

ORDINANCE NO. 71

AN ORDINANCE TO AMEND AND REENACT ORDINANCE NO. 26 OF THE CODE OF ORDINANCES, VILLAGE OF CHOUDRANT RELATIVE TO ALCOHOLIC BEVERAGES; TO PROVIDE WITH RESPECT TO THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES; TO PROVIDE FOR THE LICENSING OF WHOLESALERS AND RETAILERS OF ALCOHOLIC BEVERAGES; TO PROHIBIT CERTAIN ACTS; TO PROVIDE PENALTIES FOR THE VIOLATION THEREOF; AND OTHERWISE TO PROVIDE WITH RESPECT THERETO.

NOW, THEREFORE, BE IT ORDAINED, by the Board of Aldermen of the Village of Choudrant convened in regular session this 1st day of July, 2002 that Ordinance No. 26 of the Village of Choudrant be amended and reenacted to read as follows:

ALCOHOLIC BEVERAGES

ARTICLE I. GENERAL

Sec. 1-1. Definitions.

The following words, terms, and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) *Alcoholic beverage* means any fluid or any solid capable of being converted into fluid suitable for human consumption and containing more than one-half of one percent alcohol by volume, including malt, vinous, spirituous, alcoholic, or intoxicating liquors, beer, porter, ale, stout, fruit juices, cider, or wine.

(b) *Alcoholic beverage handling employee* means any alcoholic beverage permit holder or employee, agent, partner, or other person connected with an alcoholic beverage permit holder, who physically handles, sells, or serves any alcoholic beverage or container thereof, for consumption on the premises, including, but not limited to, waiters, waitresses, barmaids, bartenders, and managers.

(c) *Alcoholic beverage permit* means a permit required by and issued pursuant to the provisions of Article III of this ordinance.

(d) *Beverages of high alcoholic content* means alcoholic beverages containing more than six percent alcohol by volume.

(e) *Beverages of low alcoholic content* means alcoholic beverages containing not more than six percent alcohol by volume.

(f) *Bottle clubs* means any establishment wherein the owner/operator, licensed seller of alcoholic beverages, or any employee of the owner/operator or licensed seller of alcoholic beverages, does not sell, serve, handle, dispense, or store alcoholic beverages, or is not doing so at that time, but in which patrons are allowed to consume alcoholic beverages on or in the premises either from the patron's own store, stock, or supplies of alcoholic beverages or from any other source.

(g) *Private club* means an organization with limited and restricted membership which maintains a written record of its members, charges members dues or other charges for membership of at least \$85.00 per month, requires that the dues of any member must be fully paid in order to be a member, exists for a fraternal, educational, recreational, or social purpose, and is organized in such a manner that alcoholic beverages are not the principle commodity or service sold, handled, consumed, or available to its members.

(h) *Retail dealer* means every person, other than a manufacturer, wholesale dealer, or private club who, as a business, handles, holds, sells, offers for sale, solicits orders for the sale of; distributes, delivers, serves, or has in his possession for sale or distribution, any alcoholic beverage; or operates a place of business where any person draws or removes any alcoholic beverage from its container for consumption on the premises.

(i) *Wholesale dealer* means any person who sells alcoholic beverages to other licensed wholesale dealers or to licensed retail dealers.

(j) *Village* means the Village of Choudrant, Louisiana.

Sec. 1-2. Gallonage tax on beverages of low alcoholic content.

(a) In addition to all other excise, license, or privilege taxes imposed or permitted to be imposed, there is hereby levied a tax on all beverages of low alcoholic content of \$1.50 per standard barrel of 31 gallons, or at a like rate for any fractional parts of a barrel, or any other quantity, sold and consumed within the village.

(b) The tax levied by this section shall be collected by any and all Louisiana wholesale dealers from their vendees on each sale intended for consumption in the village and shall be remitted by said dealers to the Secretary of the State Department of Revenue and Taxation for each month, on or before the 20th day of each succeeding month, respectively, all in accordance with the rules and regulations promulgated by the Secretary of the State Department of Revenue and Taxation.

(c) The failure of any wholesale dealer to collect and remit the tax levied by this section when due, or the failure to pay the tax when due by the purchaser for consumption in the village shall render each of them jointly and in solido liable for the amount of the taxes found to be due, together with a penalty of five (5%) percent on the amount of the tax if the period of delinquency is ten (10) days or less or twenty (20%) percent on the amount of the tax if the period of delinquency is greater than ten (10) days, plus an additional amount of ten (10%) percent on the amount of the tax and penalties, as attorney's fees, if referred to an attorney for collection.

Sec. 1-3. Refusal to allow inspection.

No holder of an alcoholic beverage permit shall refuse to allow the authorities of the village or state to make an inspection of any place or business where alcoholic beverages are stored, sold, or handled, or otherwise hinder or prevent the inspection. This inspection shall include, but is not limited to, the inspection of business records, coolers, and storage rooms. The inspection allowed under this section is authorized solely for the purpose of ascertaining whether the business is operating as licensed.

