquor in the Village either without having a valid license therefor pursuant to this Article or in violation of the terms of such license or this Chapter.

### **§ 111.11 LIABILITY OF LICENSEE FOR ACTS OF AGENTS AND EMPLOYEES.**

Every act or omission of whatsoever nature constituting a violation of any of the applicable provisions of this Chapter or of the Liquor Control Act by any officer, director, member, manager, agent or employee of any licensee or permittee shall be deemed and held to be the act of such licensee, permittee or employer, and any such licensee, permittee or employer shall be punishable in the same manner as if any such act or omission had been done by any such licensee, permittee or employer personally.

### **§ 111.12 FEES AND NUMBER OF LICENSES.**

The number of licenses authorized and the annual fee for the license classifications set forth in §111.18 of the Village Code of the Village of McLean are as follows:

Classification		Annual Fee	Number Of Licenses Authorized
Class A	(General Retail License)	\$4,000	0
Class C	(Club License)	\$1,500	0
Class CA	(Caterer's License)	\$1,000/\$300	0
Class H	(Hotel License)	\$2,000.00	0
Class P	(Package Liquor License)	\$2,000	0
Class R	(Restaurant License)	\$2,000.00	0
Class T-1	(Special Event Permit)	\$100/ day	unlimited
Class T-2	(Special Event Permit)	\$100/ day	unlimited

**§ 111.13 DISPLAYING LICENSE.**

It shall be unlawful and a violation of this Section for any licensee to fail to cause such licensee's license or licenses, except Class CA, T-1 or T-2 licenses, to be framed and hung in plain view in a conspicuous place within the licensed premises. Class CA, T-1 or T-2 licenses shall be kept on the licensed premises and available for inspection.

**§ 111.14 ELIGIBILITY TO APPLY FOR LICENSE.**

(A) No license of any kind shall be issued to:

- (1) A person who is not a resident of the Village of McLean;
- (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 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 Commissioner's investigation;
- (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 against decency and morality;
- (7) A person whose license issued 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 initial application;



(9) A co-partnership, if a general partnership or limited partnership thereof, owning more than 5% of the aggregate limited partner interest in the co-partnership would not be eligible to receive a license for any reason other than residence within the Village of McLean;

(10) A corporation or limited liability company if any member, officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than 5% of the stock of the corporation, would not be eligible to receive a license for any reason other than citizenship or residence within the Village of McLean;

(11) A corporation or limited liability company unless it is incorporated or organized in Illinois, or unless it is a foreign corporation or foreign limited liability company which is qualified under the Business Corporation Act of 1983 or the Limited Liability Company Act to transact business in Illinois. The Commissioner shall accept proof from the Secretary of State's website that the corporation or limited liability company is in good standing and is qualified and authorized to do business in this State under the name by which the applicant seeks to do business;

(12) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses the same qualifications required of the licensee;

(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 the Act (January 31, 1934) or has forfeited his or her bond to appear in court to answer charges for any such violation;

(14) A person who does not beneficially own the premises for the license, or does not have a lease for the full period of the license;

(15) A law enforcing public official, including members of local liquor control commissions, president of the village board of trustees or any member of a village board of trustees, who has a direct interest in the manufacture, sale or distribution of alcoholic liquor;

(16) A person who is not a beneficial owner of the business;

(17) A person who has been convicted of a gambling offense proscribed by subsections (a)(3) through (a)(11) of Section 28-1, Sections 28-1.1 or 28-3 of the Criminal Code of 1961;

(18) A person or entity to whom federal wagering stamp has been issued by the federal government, unless the person or entity is eligible for a license under the Raffles Act or the Illinois Pull Tabs and Jar Games Act.

(19) A person who intends to sell alcoholic liquors for use or consumption on his or her licensed retail premises, but does not have liquor liability insurance coverage for that premises in the amount required by Section 6-21(a) of the Liquor Control Act; or

(20) A person otherwise prohibited by the Liquor Control Act or any other Federal or State law.



(B) Any person not disqualified under section (A) may apply for a license in a classification for which a license is available for issuance.

