

ORDINANCE NO. 24-8-2021-1
AN ORDINANCE ESTABLISHING RULES AND REGULATIONS
FOR THE SALE OF ALCOHOLIC BEVERAGES WITHIN THE
VILLAGE OF BISMARCK, ILLINOIS, ENTITLED:

"BISMARCK LIQUOR CONTROL ORDINANCE"

Whereas, pursuant to 235 ILCS 5/1-1 et seq., the legal voters of the Village of Bismarck, Illinois, approved the sale at retail of alcoholic liquor at the April 6, 2021, general election; and

Whereas, the President and Board of Trustees of the Village of Bismarck, pursuant to 235 ILCS 5/4-1 et seq., desire to exercise jurisdiction over and adopt rules and regulations pertaining to the sale at retail of alcoholic liquor and to adopt penalties for violation of said rules and regulations; and

Whereas, Public meetings of the Village Board of Trustees have been held pursuant to statutory authority to receive comments from the public and to determine the manner in which it is appropriate for the retail sale of liquor to be conducted within the Village of Bismarck, Illinois; and

NOW, THEREFORE, be it ordained by the President and Board of Trustees of the Village of Bismarck, as follows:

Article 1: Definitions

The following definitions shall apply to the words and terms when used within this Ordinance. Words and phrases defined in the State of Illinois Compiled Statutes shall also apply in the enforcement of this Ordinance:

ALCOHOLIC BEVERAGES: Spirits, wine, beer, ale, whiskey, gin, brandy, rum or any distilled or fermented liquid containing more than 1/2 of 1% alcohol by volume, but for human consumption. The term "alcoholic liquor" shall have the same meaning.

BEER: A beverage obtained by the alcoholic fermentation of an infusion or concoction of barley or other grain, malt, and hops in water, and includes, among other things, beer, ale, stout, lager beer, porter, and the like.

HOURS: Either Central Standard Time or Central Daylight Time, whichever is in effect in Vermilion County.

PREMISES: All land and buildings within the outside boundaries of the tract of real estate upon which a business (whether owned individually, in partnership, or corporately) holding or seeking a liquor license is located.

RETAIL SALE: Sale for use or consumption and not for resale.

SALE: Transfer, exchange, or barter for consideration, including any sale made by any person, including principal, proprietor, agent, servant, or employee.

SELL: The act of making a sale, receiving an order for exposing to the public for the purpose of selling or keeping with the intent to sell.

WINE: Any alcoholic beverage obtained by the fermentation of the natural content of fruits or vegetables containing sugar, including such beverage when fortified by the addition of alcohol or spirits.

Article II: Liquor Control Authorities

Section 2.1 - Liquor Control Commissioner

The President of the Bismarck Village Board of Trustees of Vermilion County, Illinois, shall be the Liquor Control Commissioner, and shall have the responsibility to administer the provisions of this Ordinance, including, but not limited to, the issuance of liquor licenses, the revocation or suspension of liquor licenses, and the keeping of records and an official listing of all licenses. The Liquor Control Commissioner shall maintain an office in the Bismarck Village Hall from which liquor business will normally be conducted.

Section 2.2 - Liquor Control Commission.

The Liquor Control Commissioner shall be Chairman of the Liquor Control Commission and shall appoint two members of the Bismarck Village Board of Trustees to serve as members of the Liquor Control Commission to assist in the exercise and performance of their powers and duties as Liquor Control Commissioner. All recommended changes in accepting and rejecting policies will be reviewed by the Village of Bismarck Board of Trustees.

Section 2.3 - Site review.

A. The Liquor Control Commission shall make on-site visits to review new applications and renewal applications prior to the review of those applications by the Liquor Control Commission. Applications for Class G temporary licenses shall not require a site review unless the Liquor Control Commissioner so directs that a site review be conducted by the Liquor Control Commission.

B. The purpose of the site visit and review shall be to assure that all requirements of this Ordinance and the application are met prior to the issuance of a license.

Article III: Licenses

Section 3.1 - License required.

It shall be unlawful to make any sale, or to sell at retail or offer to sell or offer for sale any alcoholic liquor at retail within the limits of the Village of Bismarck, Illinois, without having a valid liquor license as provided in this Ordinance or in violation of the regulations and requirements governing such licenses as contained in this Ordinance.

Section 3.2 - License defined.

The term "Bismarck, Illinois Liquor License," or the short term "liquor license," shall be used and shall mean the licensing document issued by the Village of Bismarck, Illinois Liquor Control Commissioner to permit the sale of alcoholic beverages at retail in accordance with Section 3.1 of this Article and in accordance with the provisions of this Ordinance.

Section 3.3 - License privileges.

A liquor license shall allow the licensee to sell or offer for sale at retail, on the premises specified in such license, alcoholic beverages for use or consumption on said premises, or to sell alcoholic beverages in the original package, not to be consumed on the premises where sold, in accord with the classification of said license as hereinafter provided. It shall be illegal for any license holder to transport or transfer liquor or any alcoholic beverages from one place of business to another place of business.

Article IV: License Requirements

Section 4.1 - Application required.

Any person, partnership, or corporation seeking to sell alcoholic beverages under the terms of this Ordinance shall submit the appropriate application for a liquor license in accordance with the requirements of this article.

Section 4.2 - Application procedures; fees.