Sec. 1-4. Exempt products.

- (a) The provisions of this ordinance do not apply to the sale of:
 - (1) Patent, antiseptic, and toilet preparations.
 - (2) Flavoring extracts, syrups, and food products.
 - (3) Scientific, chemical, mechanical, and industrial products.
 - (4) Alcohol for industrial use or purposes only and which is so denatured as to be unfit for human consumption.
- (b) No person shall knowingly sell any of these products for beverage purposes or sell any of them under circumstances from which he may reasonably deduce the intention of the purchaser to use them for beverage purposes.

ARTICLE II. PROHIBITED SALES

Sec. 2-1. Prohibited Sales.

The sale of beverages of high alcoholic content is prohibited in the Village of Choudrant. However, the provisions of this Section shall not apply to bonafide private clubs as defined in Section 1-1(g) of this Ordinance.

ARTICLE III. PERMITS

Sec. 3-1. When required.

Before engaging in the business of dealing in alcoholic beverages, all wholesale and retail dealers shall obtain from the village a current permit to conduct such business. No wholesale or retail dealer shall sell, barter, exchange, or allow any person to consume alcoholic beverages on the premises, or do any other act for which a permit is required under this ordinance without first having obtained such permit. Each day's conduct of business by a wholesale or retail dealer without such a valid, unsuspended permit shall constitute a separate violation of this ordinance.

Sec. 3-2. Applications generally.

All applications for alcoholic beverage permits required by this ordinance shall be sworn to and made in writing to the Village of Choudrant on forms supplied by the village. Said applications shall contain the full name of the applicant, his social security number, his federal employer identification number, if applicable, his Louisiana Department of Revenue and Taxation business account number, if applicable, his correct home address, and an accurate description and correct street address of the premises wherein the business or operation is to be located, which address shall be considered the proper address for all notices to the applicant or permittee required by this ordinance, and shall be accompanied by an affidavit of the applicant showing that he meets the qualifications and conditions set forth in LSA-R.S. 26:80. All applicants shall also be

accompanied by a signed sales tax clearance from the sales tax collection agency or agencies in the parish. The applicant for a permit for consumption on the premises shall file, as part of his application, a list of all alcoholic beverage handling employees. Any applicant which is a partnership or corporation shall, as part of its application, designate an individual as its agent, manager, or representative for the purposes of this ordinance.

Sec. 3-3. Applicant to be fingerprinted.

On submission of an application for a permit under this ordinance, the applicant shall be fingerprinted and pay the reasonable costs and expenses thereof.

Sec. 3-4. Qualifications of applicant.

(a) Applicants for alcoholic beverage permits of all kinds shall meet the following qualifications and conditions:

- (1) Be a person of good character and reputation and 21 years of age or older.
- (2) Be a citizen of the United States and of the State of Louisiana and a resident of the state continuously for a period of not less than two (2) years next preceding the date of the filing of the application.
- (3) Be the owner of the premises or have a bona fide written lease therefor.
- (4) Have not been convicted of a felony under the laws of the United States, the State of Louisiana, or any other state or country.
- (5) Have not been convicted in this or any other state or by the United States or any other country of a violation of any controlled dangerous substance laws, or of illegally dealing or possessing controlled dangerous substances or drug paraphernalia, or of attempting or conspiring to do so, or of soliciting for prostitution, pandering, letting premises for prostitution, contributing to the delinquency of juveniles, keeping a disorderly place, or any violation of Louisiana Public Health and Safety Uniform Controlled Dangerous Substances Law LSA-R.S. 40:961 et seq. and LSA-R.S. 40:1031 et seq.
- (6) Have not had a license or permit to sell or deal in alcoholic beverages, issued by the United States, any state, or by any political subdivision of a state authorized to issue permits or licenses, revoked within five (5) years prior to the application, or been convicted or had a judgment of court rendered against him involving alcoholic beverages by this or any other state or by the United States for five (5) years prior to the application.
- (7) Have not been adjudged by the village or convicted by a court of violating any of the provisions of this ordinance.
- (8) Have not been convicted of violating any municipal or parish ordinances adopted pursuant to the provisions of Title 26 of the Louisiana Revised Statutes. If the applicant has been so convicted, the granting of a permit or of a renewal is within the discretion of the village.
- (9) Is not the spouse of a person who does not meet the requirements of this section, or whose application has been denied or revoked; provided that in such cases the age of the ineligible spouse shall be immaterial.
- (10) Has paid all taxes, licenses, fees, and other charges due to the village by the applicant or his business.

(b) If the applicant is a partnership or anyone in partnership with or financed by another, all members of the partnership or all the persons in any way financially interested in the business shall also possess the qualifications required of an applicant. The application shall state the full names of all partners and persons financially interested and furnish their social security numbers and proper addresses and each shall furnish his affidavit showing his qualifications, as required of an applicant.