(C) No license of any kind shall be issued for the sale at retail of any alcoholic liquor within one hundred (100) feet of any church, school (other than an institution of higher learning) hospital, or home for aged or indigent persons or veterans, their spouses or children. The one hundred (100) feet distance for all mentioned locations other than churches is measured from property line to property line. In the case of a church, the distance of one hundred (100) feet shall be measured from the property line to the nearest part of any building to be used for worship services or religious instruction, and not to property boundaries.

#### **§ 111.15 RESTRICTED AREAS.**

No licenses, except Class CA, T-1 or T-2, shall be issued for any property zoned R-1, R-2 or C-1 under the Zoning Code of the Village.

#### **§ 111.16 APPLICATION FOR LICENSE.**

Any application for a license shall be made in writing to the Local Liquor Control Commissioner and shall be signed by the applicant and verified under oath. Any such application shall be in such form and shall contain such information as may be required by the Local Liquor Control Commissioner and shall be accompanied by the nonrefundable application fee and the applicable annual fee for any such a license.

#### **§ 111.17 EXAMINATION OF APPLICANT FOR LICENSE.**

The Local Liquor Control Commissioner shall have the right to examine, or cause to be examined, under oath, any applicant for a license or for a renewal thereof, or any licensee upon whom notice of revocation or suspension has been served in the manner provided in this Chapter or the Liquor Control Act, and to examine or cause to be examined the books and records of any such applicant or licensee; to hear testimony and take proof for such Local Liquor Control Commissioner's information in the performance of his or her duties, and for such purpose to issue subpoenas which shall be effective in any part of the State of Illinois.

#### **§ 111.18 CRIMINAL HISTORY RECORDS CHECK; EXAMINATION OF APPLICANT**

(A) Upon the initial application for a license or any renewal thereof, each applicant shall submit to a criminal history records check and shall submit his or her fingerprints to the Illinois Department of State Police in the form and manner prescribed by the Illinois State Police. These fingerprints shall be checked against the fingerprint records now and hereafter filed in the Illinois State Police and Federal Bureau of Investigation criminal history records databases. After receiving the criminal history for the applicant from the Illinois State Police and Federal Bureau of Investigation, the Local Liquor Control Commissioner may use such information to determine whether the applicant qualifies for the issuance or renewal of a license. The applicant

shall pay a fee to the Village Treasurer for the criminal history records check and fingerprint records check.

(B) At any time during the pendency of an application for a license, the Local Liquor Control Commissioner shall have the right to compel the applicant to submit to any examination and to produce any books and records which, in the determination of the Local Liquor Control Commission, are material to the determination of whether the applicant is qualified to receive a license under the provisions of this Chapter, or whether the premise sought to be licensed is suitable for such purposes. The Local Liquor Control Commissioner shall also have the right to require the applicant to answer any charges made in any objection to the issuance of the license. The failure of any applicant 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 applicant is not qualified to receive a license.

#### § 111.18 CLASSIFICATION.

Any license issued pursuant to this Chapter shall be classified as follows and subject to such terms, conditions, restrictions and fees:

(A) Class A - General Retail License

(1) A Class A license shall authorize the sale at retail of any alcoholic liquor by the drink for consumption on the licensed premises and alcoholic liquor in original packages for consumption off the licensed premises.

(2) The fee for any Class A license shall be \$4,000 per year.

(B) Class C - Club License

(1) A Class C license shall be issued only to clubs. A Club C license shall authorize the sale at retail of any alcoholic liquor by the drink for consumption on the licensed premises of a club where sold to members and guests accompanied by members, and not for resale in any form.

(2) The fee for any Class C license shall be \$1,500 per year.

(C) Class CA - Caterer's License

(1) A Class CA license shall be issued only to a bona fide caterer or current holder of another type of liquor license provided for in this Ordinance. A Class CA license shall authorize the sale at retail of any alcoholic liquor by the drink for service at private parties, weddings or other similar private events which are not open to the general public, at a location other than the premises leased, owned or otherwise operated by the licensee.

(2) No event catered by a Class CA licensee shall exceed three days in length, nor shall alcoholic liquor be served at such an event for more than eight (8) hours in one day.



(3) The fee for any Class CA license shall be \$1,000 per year, or \$300 for the holder of a Class A, C, H, P or R license.

(D) Class H - Hotel License

(1) A Class H license shall be issued only to hotels. Hotels may only be issued a Class H license. A Class H license shall authorize the sale at retail of any alcoholic liquor by the drink for consumption on the licensed premises of a hotel where sold and not for resale in any form.