A. Application for a Bismarck, Illinois, liquor license shall be made in writing by the applicant on forms made available for such purpose. The Liquor Control Commissioner shall cause the following types of application forms to be prepared and made available and shall have the authority to revise such forms as deemed necessary by the Village of Bismarck Board of Trustees:

Type of Application

- N Application for New License
- R Application for Renewal License
- G Application for Temporary License

Type of Applicant/Due Date

- N Any applicant not holding a valid Bismarck, Illinois liquor license; no due date but license applied for must be available
- R Holders of valid licenses shall submit by November 1 prior to the date of issuance for the following calendar year
- G Applicants for temporary license (Class G); applicant shall submit at least 30 days prior to date for which license is requested

B. Applications shall be submitted to the office of the Liquor Control Commissioner and shall be accompanied by a filing fee of \$10, which shall be paid by money order, cashier's check or bank draft and shall be made payable to the "Village of Bismarck, Illinois."

C. License fees as required in Article VIII shall be paid at the time the application has been received by the Liquor Control Commissioner.

D. Upon receipt of an application, the Liquor Control Commissioner shall submit said application and the applicant's file to the members of the Village of Bismarck Board of Trustees.

E. The Liquor Control Commission shall, as appropriate, make an on-site investigation of the premises to determine whether all statements on the application are true and correct. The Liquor Control Commission shall be authorized to add any appropriate information to the applicant's file, including, but not limited to, site review, photographs of the premises, and/or recommendations regarding approval or disapproval based on its review of the site and the application.

F. Applicants for a new license shall be required to request the Liquor Control Commissioner to conduct a police records check. Said report shall be forwarded to the Liquor Control Commissioner. The records check report shall become a part of the applicant's file but shall be kept as confidential information for review by the Liquor Commissioner and the Liquor Control Commission only. A records check shall be conducted on each party of the applicant (i.e., individual owner, partner of partnership, officers of a corporation).

G. Upon completion of required site investigations and records checks, the Liquor Control Commissioner shall call a meeting of the Liquor Control Commission to review the full application. Applicants shall be notified by the Liquor Control Commissioner of the meeting date, time, and place. At such meeting, the Liquor Control Commission shall recommend approval or disapproval of the license application, but such action shall not constitute final action on said application.

H. The Liquor Control Commissioner shall, within a reasonable time of receipt of the Commission's recommendation, make a determination to approve or deny the license as applied through the Village of Bismarck Board of Trustees. The Liquor Control Commissioner shall notify the applicant in writing of the decision. If approved, such notification shall include instructions to the applicant as to the amount of fee to be paid and the date or conditions under which said license shall be issued.

I. License fees shall be made payable to the "Village of Bismarck, Illinois," and shall be in the form of a money order, cashier's check, or bank draft. The Liquor Control Commissioner shall not issue a license to any applicant unless the license fee has been paid in full in the manner prescribed herein. All such fees shall be delivered by the Liquor Control Commissioner of the Village of Bismarck forthwith to the Treasurer.

Section 4.3 - Application contents.

All applications for any license under the terms of this Ordinance shall be completed in full and shall be accompanied by all required attachments as listed herein. All such applications shall be

signed by the applicant, if an individual; or partners, if a partnership; or by a duly authorized agent of the corporation, if a corporation; and all signatures thereon shall be verified by a notary public registered in the State of Illinois.

Section 4.4 - Applications for new licenses.

A. Applications for new licenses shall include the following items and attachments:

- (1) An indication of the license classification being applied for.
- (2) Name, address, and telephone number of the business location which the license is being applied for.
- (3) An indication that the applicant is an individual owner, partnership, for-profit corporation, or not-for-profit corporation.
- (4) Name, title, address, telephone number, email address, present age, place of birth or, if naturalized, date and place naturalized for the individual owner, each partner if a partnership and the agent, manager, and corporation officials if a corporation.
- (5) Information relating to any conviction of any felony crime for any person listed in Subsection A(4) above.
- (6) Description of object of business being conducted.
- (7) Information relative to any denials, suspensions, or revocations of any liquor licenses that the applicant has had at the same or other premises.
- (8) Information relative to any denials, suspensions, or revocations of any type of license that the applicant has had at the same or other premises.
- (9) Name of any public office currently held by applicant.
- (10) Attachment giving description of corporation if applicant is a corporation.
- (11) Attachment giving description of real estate upon which the business is conducted.

(12) Attachment that applicant has requested the Liquor Control Commissioner to conduct a records check.

(13) Attachment providing a Certificate of Dram Shop Insurance for the term of the license being applied for by a reputable insurance carrier insuring the business under the dram shop laws of the State of Illinois, said certificate reflecting dram shop insurance coverage in amounts not less than \$20,000 per person and \$50,000 per occurrence.

(14) Attachment providing a Certificate of Liability Insurance on the place of business for the term of the license being applied for by a reputable insurance carrier.

(15) Attachment providing proof of ownership or lease of premises for the term of the license being applied for.

(16) Attachment providing a bond in the amount required by Article VII of this Ordinance.

(17) Attachment providing a certificate that all taxes and special assessments are paid.

(18) Attachment providing signatures and verification of signatures of the applicant as required by this section.