If the applicant is a corporation or a partnership, each member of which is a corporation, all officers and directors and all stockholders owning in the aggregate more than five (5%) percent of the stock and the persons who shall conduct or manage the business shall possess the qualifications required of an applicant, to be shown by the affidavit of each accompanying the application. However, the requirements as to citizenship and residence do not apply to officers, directors, and stockholders of corporations applying for retail permits only. The corporation shall be either organized under the laws of the state or qualified to do business within the state.

If the applicant's business is to be conducted wholly or partly by one or more managers, agents, servants, employees, or other representatives, that person shall also possess the qualifications required of the applicant, to be shown by the affidavit of each accompanying the application.

(c) If the applicant, or any other person required to have the same qualifications, does not possess the required qualifications, the permit may be denied.

(d) No permit shall be issued to any person who is an interposed person for the owner or proprietor of a business. The village may require a full disclosure, in writing and under oath, of the details of the operation of any person it suspects of being interposed for another. The village may summarily rule before it for examination the person suspected of being an interposed person. A person who is subsidized, financed or employed by a liquor manufacturer to operate a business without disclosing the ownership of the liquor manufacturer shall be considered an interposed person for the liquor manufacturer under this ordinance.

(e) Any misstatement or suppression of fact in an application or accompanying affidavit is grounds for denial, suspension or revocation of permit.

Sec. 3-5. Penalty for false statement.

(a) No person shall knowingly make any false statement, provide any false information, or suppress any material facts in their application for an alcoholic beverage wholesale or retail dealer permit, or their affidavits or attachments to said application.

(b) Whoever violates this section shall be punishable by a fine of not more than \$500.00 or imprisonment of not more than sixty (60) days, or both.

Sec. 3-6. Location restrictions.

(a) No permit shall be issued pursuant to this ordinance in contravention of any village ordinances adopted pursuant to the zoning laws of the state.

(b) No permit shall be issued pursuant to this ordinance for any premises situated within 300 feet or less distance of a building occupied exclusively as a church or synagogue, public library, public playground, or school. This distance shall be measured as a person walks using the sidewalk, street, or road from the nearest point of the church or synagogue, public library, public playground, or school, to the nearest point of the premises to be licensed as described in the application.

(c) The restrictions contained in this section do not apply to premises which are maintained as a bona fide hotel, railroad car, or fraternal organizations.

Sec. 3-7. Approval or disapproval of application.

No alcoholic beverage permit shall be issued or renewed until the application therefor has been approved in the manner provided in this section. The Mayor of the village is authorized to approve, without delay, any such application when it determines, in its discretion, that the applicant has the prescribed qualifications for such permit and has complied with all applicable provisions of this ordinance. If the Mayor disapproves such an application, it shall so notify the applicant in writing within thirty-five (35) calendar days of the filing of the application and state the reasons for such disapproval. Any applicant aggrieved by the decision of the Mayor may, within ten (10) days from the date such decision is rendered, appeal to the Board of Aldermen of the village by filing a written request within ten (10) days from the date such decision is rendered. The Board of Alderman of the village shall thereafter hold a hearing thereon in accordance with Section 4-5 of this ordinance.

Sec. 3-8. Fees prescribed.

(a) The annual fee for an alcoholic beverage permit shall be as follows, which fee shall be paid in full on or before January 1 of each year:

(1) *Wholesale dealers:*

- a. Beverages of low alcoholic content \$100.00
- b. Beverages of high alcoholic content. \$250.00

(2) *Retail dealers:*

- a. Beverages of low alcoholic content:

1. Class "A" which authorizes the dealer to sell for consumption on or off the premises \$ 75.00
 2. Class "B" which authorizes the retailer to sell in sealed containers prepared for transportation and consumption off the premises \$ 60.00
- b. Beverages of high alcoholic content \$250.00

(b) In the event an applicant for an alcoholic beverage permit commences operations prior to July 1 of any year, an entire year's permit fee shall be collected and paid. If said applicant commences operations after July 1 of any year, two-thirds (2/3) of the annual permit fee shall be collected and paid.

Sec. 3-9. Separate permit for each classification and place of business.

Separate alcoholic beverage permits shall be required of wholesale or retail dealers for the sale of beverages of high and low alcoholic content, as well as for each place of business in the village operated by any such dealer.

Sec. 3-10. Display.

A permit issued under this ordinance shall be displayed prominently by the permittee in his place of business, so as to be seen and read easily by the public.

Sec. 3-11. Personal nature of permits; necessity of display; penalties.

- (a) The following shall apply to permits issued under this ordinance:
- (1) Permits are good for only one year, unless sooner suspended or revoked.
 - (2) The permit is not assignable or heritable. The permit must be returned to the village within five (5) days of closure, when the ownership of the business is transferred or the business is terminated. However, in the event of the dissolution of a partnership by death, the surviving partner or parties may continue to operate under the partnership permit.
 - (3) Receivers and trustees in bankruptcy may continue to operate under the permit of the person succeeded.
 - (4) When the location of a place of business is proposed to be changed, the proposal shall be received and must be approved by the village before such action is taken. The change of location shall be noted on the permit by the village and the permit shall be invalid unless the notation is made.
 - (5) A surviving spouse not separate in property may operate under a deceased spouse's permit for the remainder of the term of that permit.
 - (6) The permit, in addition to any other permit required to be displayed, shall be posted in a conspicuous place on the licensed premises, so as to be easily seen and read by the public.