(2) The fee for any Class H license shall be \$3,000 per year.

(E) Class P - Package Liquor License

(1) A Class P license shall authorize the sale at retail of any alcoholic liquor in original package for consumption off the licensed premises and not for resale in any form.

(2) No samples of alcoholic liquor may be served on the licensed premises of a Class P licensee without the prior permission of the Local Liquor Control Commissioner.

(3) The fee for any Class P license shall be \$2,000 per year.

(F) Class R- Restaurant License

(1) A Class R license shall be issued only to restaurants. Restaurants may only be issued a Class R license. A Class R license shall authorize the sale at retail of any alcoholic liquor by the drink for consumption on the licensed premises of a restaurant.

(2) Any such sale of alcoholic liquor shall only be made during such periods of time that food is prepared and served on the licensed premises of a restaurant.

(3) Total gross revenues from the sale of alcoholic liquor by a restaurant having a Class R license shall not exceed fifty percent (50%) of the total gross revenues from the combined sale of food and alcoholic liquor in any calendar year. Any licensee holding a Class R license shall file with the Local Liquor Control Commissioner on or before May 1 and November 1 of each year an affidavit setting forth the gross revenues from the sale of food and alcoholic liquor for the preceding six (6) months. Upon the request of the Local Liquor Control Commissioner, any licensee holding a Class R license shall be required to provide a report prepared by a certified public accountant which certifies the gross revenues derived from the sale of food and alcoholic liquor during such period of time as may be designated by the Local Liquor Control Commissioner. Any report or audit conducted by a certified public accountant concerning the license holder shall be produced at the expense of the license holder and not the Village.

(4) It shall be a violation of the terms and restrictions imposed on a Class R license for the licensee's total gross revenues from the sale of alcoholic liquor in a calendar year to exceed fifty percent (50%) of the total gross revenues from the combined sale of food and liquor.



- (5) The fee for any Class R license shall be \$1,500 per year.

**§ 111.19 ISSUANCE OF LICENSE; INSURANCE.**

(A) The Local Liquor Control Commissioner shall have the authority to issue a license under this Ordinance if:

- (1) the applicant is eligible for a license under this Chapter;
- (2) the issuance of such license is not otherwise prohibited pursuant to the applicable provisions of this Chapter or any ordinance, code, rule or regulation of the Village or the applicable provisions of the Liquor Control Act; and
- (3) the applicant has filed with the Local Liquor Control Commissioner a certificate of insurance issued by an insurance company authorized to do business in the State of Illinois certifying that the applicant has liquor liability insurance coverage for the licensed premises in an amount that is at least equal to the maximum liability amounts set out in Section 6-21 of the Liquor Control Act and general liability insurance coverage for the licensed premises in an amount not less than \$500,000.

(B) Each licensee under this Ordinance shall maintain the insurance coverage described in subsection (A) of this Section above at all times during the term of the license.

**§ 111.20 RECORD OF LICENSES.**

The Local Liquor Control Commissioner shall keep a complete record of all retail liquor licenses issued by the Village, and shall furnish the Village Clerk, McLean County Sheriff and the Chief of Police with a copy thereof, and the Local Liquor Control Commissioner shall give notice to the Village Clerk, McLean County Sheriff and Chief of Police of the revocation or surrender of any such licenses within forty eight (48) hours thereof.

**§ 111.21 TERM.**

Any license issued pursuant to this Ordinance, unless otherwise stated, shall be for a term not to exceed one (1) year and shall expire on the 30th day of April of the next calendar year following the date of issuance.

**§ 111.22 FEES.**

(A) Except as set forth in subsection (C), a nonrefundable \$500.00 application fee and the applicable annual fee for any license issued pursuant to this Ordinance shall be paid in advance and shall be submitted with the application for any such license. When a new license is issued at some time other than the 1st of May, the annual fee for any such license shall be proportionately reduced by the number of full calendar months that have elapsed prior to the

issuance of any such license since the most previous 1st of May. No such annual license fee or part thereof shall be refunded after the issuance of any such license.