B. NOTE: Applicants for a license for a newly established business may submit a letter of intent from a reputable insurance agent indicating that the required insurance and bond [Items (13), (14), and (16) above] will be issued to the applicant prior to the issuance of a license. Upon notification of license approval, the applicant must secure and submit the appropriate certificates as in Items (13), (14), and (16) above before the license will be issued.

Section 4.5 - Renewal applications.

Renewal applications shall include items in Section 4.4 (1), (2), (3), (4), (9), (13), (14), (15), (16), (17) and (18) as well as the following:

A. Attachment which provides a statement regarding any change in the nature of the business or the premises to which the license applies.

B. Attachment which provides a statement regarding any change in ownership, partnership, corporate officers, or management for the business to which the license applies.

C. Attachment which provides a statement regarding any change in the object of the business or corporation to which the license applies.

Section 4.6 - Applications for temporary licenses.

A. Applications for temporary licenses shall include the following items:

(1) Title or description of the event for which the application is being made.

- (2) Description or location of the event to be held.
- (3) Proposed term of the license (number of days and specific dates).
- (4) Name of title of the not-for-profit corporation seeking the application.
- (5) Name, title, address, telephone number, present age, place of birth or, if naturalized, date and place naturalized of the agent, manager, and corporation officials.
- (6) Information relating to any conviction of any felony crime for any person listed in Subsection A(5) above.
- (7) Description of the object of the applicant corporation.
- (8) Description of the purpose for which the license is being sought.
- (9) Information relative to any denials, suspensions, or revocations of any liquor license that the applicant corporation has had for the same or other premises.
- (10) Name of any public office currently held by any persons listed in Subsection A(5) above.
- (11) Attachment providing proof of ownership or lease of the premises for the term of the license being applied for.
- (12) Attachment providing a Certificate of Dram Shop Insurance for the term of the license being applied for by a reputable insurance carrier insuring the business under the dram shop laws of the State of Illinois, said certificate reflecting dram shop insurance coverage in amounts not less than \$20,000 per person and \$50,000 per occurrence.

(13) Attachment providing a Certificate of Liability Insurance on the place of business for the term of the license being applied for by a reputable insurance carrier.

(14) Attachment providing signatures and verification of signatures of the applicant as required by this section.

B. NOTE: Applicants for a license for a newly established business may submit a letter of intent from a reputable insurance agent indicating that the required insurance [Items (12) and (13) above] will be issued to the applicant prior to the issuance of a license. Upon notification of license approval, the applicant must secure and submit the appropriate certificates as in Items (12) and (13) above before the license will be issued.

Section 4.7 - Statement of understanding.

A. All applications shall include a "statement of understanding," which shall read as follows:

"I/We, the undersigned applicant(s), hereby acknowledge that I/we am/are not disqualified from receiving a liquor license by reason of any provisions within the laws of the State of Illinois or the United States; and that I/we am/are completely familiar with the terms and provisions of the Bismarck, Illinois, Liquor Control Ordinance and all applicable and referenced laws of the State of Illinois or the United States; and

that I/we have in good faith submitted all required documents and have answered all questions and parts of this application true and accurately; and

that I/we fully understand that any license issued hereunder may be revoked in accordance with the provisions of the Bismarck, Illinois, Liquor Control Ordinance under the terms of which this application is made, and hereby agree that any license issued hereunder may be so revoked."

B. The applicant(s) shall sign the "statement of understanding" separately from other signatures required and such signatures shall serve as an agreement regarding the "statement of understanding."

Article V: License Restrictions

Section 5.1 - Prohibited licensees.

No license under the terms of this Ordinance shall be issued to:

A. A person who is not of good character and reputation in the community in which they reside.

- B. A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application.
- C. A person who at the time of application is not a citizen of the United States. Individual applicants or at least one partner of a partnership shall be a resident of Vermilion County for one continuous year prior.
- D. A partnership, unless all of the members of such partnership shall be qualified to obtain a license under the provisions of Subsections A and B of this section.
- E. A corporation or limited-liability company, if any officer, manager, or director thereof, or any holder or owner of 5% of the stock or other securities of the corporation, would not be eligible to receive a license hereunder for any reason other than citizenship and residence within Vermilion County.
- F. A person, partnership, or corporation whose place of business is conducted by a manager or agent unless said manager or agent possesses the same qualifications as required of the licensee.
- G. A person who has been convicted of a violation of any federal or state law concerning the manufacture, possession, or sale of alcoholic liquor, or who has forfeited his bond to appear in court to answer charges for any such violation.
- H. A person, partnership, or corporation who or which does not own the premises for which a license is sought, or who or which does not have a lease for the term of the license as being applied for, for the premises for which the license is being issued.
- I. Any law-enforcing public official, including members of the local Liquor Control Commission, the President, or members of the Board of Trustees; and no such official shall have a direct interest in the manufacture, sale, or distribution of alcoholic liquor, except that a license may be granted to such official in relation to premises that are not located within the territory subject to the jurisdiction of that official if the issuance of such license is approved by the State Liquor Control Commission, and except that a license may be granted a member of the Board of Trustees in relation to premises that are located within the territory subject to the jurisdiction of that official if 1) the sale of alcoholic liquor pursuant to the license is incidental to the selling of food, 2) the issuance of the license is approved by the State Liquor Control Commission, 3) the issuance of the license is in accordance with all applicable local ordinances in effect where the premises are located, and (iv) the official granted a license does not vote on alcoholic liquor issues pending before the Board of Trustees. Notwithstanding any provision of this subsection to the contrary, a member of the Board of Trustees, other than the President, may have a direct interest in the manufacture, sale, or distribution of alcoholic liquor as long as he or she is not a law-enforcing public official. To prevent any conflict of interest, the elected official with the direct interest in the manufacture, sale, or distribution of alcoholic liquor shall not participate in any meetings, hearings, or decisions on matters impacting the manufacture, sale, or distribution of alcoholic liquor. Furthermore, the President may have an interest in the manufacture, sale, or distribution of alcoholic liquor as long as the Board of Trustees has made a local Liquor Control Commissioner appointment that complies with the requirements of 235 ILCS 5/4-2 of the Liquor Control Act.

