

CHAPTER 114: BUSINESS REGISTRATION AND LICENSING

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**ARTICLE I:
REGISTRATION REQUIREMENTS APPLICABLE TO ALL BUSINESSES**

§ 114.01 PURPOSE; DEFINITIONS:

(A) Purpose: The purpose of this Article I is to establish certain requirements for the registration, licensing and permitting of all businesses that are established, operated and/or maintained within the corporate limits of the Village in order to protect the public health, safety and welfare. Except as expressly provided herein, the provisions of this Article I shall also be applicable to all certificate(s), license(s), and permit(s) issued pursuant to this Title.

(B) Definitions: For purposes of this Title, the following words shall have the meaning(s) set forth below:

BUILDING INSPECTOR: The Building Inspector (sometimes referred to as the “Building and Zoning Official”) identified in Chapter 150, “Building Regulations”, of this Code, or his or her designee. (Sometimes referred to herein as the “Code Enforcement Officer”)

BUSINESS: Any business, occupation, and/or profession having its place of business within the corporate limits of the Village.

CORPORATE AUTHORITIES: The President and Board of Trustees of the Village.

PERSON: Any individual, sole proprietorship, corporation, association, partnership, limited liability company, or any legal entity.

POSSESS or POSSESSION: To be within the physical control of a person or within the area of a person’s reasonably expected physical control (i.e., in their constructive possession), but for the purpose of this Chapter, “possession” shall not include the act of lawfully serving of alcoholic liquor to one or more customers at tables on the licensed premises by an employee of a licensee with a current, valid license issued therefor pursuant to this Article II in the course of their employment if such employee meets the age and supervision requirements of this Article II.

VILLAGE: The Village of Port Barrington, Lake and McHenry Counties, Illinois.

(Ord. 3-8-A, passed 10/18/2006; Amd. Ord. 2018-12-01, passed 12/19/2018) Penalty, see § 114.99

**§ 114.02 REGISTRATION REQUIRED FOR ALL BUSINESSES WITHIN THE VILLAGE;
APPLICATION FOR CERTIFICATE OF REGISTRATION, BUSINESS INSPECTION
CERTIFICATE, AND PERMIT(S):**

(A) Annual Registration of Business Required:

- (1) Any person who desires to establish and/or operate, and any person who is presently operating and/or maintaining a business within the corporate limits of the Village is required to register such business with the Village on an annual basis, on a form provided by the Village, prior to commencement of and/or continuance of the operation(s) of any such business within the Village, and to apply to the Village for and receive from the Village the required: (1)

Certificate of Registration for such business; (2) Business Inspection Certificate; (3) any required license(s) and/or permit(s); and (4) pay to the Village any required fee(s) and/or cost(s) relative thereto. (The Certificate of Registration and the Business Inspection Certificate are sometimes collectively referred to in this Chapter as the “Certificates”.)

- (2) Upon completion of the application process and approval of the respective application by the Village President, the Village will issue to the applicant(s) the required Certificates and any required license(s) and/or permit(s), and the applicant(s) may thereafter commence the operation of said business within the Village.

(B) Annual Application for Business Inspection Certificate(s), Permit(s), and/or License(s) Required:

- (1) On an annual basis, and not later than April 1 of each year, and prior to commencing and/or continuing the operation of any business within the Village, any person who desires to establish, operate, and/or maintain a business within the corporate limits of the Village is required to apply to the Village for, receive from the Village, and post on the business premises the required Certificate of Registration, Business Inspection Certificate, and if applicable, any permit(s) and/or license(s) otherwise required for each such business, and pay to the Village any required fee(s) and/or costs relative thereto.
- (2) Should any information submitted in an application change during the term of the respective certificate and/or permit issued by the Village, the applicant is required to promptly notify the Village of Port Barrington of any such change and submit to the Village an amended application containing the new information and any supporting documentation required by the Village.

- (C) Application Forms: Applications for the Certificate of Inspection required by this Article I and any required permit(s) and/or license(s) to conduct a business within the Village shall be made in writing and submitted to the Village Clerk on the respective form(s) provided by the Village Clerk’s office. All such forms must be fully completed and executed by all of the respective applicant(s), and must be submitted to the Village Clerk together with all required supporting documentation and the applicant’s payment of any required fee(s) and/or cost(s).