(B) All such nonrefundable application fees and license fees received by the Local Liquor Control Commissioner shall be forthwith turned over to the Village Treasurer , if the application for such license is accepted. In the event the license applied for is denied, the fee shall be forthwith returned to the applicant, less the nonrefundable \$500.00 application fee. Such fees, when received, shall be deposited to the general corporation fund of the Village, or such fund as may be designated by the Board of Trustees.

(C) The application fee for all annual license renewals or for a change of form of ownership shall be \$30.00.

(D)

#### **§ 111.23 SALE OR TRANSFER OF LICENSE.**

A license shall be a purely personal privilege, good for not to exceed one year after issuance unless sooner revoked as provided in this Chapter or the Liquor Control Act. A license 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, dissolution or termination of the licensee and shall not descend by the laws of testate or intestate devolution, 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 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 not longer than six months after the death, bankruptcy or insolvency of such licensee; provided, however, that the administrator or executor of an estate must meet the qualifications of a licensee hereunder.

#### **§ 111.24 CHANGE OF LOCATION.**

A license shall permit the sale of alcoholic liquor only on the premises described in the application and license. Such location may be changed only if the Local Liquor Control Commissioner grants written permission to make such change. No change of location shall be permitted unless the proposed new location is in compliance with the applicable provisions and regulations of this Ordinance and the Liquor Control Act in connection with the issuance of any such license at such new location.

#### **§ 111.25 RENEWAL OF LICENSE.**

Any licensee may renew such licensee's license at the expiration thereof, provided that such licensee is then qualified to receive a license and the premises for which such renewal license is sought are suitable for such purpose; and provided further, that the renewal



privilege herein provided for shall not be construed as a vested right which shall in any case prevent the Board of Trustees from decreasing the number or kinds of licenses to be issued within its jurisdiction.

**§ 111.26 CHANGES IN INTEREST; PARTNERSHIPS, CORPORATIONS AND LIMITED LIABILITY COMPANIES.**

(A) A change in the ownership of any licensee or in the management of any licensed premises shall be subject to the following requirements:

(1) Any change in the partners, officers, directors, managers or other persons holding directly or beneficially more than five (5) percent of an ownership interest of any licensee or in the business management of any licensed premises under this Ordinance shall be reported in writing to the Local Liquor Control Commissioner within ten (10) days of such change; provided, however, that any such change in stock ownership need not be reported where the stock is publicly traded and the stock transferred to any such person is less than twenty percent (20%) of the outstanding stock.

(2) When a change occurs that results in any ownership interest described in clause (1) above being transferred to any person who is not eligible to hold a license under this Ordinance or the Liquor Control Act, such license shall terminate effectively on the date of such change.

(B) Each licensee shall submit such information as may be required by the Local Liquor Control Commissioner for each change described in subsection (A).

***SPECIAL EVENT PERMITS***

**§ 111.30 SPECIAL EVENT PERMITS.**

A special event permit issued pursuant to this Article shall authorize the sale at retail during a Special Event of any alcoholic liquor by the drink for consumption on the premises or area specifically designated in such special event permit. Such special event permits shall be classified as follows and subject to such terms, conditions, restrictions and fees:

(A) Class T-1 Permit

(1) A Class T-1 permit may be issued to any duly constituted educational, fraternal, political, civic, religious or other non-profit organization other than a club for certain premises or area.

(2) A Class T-1 permit shall be issued for any specified period of time not to exceed eight (8) consecutive days.

(3) The fee for any Class T-1 permit shall be \$100.00 per day.



(B) Class T-2 Permit

(1) A Class T-2 permit shall be issued to the holder of any valid Class A Class C, Class H or Class R license issued by the Village under this Chapter for any premises or area immediately adjacent to and extending no more than 100 feet from the licensed premises described in the then current license so issued.

(2) A Class T-2 Permit may be issued for any specified period of time of not to exceed eight (8) consecutive hours.

(3) The fee for any Class T-2 Permit shall be \$100.00 per day.