- J. Any person, partnership, or corporation not eligible for a State of Illinois retail liquor dealer's license.
- K. A person who has been convicted of a felony under any federal or state law, unless the Liquor Control Commission 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 Commission's investigation. The burden of proof of sufficient rehabilitation shall be on the applicant.
- L. A person who has been convicted of keeping a place of prostitution or keeping a place of juvenile prostitution, promoting prostitution that involves keeping a place of prostitution, or promoting juvenile prostitution that involves keeping a place of juvenile prostitution.
- M. A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality.
- N. A person whose license issued under this Ordinance has been revoked for cause.
- O. 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 Commission shall permit and accept from an applicant for a license under this Act proof prepared from the Secretary of State's website that the corporation or limited liability company is in good standing and is qualified under the Business Corporation Act of 1983 (805 ILCS 5/1.01 et seq.) or the Limited Liability Company Act (805 ILCS 180/1-1 et seq.) to transact business in Illinois.
- P. A person who is not a beneficial owner of the business to be operated by the licensee.
- Q. A person who has been convicted of a gambling offense as proscribed by any of Subsections (a)(3) through (11) of 720 ILCS 5/28-1 of, or as proscribed by 720 ILCS 5/28-1.1 or 5/28-3 of the Criminal Code of 2012, or as proscribed by a statute replaced by any of the aforesaid statutory provisions.
- R. A person or entity to whom or which a federal wagering stamp has been issued by the federal government, unless the person or entity is eligible to be issued a license under the Raffles and Poker Runs Act (230 ILCS 15/0/01 et seq.) or the Illinois Pull Tabs and Jar Games Act (230 ILCS 20/1 et seq.).
- S. A person who intends to sell alcoholic liquors for use or consumption on his or her licensed retail premises who does not have liquor liability insurance coverage for that premises in an amount that is at least equal to the maximum liability amounts set out in Subsection (a) of 235 ILCS 5/6-21.
- T. A person who is licensed by any licensing authority as a manufacturer of beer, or any partnership, corporation, limited-liability company, or trust or any subsidiary, affiliate, or agent thereof, or any other form of business enterprise licensed as a manufacturer of beer, having any legal, equitable, or beneficial interest, directly or indirectly, in a person licensed in this state as a

distributor or importing distributor. For purposes of this Subsection T, a person who is licensed by any licensing authority as a "manufacturer of beer" shall also mean a brewer and a nonresident dealer who is also a manufacturer of beer, including a partnership, corporation, limited-liability company, or trust or any subsidiary, affiliate, or agent thereof, or any other form of business enterprise licensed as a manufacturer of beer.

U. A person who is licensed in this state as a distributor or importing distributor, or any partnership, corporation, limited-liability company, or trust or any subsidiary, affiliate, or agent thereof, or any other form of business enterprise licensed in this state as a distributor or importing distributor having any legal, equitable, or beneficial interest, directly or indirectly, in a person licensed as a manufacturer of beer by any licensing authority, or any partnership, corporation, limited-liability company, or trust or any subsidiary, affiliate, or agent thereof, or any other form of business enterprise, except for a person who owns no more than 5% of the outstanding shares of a manufacturer of beer whose shares are publicly traded on an exchange within the meaning of the Securities Exchange Act of 1934. For the purposes of this Subsection U, a person who is licensed by any licensing authority as a "manufacturer of beer" shall also mean a brewer and a nonresident dealer who is also a manufacturer of beer, including a partnership, corporation, limited-liability company, or trust or any subsidiary, affiliate, or agent thereof, or any other form of business enterprise licensed as a manufacturer of beer.

Article VI: License Fee and Term

Expiration of license.

Section 6.1 - Rate.

License fees shall be set for a full-year rate as established in VIII for all licenses issued between January 1 and June 30 of each calendar year, and shall be reduced by 1/2 for licenses issued between July 1 and December 31 of each calendar year.

Section 6.2 - Expiration of license.

Each such license shall terminate at 12:00 midnight on December 31 next following its date of issuance.

Article VII: Bond

Section 7.1 - Bond required.

Each applicant for a license hereunder shall execute a penal bond to the Village of Bismarck, Illinois, and the State of Illinois in the sum of \$5,000 with a solvent surety company licensed to do business in the State of Illinois. The Commissioner shall consider said bond but shall have the right to reject said bond. A new bond shall be presented with each application prior to issuance or renewal of any license under the terms of this Ordinance, and the terms of each bond shall be for the calendar year for which the license applies.

Section 7.2 - Bond filing.

Said bond shall be filed as a part of the documentation required to accompany the applicant's application.