(D) Fingerprinting of Applicant(s) and Background Checks Required: As part of the application process:

- (1) All applicants for the establishment, operation, and/or maintenance of any new business within the Village, and all applicants for the annual renewal of any existing business within the Village, shall be subject to fingerprinting and a criminal history background check which will be conducted by the applicable law enforcement agency in which such business is or is proposed to be located. This requirement shall apply to all applicants, including but not limited to: (1) individual applicants and/or sole proprietorships; (2) in the case of a partnership, to each partner; (3) in the case of a limited liability company, to each manager; and (4) in the case of a corporation, to each officer, director and shareholder owning 5% or more of the stock of the corporation. At the sole discretion of the Village Administrator, relative to the annual renewal of any business within the Village, subsequent fingerprinting and/or background check(s) of the respective applicant(s) may thereafter be required only on a random basis if the applicant(s) have once been fingerprinted and the respective background check(s) approved by the Village.

- (2) No Certificate(s), permit(s) and/or license(s) shall be issued by the Village until at least 30 days after the date an applicant submits a completed application to the Village, or the date the Village receives all required and/or requested supporting documents and the application is considered by the Village to be complete, whichever is later. The Village Clerk shall forward a copy of each complete application to the applicable law enforcement agency in order for such law enforcement agency to perform the required fingerprinting and criminal background check(s) on the respective applicant(s), and provide a copy of the results thereof to the Village President for his or her review and approval or disapproval.
- (3) All fee(s) for applicant fingerprinting and the required background check(s) shall be the responsibility of the applicant to pay prior to, and as a condition of, the Village's issuance of the required business Certificates, permit(s) and/or license(s) and shall also be a debt due and owing to the Village.
- (E) Review, Approval or Disapproval of Applications: After receipt by the Village Clerk of a completed application and all supporting documentation, including but not limited to the required inspection report(s) of the business premises, fingerprinting results and background check results, the Village Clerk shall forward the completed application to the Village President for his or her review, approval, or disapproval prior to the Village's issuance of any business certificates, permit(s) and/or license(s).
- (F) All applicants, and any and all businesses operating within the corporate limits of the Village, are required to comply with all applicable federal and State regulations and all applicable Ordinance(s) of the Village of Port Barrington in the conduct of the respective business.
- (G) The Village Clerk shall keep and maintain a complete record of all businesses registered with the Village as well as copies of the Certificate of Registration, Business Inspection Certificate and any permit(s) and/or license(s) issued by the Village, if any, for each such business.
- (H) On or before March 1 of each year, the Village Clerk, or his or her designee, shall send to each business registered with the Village a notice via regular U.S. Mail advising that the Business Inspection Certificate and any permit(s) and/or license(s), if applicable, for said business is or are required to be renewed with the Village on or before April 30 of that respective year.

(Ord. 3-8-A, passed 10/18/2006; Amd. Ord. 2018-12-01, passed 12/19/2018)

§ 114.03 CERTIFICATION FORMS, LICENSE(S), PERMIT(S) AND SIGNATURES:

Except as otherwise specifically provided in this Article I, each valid Certificate of Registration, Business Inspection Certificate, and permit and/or license issued by the Village shall bear the signature or facsimile thereof of the Village President and Village Clerk.

(Ord. 3-8-A, passed 10/18/2006; Amd. Ord. 2018-12-01, passed 12/19/2018)

§ 114.04 ISSUANCE OF CERTIFICATES, PERMIT(S) AND/OR LICENSE(S); TERM:

- (A) The Village President, or his or her designee, will endeavor to complete the review, approval, and/or disapproval of a fully completed and executed application for a Certificate of Registration, Business Inspection Certificate, and/or any required permit(s) and/or license(s) for establishment, operation, and/or maintenance of a business within the Village within a reasonable time after the Village's receipt of a completed application therefor and all supporting documentation, subject to the Village's timely receipt of any required or requested additional submittals and the results of the required fingerprinting and background check(s) of each applicant.
- (B) Prior to and as a condition of the Village's issuance of any Business Inspection Certificate, it is and shall be the responsibility of an applicant for the establishment, operation, and/or maintenance of a business within the Village to timely schedule with the Village's Building Inspector and permit the required inspection(s) and/or reinspection(s) of the business premises and to promptly remedy any deficiencies in the premises identified in writing by the Village's Building Inspector.
- (C) Upon approval of any such application and related documentation by the Village President and the Village's receipt of the applicant's payment of all fee(s) and cost(s) due the Village associated therewith, the Village President, or his or her designee is hereby authorized to issue the required Certificate of Registration, Business Inspection Certificate, and, if applicable, any required business permit(s) and/or license(s) for the respective period ending April 30 of the fiscal year following issuance thereof, or any portion thereof.
- (D) Except as otherwise specifically provided in this Chapter, each Certificate of Registration, Business Inspection Certificate, and permit(s) and/or license(s) issued for a business pursuant to this Chapter shall terminate on April 30 of the fiscal year following issuance thereof.