**§ 111.31 APPLICATIONS FOR SPECIAL EVENT PERMIT.**

The application for any such special event permit shall be submitted to the Local Liquor Control Commissioner at least twenty-one (21) days prior to the first day of any such Special Event. All applications for any such special event permit shall state in writing:

(A) a description of the Special Event, including the date(s) and hours of the Special Event and the date(s) and hours during which alcoholic liquor is proposed to be sold, transferred and/or consumed;

(B) the limits of the premises or area where any such alcoholic liquor is proposed to be sold, transferred and/or consumed; the measures to be taken by the applicant to insure that persons under the age of 21 years will not be served, offered or allowed to possess any alcoholic liquor and that any public nuisance will not be created; and

(C) if the proposed permit includes any premises or area not beneficially owned or duly leased or licensed by the applicant for the full period for which such special event permit is to be issued, the application shall include a signed statement by the owner of the proposed premises or area that the owner has freely and fully consented to the issuance of such a special event permit and that the owner shall not revoke such consent during the full period for which the special event permit may be issued without first advising the Local Liquor Control Commissioner in writing of such revocation.

**§ 111.32 CAUSES FOR DENIAL.**

The Local Liquor Control Commissioner may refuse to issue any special event permit as provided for in this Article if it is found:

(A) that any provision of state law, local ordinance or other duly adopted rule or regulation relating to the sale or transfer of alcoholic liquor, other than those provisions which would be in direct conflict with the provisions relating to the application and issuance of any such special event permit as provided for in this Article, would be violated;

(B) that to grant the application would pose any threat to public safety or would likely

create a public nuisance; or

(C) that any measures to insure the protection of persons under the age of 21 years are not adequate to reasonably insure such protection.

**§ 111.33 CONDITIONS OF ISSUANCE.**

A special event permit, if issued by the Local Liquor Control Commissioner under this Article, may be conditioned upon the applicant enforcing certain conditions of such special event permit including, but not limited to, those imposed for the protection of persons under the age of 21 years or those imposed to avoid creating a public nuisance. In addition to all other lawful grounds to revoke or suspend any liquor license, which shall likewise be applicable to any special event permit issued under this Article, the failure of any holder of a special event permit to enforce all such imposed conditions shall constitute grounds to revoke or suspend any such special event permit or to refuse to issue any other special event permit.

**§ 111.34 AUTOMATIC REVOCATION UPON REVOCATION OF CONSENT BY OWNER.**

Any special event permit issued under this Article shall automatically be suspended during any time or period in which an owner of such premises or area has revoked consent to the issuance of the special event permit as required herein. Such suspension shall be effective immediately upon receipt of written notice to the Village or the Local Liquor Control Commissioner of the revocation or withdrawal of such consent by any such owner.

**§ 111.35 COMPLIANCE WITH OTHER LAWS.**

Any special event permit, if issued by the Local Liquor Control Commissioner under this Article, shall not in any manner be regarded to relieve the permittee of complying with any other requirement of law, ordinance, rule or regulation as may be applicable to any sale or transfer of alcoholic liquor by any licensee, except that any special event permit may be issued without regard to residency and that any special event permit may be issued for any day of the week including any Sunday.

***REGULATION OF OPERATION***

**§ 111.40 LOCATION AND HOURS OF SERVICE.**

(A) It shall be unlawful for any person to bring upon, possess, or consume alcoholic liquor in any restaurant, eating place, parking lot of a commercial establishment, or in or about a commercial establishment inviting the public, or club used by members and guests without such premises having a valid Village liquor license under this Ordinance.



(B) Except for any Class P licensee, it shall be unlawful and a violation of this Section for any licensee or permittee to sell, offer for sale, deliver or transfer at retail any alcoholic liquor during the following hours:

(1) between the hours of 12:00 a.m. and 8:00 a.m. on any Monday through Sunday, inclusive;

(2) on December 25th of each year, between the hours of 12:00 a.m. December 25 thru 8:00 a.m. December 26<sup>th</sup>.

(3) on Easter Day from 12:00a.m. through 8:00 a.m. on the day following Easter.

(C) It shall be unlawful and a violation of this Section for any Class P licensee to sell, offer for sale, deliver or transfer at retail any alcoholic liquor during the following hours:

(1) between the hours of 12:00 a.m. and 8:00 a.m. on any Monday through Sunday.

(D) It shall be unlawful and a violation of this Section for any licensee or permittee of any class to keep open for business, to admit the public to or to permit the public to remain within any licensed or permitted premises or area between the hours of 12:00 a.m. and 8:00 a.m. Notwithstanding the foregoing, any grocery store, drug store, food mart, gas station, hotel, bowling alley or restaurant issued a liquor license may be kept open for business between the hours of 12:00a.m. and 8:00 a.m. between the hours prohibited in subsection (D) of this Section above but no alcoholic liquor may be sold, offered for sale or consumed during any such hours.