(b) The failure of a retail dealer to publicly display his permits, as required by Subsection (a)(6) of this section, shall be grounds for the withholding, suspension, or revocation of the dealer's retail permit.

Sec. 3-12. Term; renewal.

(a) A permit issued under this ordinance shall be dated from January 1 of each year and shall be valid for the remainder of the calendar year, unless sooner suspended or revoked. Application for the renewal of such a permit shall be filed in the manner provided by this ordinance on or before November 1 of the current year. If a permittee fails to make his application for renewal before January 1, his application may be denied and the village may, without notice of hearing, suspend his right to do business.

(b) Should any permit holder fail to file his application for renewal on or before November 1 of any ensuing year, a penalty of twenty-five (25%) percent of the amount due for the permit shall be imposed.

(c) Any applicant who makes his application for renewal before January 1 may continue business under his old permit, unless it has been suspended or revoked or the new permit withheld or denied. Renewal permits may be withheld or denied on the same grounds and in the same manner as an original permit.

ARTICLE IV. PROHIBITED ACTS, SUSPENSION AND REVOCATION

Sec. 4-1. Prohibited acts on retail sales premises generally.

(a) No person under the age of twenty-one (21) years shall visit, go into, upon, or remain in or upon or attempt to visit, go into, upon, or remain in or upon any business which belongs to another where alcoholic beverages are the principle commodity sold, handled, given away, or consumed.

(b) No person under the age of twenty-one (21) years, shall present or offer to any business where alcoholic beverages are the principle commodity sold, handled, given away, or consumed, or to its agents or employees, any verbal, written, or printed photostatic evidence of age or identity which is false, fraudulent, or not actually his or her own for the purpose of entering or going upon the premises of any such business.

(c) No person holding any alcoholic beverage permit or agent, associate, employee, representative, or servant of any such person shall aid, permit, or intentionally entice any person under the age of twenty-one (21) years to visit, go into, upon, or remain in or upon or attempt to visit, go into, upon, or remain in or upon any business where alcoholic beverages are the principle commodity sold, handled, given away, or consumed.

(d) In order to establish that a person is twenty-one (21) years of age or older, an alcoholic beverage retail permit holder, its agents, or employees, may rely upon only the following validly issued photostatic evidences of age and identity:

- (1) A valid, current, Louisiana driver's license which contains a photograph of the person presenting the driver's license.
- (2) A valid, current, driver's license of another state which contains a photograph of the person and birth date of the person submitting the driver's license.
- (3) A valid, current, special identification card issued by the State of Louisiana pursuant to LSA-R.S. 40:1321 containing a photograph of the person submitting the identification card.
- (4) A valid, current, passport or visa issued by the federal government or another country or nation, that contains a permanently attached photograph of the person and the date of birth of the person submitting the passport or visa.
- (5) A valid, current, military or federal identification card issued by the federal government containing a photograph of the person and date of birth of the person submitting the identification card.

Each form of identification listed above must on its face establish the age of the person as twenty-one (21) years or older, and there must be no reason to doubt the authenticity or correctness of the identification. No form of identification mentioned above shall be accepted as proof of age if it is expired, defaced, mutilated, or altered. If the driver's license, state identification card, or lawful identification submitted is a duplicate, the person shall submit additional identification which contains the name, date of birth, and photograph of the person. In addition, an educational institution card, check cashing identification card, or employee identification card shall not be considered as lawful identification for purposes of this paragraph.

(e) The holder of any alcoholic beverage permit issued by the village where alcoholic beverages are the principal commodity sold, handled, given away, or consumed shall cause a sign in type of not less than thirty (30) point type to be displayed at the point of entry to the licensed premises where alcoholic beverages are the principle commodity sold, handled, given away, or consumed that reads:

THE CODE OF ORDINANCE OF THE VILLAGE OF CHOUDRANT PROHIBITS ANYONE UNDER THE AGE OF TWENTY-ONE (21) YEARS FROM BEING ON THESE PREMISES, THE USE OF FALSE IDENTIFICATION TO GAIN ENTRY TO THESE PREMISES IS ALSO PROHIBITED. VALID PHOTO I.D. REQUIRED. VIOLATORS ARE SUBJECT TO FINE AND/OR IMPRISONMENT.

(f) The provisions of Paragraph (a) of this section shall not apply to any person lawfully employed by the alcoholic beverage dealer, nor shall it be construed to prohibit the presence of any person under the age of twenty-one (21) years on or about a licensed premises for any function sponsored by a religious or charitable organization with tax exempt status under Section 501(3) of the Internal Revenue Code of the United States, or by a fraternal beneficiary society with tax exempt status under 501(8) of the said code, when no alcoholic beverages are sold, handled, consumed, given away, or accessible during the presence of any such person.