Section 7.3 - Bond conditions.

Said bond shall be conditioned upon the faithful observance by the licensee of this Ordinance and the provisions of all liquor laws of the State of Illinois, and all laws of the United States of America applying to the sale, transportation, and possession of alcoholic beverages. Said bond shall be further conditioned upon the payment by the person, partnership, or corporation bonded to any person or persons entitled to damages as a result of any sale, occurrence, transaction, or injury which arises from the operation of the business for which the license hereto applies.

Article VIII: Liquor Classifications

Section 8.1 - Classes established; fees.

Retailer's licenses issued by the Liquor Control Commissioner shall be of the following classes. Requirements for each classification and the annual fees to be charged shall be as follows:

A. Class A liquor license. A Class A license shall be issued to hotels, motels or restaurants meeting the following definitions and requirements:

(1) A "hotel or motel" is hereby defined as every building or other structure kept, used, maintained, advertised, and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and quests, whether transient, permanent, or residential, in which 25 or more rooms are used for the sleeping accommodations of such quests and having one or more public dining rooms being conducted in the same building or buildings, structures being provided with adequate and sanitary kitchen and dining room equipment and capacity, and as long as such food is prepared under sanitary conditions meeting all local and state laws, rules, and regulations.

(2) A "restaurant" is hereby defined as a place where food is actually served and consumed for adequate pay to the public, and having one or more public dining rooms where meals are served and wherein adequate and sanitary kitchen and dining room equipment is provided and wherein the combined dining room seating capacity is adequate to serve 50 patrons at one time, as long as any such food prepared and served is done so under sanitary conditions meeting all local and state laws, rules, and regulations.

(3) All such hotels or motels licensed under this classification shall have an assessed valuation of all buildings and grounds of at least \$200,000.

(4) All such restaurants licensed under this classification shall have an assessed valuation of all buildings and grounds of at least \$100,000.

(5) A Class A liquor license issued to any hotel, motel, or restaurant meeting the requirements above shall entitle the licensee to sell alcohol beverages for consumption on the premises only.

(6) Any licensee under this classification shall be entitled to maintain a dance floor on or within the licensed premises.

(7) The annual fee for a Class A liquor license shall be \$1,450.

(8) A Class A liquor license issued to any hotel, motel, or restaurant meeting the requirements above shall entitle the licensee to sell alcoholic beverages for consumption on the premises or to sell alcoholic liquor in the original package not to be consumed on the premises where sold.

B. Class B liquor license. A Class B liquor license shall be issued to taverns or similar establishments meeting the following definitions and requirements:

(1) A "tavern" is hereby defined as a place selling alcoholic beverages for consumption on the premises and shall include such places commonly known as "saloons," "bars," "barrooms," "cocktail lounges," "ale houses," "road houses," "pubs," and "taprooms."

(2) A Class B liquor license shall entitle the licensee to sell alcoholic beverages for consumption on the premises or to sell alcoholic liquor in the original package not to be consumed on the premises where sold, but shall not include grocery stores or any business wherein the primary business is other than the sale of alcoholic beverages.

(3) A licensee under this classification shall be entitled to sell food and food items as a secondary function of the business being conducted as long as any food prepared and served is done so under sanitary conditions meeting all local and state laws, rules, and regulations.

(4) A licensee under this classification may maintain a dance floor and offer live entertainment or mechanically reproduced entertainment.

(5) The annual fee for a Class B liquor license shall be \$950.

C. Class C liquor license. No Class C liquor license shall be issued for nightclubs or similar establishments in the Village of Bismarck, Illinois.

D. Class D liquor license. A Class D liquor license shall be issued to package liquor stores or similar establishments meeting the following definitions and requirements:

(1) A "package liquor store or establishment" is hereby defined as a place selling alcoholic beverages in the original package, not to be consumed on the premises, including places where sales are made at drive-up facilities.

(2) A Class D liquor license shall not entitle the licensee to sell alcoholic beverages for consumption on the premises.

(3) No licensee under this classification shall maintain a dance floor on or within the licensed premises.

(4) The annual fee for a Class D liquor license shall be \$600.

E. Class E license. A Class E liquor license shall be issued to a club or fraternal organization meeting the following definitions and requirements:

(1) A "club or fraternal organization" is hereby defined as a corporation organized under the laws of this state, not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic beverages, kept, used, and maintained by its members through the payment of annual dues, and owning, hiring, or leasing a building or space in a building, of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests; provided that such club files with the Liquor Control Commissioner at the time of its application for the license under this Ordinance two copies of a list of names and residences of its members, and similarly files within 10 days of the election of any additional member his name and address; and provided further that its affairs and management are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting and that no member or any officer, agent, or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the distribution or sale of alcoholic beverages to the club or the members of the club or its guests introduced by members beyond the amount of such salary as may be fixed and voted at any annual meeting by the members or by its board of directors or other governing body out of the general revenue of the club.

(2) A Class E liquor license shall entitle the licensee to sell alcoholic beverages for consumption on the premises only.

(3) A licensee under this classification shall be entitled to prepare, sell, and serve food and food items and meals to the members and their guests, provided that there exists adequate and sanitary kitchen and dining room equipment and as long as any such food prepared and served is done so under sanitary conditions meeting all local and state laws, rules, and regulations.