#### **§ 111.41 MINORS IN CLASS A LICENSED PREMISES.**

It shall be unlawful and a violation of this Section for any licensee holding a Class A license to permit or allow after 9:00 p.m. any person under the age of 21 years to enter or remain in that portion of the licensed premises where the sale, delivery or service of alcoholic liquor for consumption occurs, provided, however, that the provisions of this Section shall not apply to that portion of any bowling alley or restaurant where the sale, delivery or service of alcoholic liquor is not the principal business of such licensee in any such portion of the licensed premises. If the business holding the license utilizes live music as part of the operation of the business, members of the music providers who are under 21 may apply for a waiver from the Local Liquor Control Commissioner permitting the person under 21 to be present in the business during the time period the music is being provided. The waiver does not authorize said minor to consume alcoholic beverages.

#### **§ 111.42 MINORS AS MANAGERS AND EMPLOYEES.**

(A) It shall be unlawful and a violation of this Section for any licensee or permittee to permit or allow any person under the age of 21 years to be manager or supervisor of any licensed or permitted premises when any such premises is open to the public for business.



(B) it shall be unlawful and a violation of this Section for any licensee or permittee to permit or allow any person under the age of 21 years to sell any alcoholic liquor, to attend the bar or to draw, pour or mix any alcoholic liquor on the licensed or permitted premises; provided, however, that any person who is of the age of eighteen (18) years and older may deliver alcoholic liquor from the bar to patrons seated at booths or tables in the licensed or permitted premises. This section shall not prohibit a minor employee of a Class A or P licensee from assisting a customer with sold packaged alcoholic liquor to the customer's vehicle on or adjacent to the premises where sold.

#### **§ 111.43 PROHIBITED SALES OR DELIVERY.**

(A) It shall be unlawful and a violation of this Section for any licensee or permittee to sell or deliver any alcoholic liquor to any person under the age of 21 years, to any intoxicated person or to any person known to such licensee or permittee to be under a legal disability or in need of mental treatment.

(B) For the purposes of preventing a violation of subsection (A) of this Section, any licensee or permittee shall request adequate written evidence of identity of all persons ordering, purchasing or attempting to purchase any alcoholic liquor and shall refuse to sell, deliver or serve alcoholic liquor to any person who is unable to produce such evidence.

(C) As used in this Section, adequate written evidence of identity and of age of a person is a document with an affixed photograph issued by a federal, state, county or municipal government, or subdivision or agency thereof including but not limited to a motor vehicle operator's license or an identification card issued to a member of the armed forces.

(D) Proof that any licensee or permittee under this Ordinance was shown and reasonably relied upon any such written evidence of identity and of age in any transaction prohibited by this Section shall be an affirmative defense in the prosecution of any violation under this Section. It shall not, however, be an affirmative defense if any such licensee or permittee accepted any such written evidence knowing it to be false or fraudulent.

#### **§ 111.44 LIGHTING.**

(A) It shall be unlawful and a violation of this Section for any licensee or permittee to fail to keep the area of any licensed or permitted premises where alcoholic liquor is then being sold, offered for sale, delivered or served for consumption on the licensed or permitted premises to be continuously illuminated so that all such portions of the licensed or permitted premises shall be clearly visible at all times.

(B) Except for restaurants, no screen, blind, curtain, partition, article or things shall be permitted in the windows or upon the doors of, nor inside of, a licensed premises for the consumption of alcoholic liquor on such premise, which shall prevent a clear view into the interior of such licensed premise from the street or sidewalk at all times.

**§ 111.45 REPORTING OF VIOLATIONS.**

It shall be unlawful and a violation of this Section for any licensee or permittee to fail to immediately notify the Police Department of the Village of any violation of the Criminal Code of 1961 (720 ILCS 511-1 *et seq.*) or any other criminal laws of the State of Illinois or of any violation of any of the ordinances of the Village relating to quasi-criminal offenses which occur on or in the licensed or permitted premises.