(g) No person shall:

- (1) Sell or serve alcoholic beverages to any person under the age of twenty-one (21) years, unless such person submits any of the following:
 - a. A valid, current Louisiana driver's license which contains a photograph of the person presenting the driver's license.
 - b. A valid, current driver's license of another state which contains a photograph of the person and birth date of the person presenting the driver's license.
 - c. A valid, current special identification card issued by the State of Louisiana pursuant to LSA-R.S. 40:1321 containing a photograph of the person submitting the identification card.
 - d. A valid current military or federal identification card issued by the federal government containing a photograph of the person and date of birth of the person submitting the identification card.

Each form of identification listed above must on its face establish the age of the person as twenty-one (21) years or older, and there must be no reason to doubt the authenticity or correctness of the identification. No form of identification mentioned above shall be accepted as proof of age if it is expired, defaced, mutilated, or altered. If the driver's license, state identification card, or lawful identification submitted is a duplicate, the person shall submit additional identification which contains the name, date of birth, and photograph of the person. In addition, an educational institution identification card, check cashing identification card, or employee identification card shall not be considered as lawful identification for purposes of this section.

- (2) Sell or serve alcoholic beverages to any intoxicated person.
- (3) Intentionally entice, aid, or permit any person under the age of twenty-one (21) years to visit or loiter in or about any place where alcoholic beverages are the principal commodities sold, handled, or given away. Provided that this section shall not apply to any person under twenty-one (21)

years of age when such person is accompanied by such person's parent or legal guardian who is twenty-one (21) years of age or older, and shall not apply to persons lawfully employed by the retail dealer in accordance with this section.

- (4) Permit any prostitute to frequent the licensed premises, or to solicit patrons for prostitution on the licensed premises.
- (5) Permit any disturbance of the peace or obscenity, or any lewd, immoral, or improper entertainment, conduct or practices on the licensed premises.

a. *Attire and conduct.* The following acts or conduct on licensed premises are deemed to constitute lewd, immoral, or improper entertainment as prohibited by this section and therefore no on-sale permit for beverages of high or low alcoholic content shall be held at any premises where such conduct or acts are permitted:

1. To employ or use any person in the sale or service of alcoholic beverages in or upon the licensed premises while such person is unclothed or in such attire, costume, or clothing as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals.
2. To employ or use the services of any hostess or other person to mingle with the patrons while such hostess or other person is unclothed or in such attire, costume, or clothing as described in this Subsection.
3. To encourage or permit any person on the licensed premises to touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person.
4. To permit any employee or person to wear or use any device or covering, exposed to view, which simulates the breast, genitals, anus, pubic hair, or any portion thereof.

b. *Entertainers and conduct.* Acts or conduct on licensed premises in violation of this section are deemed to constitute lewd, immoral, or improper entertainment as prohibited by this section and therefore no on-sale permit for beverages of high or low alcoholic content shall be held at any premises where such conduct and acts are permitted. Live entertainment is permitted on any licensed premises, except that:

1. No permittee shall permit any person to perform acts of or acts which simulate:
 - i. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law.
 - ii. The touching, caressing, or fondling of the breast, buttocks, anus, or genitals.
 - iii. The displaying of the pubic hair, anus, vulva, genitals, or nipple of the female breast.

No permittee shall permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described in this section.

c. *Visual displays.* The following acts or conduct on licensed premises are deemed to constitute lewd, immoral, or improper entertainment as prohibited by this section and therefore no on-sale permit for beverages of high or low alcoholic content shall be held at any premises where such conduct or acts are permitted: the showing of film, still pictures, electronic reproduction, or other visual reproductions depicting:

1. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law.
2. Any person being touched, caressed, or fondled on the breast, buttocks, anus, or genitals.
3. Scenes wherein a person displays the vulva or the anus or the genitals.
4. Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described in this section.

(h) Sell, offer for sale, possess or permit the consumption on or about the licensed premises of any kind or type of alcoholic beverage, the sale, possession or consumption on the premises of which is not authorized under his permit.

(i) Intentionally conduct illegal gambling as defined by law, on the premises described in the application for the permit.

(j) Employ or permit females, commonly known as B girls, to solicit patrons for drinks and to accept drinks from patrons and receive therefore any commission or remuneration in any other way.

(k) Employ anyone under the age of twenty-one (21) in any capacity in an establishment where the sale of alcoholic beverages constitutes its main business; however, if the sale of alcoholic beverages does not constitute the main business of the establishment, anyone under the age of twenty-one (21) may be employed as long as the employment does not directly involve the sale of alcoholic beverages for consumption on the premises.

The provisions of this section shall not apply to the employment of any person under eighteen (18) years of age employed as a musician performing in a band on the premises of any establishment. Any person employed as a musician under the provisions of this section shall be employed pursuant to a written contract which shall specify the period of time the musician shall be allowed on the premises, as well as require the musician to be under the direct supervision of his parent(s) or legal guardian(s). A duly executed copy of the contract shall be present on the premises of the establishment during the period of time the musician is employed.

(l) Fail to keep the premises clean and sanitary.