(4) Any licensee under this classification shall be entitled to maintain a dance floor on or with the licensed premises.

(5) The annual fee for a Class E liquor license shall be \$500.00.

F. Class F liquor license. A Class F liquor license shall be issued to establishments wishing to sell beer and wine only as long as the following definitions and requirements are met:

(1) The definition of "beer" and "wine" shall be as defined in Article I of this Ordinance.

(2) A Class F liquor license shall entitle the licensee to sell beer and wine by the drink for consumption on the premises and shall only authorize the sale of beer and wine in conjunction with and together with the sale of a meal and only at such times that prepared meals are being sold in the same location on said premises.

(3) A licensee under this classification shall be an establishment that sells and serves food and food items, provided and as long as any such food prepared and served is done so under sanitary conditions meeting all local and state laws.

(4) No licensee under this classification shall maintain a dance floor on or within the licensed premises.

(5) The annual fee for a Class F liquor license shall be \$600.00.

G. Class G temporary liquor license. A Class G temporary liquor license shall be issued to any chartered not-for-profit corporation, religious, political, charitable, or any

organization that can show tax-exempt status wishing to sell beer only as long as the following definitions and requirements are met:

- (1) The definition of "beer" shall be as defined in Article I of this Ordinance;
- (2) A Class G temporary license shall entitle the licensee to sell beer for consumption on the licensed premises only.
- (3) The term or duration of a Class G license shall be for a period of no longer than 10 days in any calendar year. Each day of said license term shall begin no earlier than 6:00 a.m. and end not later than 12:00 a.m. (midnight) of the same calendar date.
- (4) At the time of application, the applicant shall provide evidence that the organization is duly chartered by the State of Illinois as a not-for-profit corporation or show proof that the organization has tax-exempt status.
- (5) The Liquor Control Commission may recommend, and the Liquor Control Commissioner may require any special conditions that relate to the public health, safety, and welfare, including, but not limited to:
 - (a) Limitations on the extent or area of the site or premises where liquor may be sold or consumed.
 - (b) Special parking or security requirements.
 - (c) Special or additional sanitary requirements.
- (6) Applicants for a Class G temporary license shall not be required to submit a bond as specified in Article VII. Applicants applying for a Class G temporary license shall be required to show proof of DRAM Insurance.
- (7) The fee for a Class G temporary license shall be \$25 each day for the term that the license is issued.

Section 8.2 - Forfeiture of fee.

In the event a license is surrendered under any provision of this Ordinance, the license fee shall be forfeited by the licensee. No portion of any license fee shall be returned to the licensee for the period of time when a license is considered null and void or when a license is suspended or revoked under any provisions of this Ordinance.

Section 8.3 - Limit on number of licenses.

At no time shall the Liquor Control Commissioner issue more licenses than indicated below for the classifications allowed by this Ordinance:

License Classification	Limit on Number of Licenses
A	1
B	1
C	0
D	3
E	2
F	2
G	No limit; however, only one license may be issued for any one period of time.

Section 8.4 - Increase or decrease in number of licenses.

There shall be no increase or decrease in the number of licenses available for issuance at any time hereafter unless and until the Board of Trustees shall cause notice to be given of not less than 90 days by publication in a newsletter having general circulation within the Village of Bismarck, Illinois, of the time, date, and location of any meeting of the Board of Trustees during which such an increase or decrease shall be considered and final action taken thereon.

Section 8.5 - Location of consumption.

No person shall be permitted to consume any alcoholic liquors on that portion of the premises that are outside the structure in which a licensee is operating under a valid license unless that license permits consumption on the premises and the same is authorized by the licensee. No licensee of any license shall authorize consumption of alcoholic liquor on the parking area of any premises during or after business hours.

Section 8.6 - License list.

The Liquor Control Commissioner shall keep or cause to be kept a complete record and/or official listing of all licensees and licenses issued by said Liquor Control Commissioner. Upon issuance of any license or revocation of any license, the Liquor Control Commissioner shall notify the Vermilion County Sheriff's Department within 48 hours by providing a copy of such transaction or an updated copy of the official list of licensee and licenses issued.

Article IX: Operating Restrictions

Section 9.1 - Transfer of license.

Any license granted shall not be subject to attachment, garnishment, or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or the subject matter of any lien. The trustees of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic beverages, may continue the business of the sale of alcoholic liquor under order of the appropriate court, and may exercise the privileges of 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. No license fees paid to the Village of Bismarck shall be refunded in the event any such business ceases to operate during the term of the license issued.

Section 9.2 - Unused license; renewal fee.

Any business which ceases to operate as a retail seller of alcoholic liquor for a period of 30 days during the term of a license shall be deemed to have an unused license. Any such unused license may be forfeited by the Liquor Control Commissioner and, if done so, shall be considered null and void for the period that the license is not in use. No license fees paid to the Village of Bismarck shall be refunded when a license is so forfeited. Any license holder wishing to renew an unused license which has not been forfeited by the Liquor Control Commissioner shall pay a renewal license fee of \$250 and shall submit a renewal application in accordance with Article IV; however, the Liquor Control Commissioner can renew said license without following the review procedures required in IV.4.2. An unused license may not be renewed more than one time as such without being restored to active operation since its previous term of being unused. In the event that a business is closed as a result of an act of God, the Liquor Control Commissioner may hold open the licensee's license for a period not to exceed one year from the date of occurrence.