**§ 111.46 OPERATION OF BEER GARDEN**

(A) "Beer Garden" means an additional designated area adjoining the licensed premise, having access from the main premises only, and enclosed by a permanent barrier with a minimum height of four (4') feet with an emergency means of egress, the enclosure to be located where and with such restrictions and design as the Local Liquor Control Commission shall direct.

(B) Applicants applying for or holding a Class A, C, H or R license may file a request with the Local Liquor Control Commissioner for the issuance of a license to operate a "Beer Garden" as herein defined, to be constructed and operated upon such terms and conditions as may be approved or imposed by the Local Liquor Control Commissioner.

***OTHER PROHIBITIONS REGARDING ALCOHOLIC LIQUOR***

**§ 111.50 PROHIBITIONS RELATED TO AGE.**

It shall be unlawful and a violation of this Section for any person under the age of 21 years to do any of the following:

(A) to possess or consume any alcoholic liquor except in the in the performance of a religious service or ceremony or in the privacy of a home under the direct supervision of the parent or parents of such person;

(B) to order, purchase, attempt to purchase or otherwise procure or attempt to procure any alcoholic liquor; or

(C) to misrepresent his or her age for the purpose of purchasing or obtaining alcoholic liquor.

**§ 111.51 WARNING TO MINORS.**

Every place of business in the Village of McLean where alcoholic liquor is sold shall display in a prominent place a printed card warning persons under the age of twenty one (21) years against the purchase, possession or consumption of alcoholic liquor and advising them that violations of this Ordinance will subject such minors to a fine up to seven hundred fifty dollars



(\$750.00) under this Ordinance.

**§ 111.52 PROHIBITIONS RELATED TO RESPONSIBILITY.**

It shall be unlawful and a violation of this Section for:

(A) any person to sell, give or deliver alcoholic liquor to any person under the age of 21 years;

(B) any person to sell, give or deliver alcoholic liquor to any intoxicated person;

(C) any person to rent a hotel or motel room for the purpose of or with the knowledge that such room shall be used for the consumption of alcoholic liquor by any person under the age of 21 years;

(D) any parent or guardian to permit or allow the child of any such parent or ward of any such guardian to violate any provision of this Chapter under circumstances where such parent or guardian knew, or in the exercise of reasonable care should have known, of any such violation;

(E) any person to sell, give or furnish to any person under the age of 21 years any written, printed or photostatic evidence of age and identity that is false, fraudulent or not actually his own for any purpose described in clause (C) of Section 111.50; provided, however, that nothing in this Section shall be deemed or construed to prohibit the giving or delivery of alcoholic liquor to any person under the age of 21 years for consumption in the performance of a religious service or as otherwise allowed by law;

(F) any person to sell, give or deliver alcoholic liquor on any premises on which adult entertainment is provided.

**§111.53 PROHIBITIONS RELATED TO OPEN CONTAINERS AND CONSUMPTION.**

It shall be unlawful and a violation of this Section for any person to possess any open container of or to consume any alcoholic liquor on any public property or on the parking lot of any business establishment or within ten feet (10') of any public street open to vehicular traffic, or in any vehicle traveling upon or parked on any public property or on the parking lot of any business establishment except where such possession or consumption has been authorized pursuant to the terms of a liquor license or permit duly issued under this Ordinance or to any other official authorization of the governing body of the public property. For the purposes of this Section, "public property" means any real property owned, controlled or managed by the Village of McLean or the Funks Grove/Mt Hope Park District including, but not limited to, any street, alley, bike path, sidewalk, public parking lot, parkway, school grounds or park.

## ***ENFORCEMENT AND PENALTIES***

### **§ 111.60 INSPECTION OF PREMISES.**

The premises for which any license has been applied for and any licensed premises shall be open to inspection by the Village authorities at any time for the purpose of enforcing the provisions of this Chapter.

### **§ 111.61 REVOCATION OR SUSPENSION OF LICENSE.**

(A) The Local Liquor Control Commissioner may revoke or suspend any license issued under this Chapter if such Local Liquor Control Commissioner determines that:

(1) the licensee has violated any of the provisions of this Chapter or the Liquor Control Act or any applicable rule or regulations established by the Local Liquor Control Commissioner or the Illinois Liquor Control Commission which are not inconsistent with law; or

(2) the licensee has violated any other federal, state or Village laws, ordinances, codes, rules or regulations in connection with the operation of the licensee's business or the maintenance of the licensed premises.