(m) Permit the playing of pool or billiards by any person under twenty-one (21) years of age, or permit such a person to visit or frequent the licensed premises operating a pool or billiard hall.

(n) Illegally sell, offer for sale, possess, or permit the consumption on or about the licensed premises of any kind or type of controlled dangerous substances.

(o) Accept food stamp coupons as payment for alcoholic beverages in violation of the provisions of Public Law 88-525 and regulation 1600.2(i) issued pursuant to that section of the federal statute by the United States Secretary of Agriculture.

(p) Permit or allow any alcoholic beverage handling employee, regardless of gender, or the permit holder, or any other agent or employee or representative, to directly or indirectly, either verbally or by use of advertisements, cards, or printed material, solicit any patron for drinks for themselves, other employees, agents, or representatives of the permit or any other person or patron of the business.

(q) Except as otherwise permitted by state law, permit the conducting of games of chance by patrons, members of the public, employees, or agents on the licensed premises or premises parking lot. As used in this section, "conducting games of chance" means the intentional conducting or directly assisting in the conducting of, or participating in, any game, contest, lottery, or contrivance of chance whereby a person risks the loss of anything of value in order to realize a profit; provided however, that nothing contained in this section shall prevent football pools and other similar games from taking place.

(r) Allow any person, patron, customer, agent, associate, or employee to exit the licensed premises in possession of any open container holding an alcoholic beverage when that alcoholic beverage was sold, purchased, served, dispensed, exchanged, acquired, or possessed on the licensed premises.

(s) Violation of this section by a retail dealer's agent, associate, employee, representative, or servant shall be considered the retail dealer's act for purposes of suspension or revocation of a permit.

(t) Notwithstanding the issuance of a permit by way of renewal, the village may revoke or suspend such permit, as prescribed by this ordinance, for violations of this ordinance occurring during the permit period immediately preceding the issuance of such permit.

Sec. 4-2. Additional grounds for suspension or revocation.

(a) In addition to any other causes enumerated in this ordinance, the village may suspend or revoke any permit for any one of the following causes:

- (1) If the applicant or any of the persons who must possess the same qualifications failed to possess the qualifications required in Section 3-4 at the time of application or fails to maintain such qualifications during the licensed year.
- (2) If there was any material misrepresentation or suppression of fact in the application for the permit.
- (3) If the permit was granted to any person who is or has been engaged in an alcoholic beverage business with a person whose application for a permit has been denied or whose permit has been revoked.

- (4) If the permit was issued to an interposed person.
- (5) If the permittee has been convicted by any court of competent jurisdiction of any violation of any section of this ordinance.
- (6) If the holder of any permit has been convicted by any court of competent jurisdiction of any one of the following offenses:
 - a. Violation of the Sunday closing law;
 - b. Violation of any municipal or parish ordinance providing for Sunday closing hours;
 - c. Violation of any municipal or parish ordinance enacted pursuant to the authorization of this ordinance or the provisions of Title 26 of the Louisiana Revised Statutes.
- (7) If, without a proper license, a retail dealer allows any person to consume any alcoholic beverage on the licensed premises or on any parking lot or open or closed space within or contiguous to the licensed premises.
- (8) If any dealer fails to pay any sales or excise taxes due by any regulated business to the state or to this village.
- (9) Violation of any Uniform Controlled Dangerous Substance law of this state or any other state or of the United States; including but not limited to possession or distribution of any controlled dangerous substance or possession of drug paraphernalia, or attempting or conspiring to do so.
- (10) Violation of any obscenity law.

(b) When a permit is revoked for any legal cause, the village may, at the same time, order that no alcoholic beverage permit shall be issued covering the same premises until one (1) year after the date of revocation.

Sec. 4-3. Reports of violations.

The sheriff shall provide a quarterly report to the village of permit holders or alcoholic beverage handling employees who have been cited for one or more violations of this ordinance or of the provisions of Title 26 of the Louisiana Revised Statutes within the preceding twelve (12) months.

Sec. 4-4. Requests for suspension or revocation.

(a) A request for the suspension or revocation of a permit shall be in writing and shall be filed by or with the village.

(b) The request shall state the name and address of the permit holder, the location of the permitted premises, and the cause or causes for suspending or revoking the permit.

Sec. 4-5. Hearing and notice.

(a) Before any alcoholic beverage permit is suspended or revoked, or when an application for an alcoholic beverage permit has been denied and the applicant has appealed to the village in the manner provided for herein, the permit holder or the applicant shall be entitled to a hearing. No such permit shall be denied, suspended, or revoked unless such a hearing has been held, and a majority of the Board of Aldermen of the village thereafter votes for such denial, suspension, or revocation. The decision of the Mayor of the village in denying a permit shall remain in effect unless and until the Board of Aldermen of the village votes after such hearing to reverse the decision of the Mayor.