Section 9.3 - Change of location.

Any license holder who proposes to change the location of the business which is licensed shall notify the Liquor Control Commissioner in writing prior to such change being made. The Liquor Control Commissioner shall notify the Village of Bismarck Board of Trustees and shall update and reissue the official license list required in Section VIII.8.4 of this Ordinance. In the event that the new location does not meet the requirements of this Ordinance, the applicant will be so notified by the Liquor Control Commissioner.

Section 9.4 - Change in ownership.

Any transfer of an operating business between owners or any change in ownership of the business holding the license shall cause the new owner to submit an application for a new license and a new license fee in accordance with Article IV. Such new application will be handled and acted upon in accordance with Article V; however, the Liquor Control Commissioner shall be required to issue notification to the previous owner and the new owner that the license is being issued to the new owner. No new owner of an operating business shall sell alcoholic beverages until such time as a new license has been issued by the Village of Bismarck Board of Trustees.

Section 9.5 - Peddling prohibited.

It shall be unlawful for any person, firm, partnership, or corporation to peddle alcoholic liquor within the corporate limits of the Village of Bismarck and, accordingly, the sale of alcoholic beverages shall be limited to the premises for which a license is issued under the terms of this Ordinance.

Article X: Operating Standards

Section 10.1 - Sanitary conditions.

All premises used for the retail sale of alcoholic beverages for such sale shall be kept in a clean and sanitary condition, and shall be kept in full compliance with the laws of the State of Illinois.

Section 10.2 - Rest rooms.

No license shall be issued unless the premises wherein such business is to be conducted have available in the building for which the license is to be issued, for the use of patrons of such business, two separate rest rooms, one for men and one for women, which both shall at all times have operable toilets, wash basins or lavatories with hot and cold running water and sanitary conditions.

Section 10.3 - Employees.

Employees of package liquor establishments which have been issued a Class D license under this Ordinance shall be at least 18 years of age, while employees serving alcoholic beverages in establishments licensed under any other license classification shall be at least 21 years of age. All employees serving or handling food in any establishment shall be qualified under the applicable State of Illinois laws regarding the handling of food and beverages.

Section 10.4 - Location restrictions.

No license shall be issued for the sale at retail of any alcoholic beverages within 200 feet of any church, school, hospital, home for the aged or indigent persons, or home for veterans, their wives or children, or any military station. Each place of business licensed under this Ordinance which is located within the jurisdiction of a local zoning ordinance shall comply with the provisions of such ordinance.

Section 10.5 - Closing hours.

The closing hours of establishments licensed under this Ordinance for all classes shall be 12:00 a.m. (midnight) to 7:00 a.m., Sunday through Saturday.

Section 10.6 - Display of license.

Every licensee shall cause his or her license or licenses to be framed and hung in plain view in a conspicuous place on the licensed premises.

Article XI: Administration and Enforcement

Section 11.1 - Commission recommendations.

The Village of Bismarck Board of Trustees may, by a majority vote at a convened meeting, recommend the issuance or suspension or revocation of any license applied for or issued under the terms of this Ordinance or on the basis of any provision of the applicable state liquor laws

pertaining to the sale of alcoholic beverages. In the case of a tie vote of the members at a convened meeting, the President of the Village of Bismarck shall vote to break the tie. All recommendations shall be transmitted by the Chairman of the Liquor Control Commission for final action.

11.2 - Re-eligibility.

When a licensee shall have his or her license revoked for any cause, said licensee shall not be eligible to apply for reissuance or for a new license for a period of 12 months after the date of revocation. License suspensions shall be for the term so stated by the Village of Bismarck Board of Trustees and such license shall be considered in effect the day following the term of such suspension.

Section 11.3 - Warning to minors.

Every licensee shall display in plain view in a conspicuous place on the licensed premises a printed notice which shall read substantially as follows:

WARNING TO MINORS

You are subject to a fine of not less than \$100 nor more than \$500 or imprisonment in a penal institution other than a penitentiary for not more than 30 days, or both, if you purchase, accept as a gift, or have in your possession alcoholic liquor or misrepresent your age for the purpose of purchasing or obtaining alcoholic liquor.

Section 11.4 - Complaints.

Any citizen or person shall have the right to file a complaint with the Liquor Control Commissioner stating that any licensed establishment or licensee, under the jurisdiction of this Ordinance, has been or is violating any provisions of this Ordinance or the rules and regulations pursuant hereto. Such a complaint shall be in writing in the form prescribed by the Liquor Control Commission and shall be signed and sworn to by the party or parties making such complaint. The complaint shall state the particular provision, rule, or regulation believed to have been violated and shall state the facts in detail upon which the belief is based. If the Liquor Control Commissioner is satisfied, after a thorough investigation of the facts, that there has been a violation of any of the provisions of this Ordinance and that such charges have been proved by a preponderance of the evidence, then the Village of Bismarck Board of Trustees may issue a recommendation of suspending or revoking the license of such licensee.

Section 11.5 - Authority to inspect; enforcement.