(B) No license issued under this Chapter shall be revoked or suspended and no licensee shall be fined except after a public hearing by the Village Board of Trustees functioning as the Local Liquor Control Commission after three (3) days written notice to the licensee affording the licensee an opportunity to appear and defend the charges against him. All hearings shall be open to the public, and the Local Liquor Control Commissioner shall reduce all evidence to writing and shall maintain a certified official record of the proceedings to be taken and prepared by a certified court reporter or certified shorthand reporter. 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 community, they may, upon the issuance of a written order stating the reason for such conclusion and without notice or hearing, order the licensed premise 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 the conduct of another business or businesses on the licensed premise such order shall not be applicable to the other business or businesses. If the Local Liquor Control Commission determines after the hearing that the license should be revoked or suspended or that the licensee should be fined, the Local Liquor Commission shall within five (5) days after the hearing state the reason or reasons 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 shall serve a copy of such order within the five (5) days upon the licensee.

### **§ 111.62 FINES AND TRAINING PROCEDURES.**

In lieu of or in addition to any suspension, the local liquor control commissioner shall



have the additional power and authority to:

(A) impose a fine upon a licensee of not less than one hundred fifty dollars (\$150.00) nor more than two thousand dollars (\$2,000.00) for each such violation, with each day on which a violation continues constituting a separate violation; and/or

(B) require a licensee and any of such licensee's managers, employees or agents who sell or serve alcoholic liquor to complete a state certified or otherwise approved education and training program for any such sellers and servers.

#### **§ 111.63 APPEALS.**

(A) Except as provided in this section, any order or action of the Local Liquor Control Commissioner in levying a fine or refusing to levy a fine on a licensee, granting or refusing to grant a license, revoking or suspending or refusing to revoke or suspend a license or refusing for more than thirty (30) days to grant a hearing upon a complaint to revoke or suspend a license may, within twenty (20) days after notice of such order or action, be appealed by any resident of the Village or any person interested, to the Illinois Liquor Control Commission in accordance with Illinois law and the Commission's rules and regulations.

(B) In any case in which a licensee appeals to the Illinois Liquor Control Commission from any action or order of the Local Liquor Control Commissioner under this Section, the appeal shall be limited to a review of the official record of the Local Liquor Control Commissioner, the President and Board of Trustees of the Village. The person undertaking any such appeal shall pay all costs of preparing and transcribing the official record in connection with any such appeal.

#### **§ 111.64 COSTS OF HEARING.**

In any case where any action or order of the Local Liquor Control Commissioner adverse to any licensee is not appealed from within the time specified in the Liquor Control Act or is otherwise upheld in whole or in part by the Illinois Liquor Control Commission upon appeal, the person making the appeal shall be responsible for all costs, including attorneys' fees, incurred by the Village in connection with the hearing thereon including, but not limited to, any court reporter costs and hourly fees as well as any witness and mileage fees.

#### **§ 111.99 GENERAL PENALTY.**

Any person, other than any fine against a licensee under Section 111.62, who is in violation of this Chapter shall be subject to the general penalty provision, Section 10.99 of this Municipal Code. Each day that any such violation continues shall be deemed a separate offense.

STATE OF ILLINOIS )

) SS

COUNTY OF MCLEAN )

**PUBLICATION CERTIFICATE**

I, the undersigned Village Clerk, certify that I am the duly elected and acting Village Clerk of the Village of McLean, McLean County, Illinois.

I further certify that on **Monday, January 7, 2013**, the Board of Trustees of such municipality passed and approved **Ordinance No. 13-01-07B**, entitled:

**An Ordinance Amending the Village of McLean Municipal Code Said Municipal Code Being Ordinance No. 96-5-6A of the Village of McLean to Provide Amendments Relating to the Sale of Alcohol**

Board of Trustees of the Village of McLean previously adopted a Resolution that authorized all Village Ordinances to be published in pamphlet form.

The pamphlet form of Ordinance No. **13-01-07B**, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted in the municipal building, commencing on 13<sup>th</sup> Jan, **2013** and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the Village Clerk.

Dated at McLean, Illinois, this 20<sup>th</sup> day of January, 2013.

  
Village Clerk

(SEAL)