(b) A notice shall be served upon the applicant or holder of the permit stating the time and place of the hearing to be held by the village, which shall be not less than ten (10) calendar days from the date such notice is received. The notice shall enumerate the causes for withholding, suspending or revoking the permit and shall be sent by certified mail, return receipt requested, to the applicant or holder of the permit at the address of his place of business, as given in his application for the permit, or it may be served on him in person by an officer or employee of the village. In the case of revocation or suspension of a permit, the notice shall order the holder of the permit to appear and show cause why the permit should not be suspended or revoked. All notices sent by certified mail to the applicant or permittee directed to him at the address of his place of business as given in his application shall be conclusively presumed to have been received by the applicant or permittee.

Sec. 4-6. Cause for withholding, suspending or revoking permits.

No permit shall be withheld, suspended, or revoked except for causes specified in this ordinance or in Title 26 of the Louisiana Revised Statutes. However, if a person holds more than one permit and any one of them is suspended or revoked, the village may suspend or revoke all of his permits.

Sec. 4-7. Convictions by court not essential to withholding, suspending or revoking permits.

Conviction by a court of violation of the provisions of this ordinance is not a condition precedent to the withholding, suspension, or revocation of a permit under this ordinance for a violation of any of the provisions of this ordinance. However, when there has been a previous criminal prosecution for the same or similar act upon which the refusal, suspension or revocation of a permit is being considered, evidence of a conviction or an acquittal in a court of competent jurisdiction is admissible in a proceeding before the village.

Sec. 4-8. Revocation or suspension not exclusive; other penalties.

(a) Notwithstanding any other provisions of this ordinance to the contrary, the village may in lieu of or in addition to revocation or suspension of a permit issued under the authority of this ordinance, impose the following schedule of costs or expenses of investigation and/or prosecution to be paid into the village treasury for:

- (1) A first offense, not less than \$50.00 but not more than \$500.00;
- (2) A second offense, which occurs within three (3) years of the first offense, not less than \$250.00 but not more than \$1,000.00; and
- (3) A third offense, which occurs within three (3) years of the first offense, not less than \$500.00 but not more than \$2,500.00.

(b) The revocation or suspension of a permit is in addition to and not in lieu of or limitation of any other penalty imposed by law.

(c) For purposes of this section, the term "offense" shall mean each violation of this ordinance which the village finds has occurred. More than one offense may be considered by the village in a single hearing.

Sec. 4-9. Procedure at hearings; contempt.

(a) The village may administer oaths, issue subpoenas for the attendance of witnesses and the production of books, papers, accounts, and documents, and examine witnesses and receive testimony at the hearing for suspension or revocation of permit under this ordinance.

(b) If any person fails to comply with a notice issued by the village, or if a witness refuses to testify in any matter regarding which he may be lawfully interrogated, such failure or refusal shall constitute contempt of the village and upon conviction in any court of competent jurisdiction shall be punishable pursuant to Section 5-5. Notwithstanding any other provision of this ordinance, such a conviction of a permit holder shall be cause for suspension or revocation of his permit.

Sec. 4-10. Procedure when permittee or applicant fails to appear at hearing; continuances.

If a permittee or applicant who has been notified of a hearing for suspension or revocation of permit under this ordinance does not appear, the hearing may proceed without him and the village may consider and dispose of the case, but in all cases the village, upon application or motion, may grant continuances from time to time. If the continuance is granted to a fixed future date by written consent or in the presence of the permittee, applicant or his counsel, no further notice of the hearing date need be given. In all other cases the same notice of hearing as in original hearings shall be given.

Sec. 4-11. Basis for determination by village to suspend or to revoke permit.

In determining cases involving the suspension or revocation of permits, if the village finds that the violation is of a minor nature, or that there are extenuating circumstances, or that there are reasonable grounds to expect that the permittee will not again violate any of the provisions of this ordinance, the village may suspend the permit for such time as it thinks proper. If the permittee has previously been fined or had a permit suspended or revoked, whether by state or local authorities, or if the violation is flagrant or serious, the village may revoke the

permit. The village shall thereafter immediately notify the state authorities and the sheriff of its action. The village shall retain jurisdiction to reopen cases at any time upon petition or motion, and for good cause shown may modify, revise or reverse its former findings and decisions and all such reopened cases shall be heard and determined under the same rules of procedure as original cases.

Sec. 4-12. Recovery of cost of hearings.

In hearings of the village which finally result in withholding the issuance of a permit or in suspending or revoking a permit, the village shall assess the costs of the hearing to the applicant or permittee. The costs are recoverable by the village in any appellate proceeding instituted by the applicant or permittee or in any other appropriate judicial proceeding.

Sec. 4-13. Decisions to withhold, suspend or revoke permits final unless appealed and reversed.

Decisions of the village in withholding, suspending, or revoking permits are final and binding on all parties unless appealed in the manner provided in Section 4-14 of this ordinance and finally reversed by the courts.

Sec. 4-14. Appeal of decision to withhold, suspend or revoke permits.

The applicant or holder of an alcoholic beverage permit who is aggrieved by a decision of the village to withhold, suspend, or revoke his permit may, within ten (10) days of the notification of the decision, take a deivative appeal to the district court having jurisdiction over his place of business, and on such appeal, the trial shall be de novo. Within ten (10) calendar days from the signing of the judgment by the district court, the village or the applicant or holder of the permit, as the case may be, may appeal from the judgment of the district court to the court of appeal as in ordinary civil cases.