The Liquor Control Commissioner shall have the authority to enter or to authorize any law or health enforcement officers to enter at any time upon the premises licensed hereunder to determine whether any of the provisions of this Ordinance or any rules and regulations adopted by it, or any law or rules of the State of Illinois liquor laws have been or are being violated, and at such time to examine said premises of said licensee in connection herewith. The Liquor Control Commissioner of the Village of Bismarck shall issue a proper identification card for anyone who shall be deemed to be authorized to make inspections or site visits in connection with this Ordinance. The Vermilion County Sheriff's Department is directed to enforce the provisions of this Ordinance and to notify the Liquor Control Commissioner of all violations of this Ordinance within 24 hours of any such violations.

Section 11.6 - Violations and penalties.

A. If the owner of the licensed premises or any person from whom the licensee derives the right to possession of such premises, or the agent of such owner or persons, shall knowingly permit the licensee to use said licensed premises in violation of the terms of this Ordinance, said owner, agent, or other person shall be deemed guilty of any violation of this Ordinance to the same extent as said licensee and be subject to the same punishment.

B. Every act or omission constituting a violation of any of the provisions of this Ordinance made with the authorization, knowledge, or approval of the licensee, expressed or implied, shall be deemed the act of the licensee, and said licensee shall be punishable in the same manner as if said act or omission had been done or omitted by him personally.

C. Whenever any officer, director, manager, or other employee in a position of authority of a licensee under this Ordinance shall be convicted of any violation of this Ordinance while engaged in the course of their employment or while upon the premises described by said license, the license of the licensee may be revoked by the Village of Bismarck Board of Trustees.

D. Anyone found guilty of violating the provisions of this Ordinance shall also be subject to the following penalties:

- (1) For a first violation within a twelve-month period: not to exceed \$1,000.
- (2) For a second violation within a twelve-month period: not to exceed \$1,500.
- (3) For a third or subsequent violation within a twelve-month period: not to exceed \$2,500.
- (4) Not more than \$15,000 in fines may be imposed against any licensee during the period of the license.

Section 11.7 - Disturbance reports.

Any disturbance in or at any licensed establishment, which shall also include the parking area, involving the calling of the police or ambulance, or personal injury on any altercations, must be reported within five days of said incident to the Liquor Control Commissioner by the license holder on forms provided by the Commissioner.

Section 11.8 - Suspensions and revocations.

In addition to the violation of any provisions of any articles or sections of this Ordinance, the following shall be considered as grounds for suspensions or revocations of any license issued under the provisions of this Ordinance:

- A. Any violation of any law of the State of Illinois.
- B. Falsification of any information submitted on or with an application for license.
- C. Payment by the licensee of any federal tax imposed on gambling or gambling equipment under the United States Code.

D. Maintaining or operating a dram shop on any premises registered as a place of business when activities are carried on which make the person or persons involved subject to any tax on wagering.

E. Permitting gambling of any kind to be conducted on the premises where the licensee carries on his business.

F. Any violation of the terms of Section 10.5 having to do with closing hours.

G. No licensee or employee or bartender of such licensee shall knowingly suffer to be done or commit any act of prostitution, of soliciting for a prostitute, of pandering, of keeping a place of prostitution, of patronizing a prostitute, or of pimping as defined by statute on or in the licensed premises; and no person shall be entitled to receive a liquor license who has been convicted of any of the foregoing crimes and misdemeanors opposing decency or morality; and the conviction of any licensee in any court having jurisdiction thereof shall be subject to the penalty herein provided in addition to any penalties otherwise provided by law, and the license issued to any such licensee so convicted shall be revoked, as herein provided.

H. Failure to have in force a policy of liability insurance on the place of business for the term of the license by a reputable insurance carrier.

I. Failure to own or lease the premises for the term of the license.

Section 11. 9 - Procedures for revocation.

A. The proceedings to revoke any license issued under this Ordinance shall be as set forth in 235 ILCS 5/7-5, as amended, and the rules and regulations adopted in accordance with such statute, and such rules and regulations are hereby specifically incorporated by reference as part of this Ordinance. The Liquor Control Commissioner shall make available the hearing procedures to any and all parties of a revocation hearing.

B. Upon taking any action to suspend or revoke any license for cause, the Liquor Control Commissioner shall notify the licensee in writing and shall notify the Vermilion County Sheriff's Department within 48 hours by providing a copy of such notification or an updated copy of the official list of licensees and licenses issued as stated in Section 8.6 herein.

Passed by the Board of Trustees of Village of Bismarck, Bismarck, Illinois, on the 24th day of August, 2021 on the following roll call vote:

AYES: Mary Patten, Dan Lof, Shula Lomitzer, Karl Helpert, Terry L. Light **4/1**
NAYS: Ø
ABSTAINING: Ø
ABSENT: Ø

Approved this 24th day of August, 2021.

Mike Brown Village President
Mike Brown, Village President

ATTEST:

Brandye Kizer
Brandye Kizer, Village Clerk

STATE OF ILLINOIS)
) SS
COUNTY OF VERMILION)

CERTIFICATE

I, Brandye Kizer, Village Clerk of the Village of Bismarck, Illinois, do hereby certify that the foregoing is a true and correct copy of the Liquor Control Ordinance passed by the Village of Bismarck, Bismarck, Illinois at its meeting held on the 24th day of August, 2021 and signed by the President of the Board of Trustees and attested by the Village Clerk of said Board, on said date as the same appears on the records of said Board, now in by custody and keeping.

Brandye Kizer
Brandye Kizer, Village Clerk