ARTICLE V. MISCELLANEOUS

Sec. 5-1. Hours of operation.

It shall be unlawful for any retail dealer or wholesale dealer to open for business or admit or permit any member of the public to enter on or into an establishment or any part thereof between the hours of midnight and 7:00 a.m. and between the hours of 12:00 a.m. on Sunday until 7:00 a.m. the following Monday. The owner/operator or licensed seller of alcoholic beverages shall remove all patrons and members of the public from the premises by 12:01 a.m. and all doors to said premises shall be locked and closed and the establishment not reopened until 7:00 a.m. the next morning on which sales of alcoholic beverages can be lawfully made. It shall be unlawful for any owner/operator or licensed seller of alcoholic beverages to allow patrons and members of the public to remain in its parking lot for more than thirty (30) minutes after its closing. The owner/operator or licensed seller of alcoholic beverages and his employees or agents may enter the closed premises for the purpose of cleaning, taking stock, or other such work reasonably required to be performed on or within the premises while such premises are closed and no business is being transacted.

Nothing contained hereto shall prohibit a grocery store, pharmacy, or other similar business possessing a retail or wholesale dealer permit from remaining open for business other than the sale of alcoholic beverages between the hours of 12:00 a.m. and 7:00 a.m. and between the hours of 12:00 a.m. on Sunday until 7:00 a.m. on the following Monday so long as alcoholic beverages are not allowed to be sold, possessed, or consumed on the premises thereof during said times.

Sec. 5-2. Bottle clubs; hours of operation.

(a) The operation of a bottle club whose primary function is to facilitate the use and/or consumption of alcoholic beverages is prohibited.

(b) It shall be unlawful for any other bottle club lawfully operating within the village to admit or permit any member of the public to enter on or into an establishment or any part thereof, between the hours of midnight and 7:00 a.m. and between the hours of 12:00 a.m. on Sunday until 10:00 a.m. the following Monday.

(c) In any bottle club lawfully operating within the village, the owner or operator shall remove all patrons and members of the public from the premises by 12:01 a.m. and all doors to said premises shall be locked and closed and the establishment not re-opened until 10:00 a.m. the next morning on which sales of alcoholic beverages can be lawfully made. The owner or operator and his employees or agents may enter the closed premises for the purpose of cleaning, taking stock, or other such work reasonably required to be performed on or within the premises while such premises are closed and no business is being transacted.

(c) It shall be unlawful for any bottle club to permit members of the public to remain in its parking lot for more than thirty (30) minutes after its closing.

Sec. 5-3. Public possession or consumption.

It shall be unlawful for any person to consume or possess any alcohol beverage of any kind on any street or highway or in any public place; including but not limited to, any property owned by the village. Public possession does not include the possession or consumption of any alcoholic beverage under the following circumstances:

(a) For an established religious purpose.

(b) For medical purposes prescribed or administered by a licensed physicians, pharmacist, dentist, nurse, hospital, or medical institution.

(c) In private residences.

Sec. 5-4. Noise prohibition.

It shall be unlawful for any owner/operator or licensed seller of alcoholic beverages to play or allow to be played live or recorded music which is so unreasonably intrusive or offensive so as to interfere with the comfortable enjoyment of any other property located within the vicinity of the premises. Additionally, any person so unreasonably disturbed or offended by such noise shall have a cause of action for damages and may retain injunctive relief if the premises are not in compliance with the provisions of this section.

Sec. 5-5. Penalty for violations.

Each violation of this ordinance shall constitute a separate offense and any person found guilty of violating any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$500.00, or imprisoned for not more than six (6) months, or both.

SECTION II.

If any one or more of the provisions of this Ordinance or the application thereof is held invalid or unenforceable, such invalidity or unenforceability shall not affect other provisions, items or applications of this Ordinance which can be given effect without the invalid provisions, terms or applications, and to this end the provisions of this Ordinance are hereby declared severable. Any constitutional or statutory provisions enacted after the date of this Ordinance which validates this Ordinance or otherwise makes it legal, shall be deemed to apply to this Ordinance.

SECTION III.

All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

SECTION IV.

This Ordinance shall take effect upon the signature of the Mayor and shall govern all applications for licenses and/or permits for the calendar year 2002, whether or not such applications for licenses and permit might have already been received by the village.

This above and foregoing Ordinance was introduced on July 1, 2002 by Alderman Wayne Brooks. A motion to adopt said Ordinance was made by Alderman Brooks and seconded by Alderman Regan Aswell and after having been considered by sections was adopted by sections and as a whole by the following YEA and NAY vote:

YEAS: Joe R. Aswell,
Wayne Brooks
Bob Hogan

NAYS: None

ABSENT: None

WHEREUPON, the Ordinance was declared duly adopted this 13th day of August, 2002.

-S-
BILL SANDERSON, Mayor