(Ord. 3-8-A, passed 10/18/2006; Amd. Ord. 2018-12-01, passed 12/19/2018)

§ 114.05 INVESTIGATION OF APPLICANTS:

- (A) Upon receipt of an application for a license or permit, or renewal thereof, the Village Clerk shall promptly refer the application to the proper Village official or employee for the purpose of inspection and investigation to determine compliance with all applicable ordinances and regulations.
- (B) The officials or employees reviewing an application shall make a report thereon, favorable or otherwise, after due investigation and promptly upon obtaining all relevant information relating to the applicant.
- (C) Upon receipt of all related investigative reports, the Village Clerk shall forward the reports, together with the application, to the Village President and Board of Trustees for evaluation and determination.

(Ord. 3-8-A, passed 10/18/2006)

§ 114.06 CONDITION OF BUSINESS PREMISES; INSPECTION(S) REQUIRED:

- (A) As a condition precedent to the Village's issuance of the required annual Business Registration Certificate and annual Business Inspection Certificate, all premises used for or in connection with the operation of a business located within the Village are required to be in good condition and shall be subject to an annual inspection and/or any subsequent reinspection(s), if necessary, by the Village in order to secure compliance with all applicable provisions of the Village of Port Barrington Code of Ordinances.
- (B) The Village's Building Inspector shall be required to and is hereby authorized to conduct one or more inspection(s) and/or any subsequent reinspection(s), if necessary, of the premises of every business registered, or proposed to be registered, with the Village on an annual basis prior to the Village's issuance of the required annual Business Registration Certificate and the required annual Business Inspection Certificate for the respective business and premises, and/or as often as reasonably necessary to ensure compliance by the business with this Chapter and all other applicable ordinances of the Village.
- (C) Upon completion of each inspection of a business premises, the Building Inspector shall prepare a written report of the condition of such premises, including but not limited to a list of any deficiencies identified in the premises and/or any remedial action required to be taken by the applicant(s) and/or the owner(s) and/or operator(s) of the premises in order for the Village to issue the required annual Business Registration Certificate and the required annual Business Inspection Certificate. The Building Inspector shall provide a copy of such inspection report to the Village Clerk and to the applicant(s) and/or owner(s) and/or operator(s) of the premises as soon as possible after any such inspection or reinspection.
- (D) As a condition precedent to the Village's issuance of the required annual Business Registration Certificate and annual Business Inspection Certificate, if any deficiency(ies) in the premises are identified in the inspection report, the applicant(s) and/or the owner(s) of the premises shall be required to remedy all such deficiencies in a timely manner and schedule a subsequent reinspection of the premises with the Building Inspector who shall reinspect the premises and prepare a further written inspection report relative to the subsequent condition of the premises to document whether or not the premises is in compliance with the applicable ordinances of the Village. The Building Inspector shall provide a copy of such reinspection report to the Village Clerk and to the applicant(s) and/or owner(s) and/or operator(s) of the premises as soon as possible after any such reinspection.
- (E) All applicants for the establishment, operation, and maintenance of a business within the Village are required to permit such inspection(s) and/or reinspection(s) and pay to the Village the required fee(s) for any such inspection(s) and/or reinspection(s) in those amount(s) as set forth in this Article I.
- (F) If an applicant disagrees with the results of the Building Inspector's inspection report, said applicant may appeal to the Village President relative thereto. Any such appeal may delay the Village's issuance of any required Certificate(s) and/or any applicable permit(s) and/or license(s).

- (G) Failure by an applicant to either permit or to provide convenient access to the premises in order to allow the Building Inspector to complete the required inspection(s), provide samples of products, or otherwise provide any data or other information as the Village may reasonably require to evaluate an application, shall constitute sufficient cause for the Village's disapproval of an application for the required Certificates or permit(s) and/or license(s), if applicable.

(Ord. 3-8-A, passed 10/18/2006; Amd. Ord. 2018-12-01, passed 12/19/2018)

§ 114.07 APPROVAL OR DISAPPROVAL OF APPLICATION:

Upon receipt of a fully-completed application for the establishment, operation, and/or maintenance of a business within the Village, the Village Clerk shall forward such application and all supporting documentation to the Village President for his or her review, approval, or disapproval as follows:

- (A) Except as otherwise specifically provided in this Article I, if it shall appear to the Village President that the matters and circumstances relating to an application require that the applicant submit to the Village further information before a proper determination can be made, the application shall be returned to the Village Clerk for the inclusion of any such additional information as may be specified necessary and appropriate.
- (B) Except as otherwise specifically provided in this Article I, if, after due consideration of the information contained in an application and the related supporting documentation, the Village President shall determine that the matters concerning the application are unsatisfactory, the Village President may disapprove the application, indicating the reasons therefor. Thereupon, the Village Clerk shall be directed to promptly notify the applicant that the application is disapproved, and that no Certificate(s) and/or permit(s) and/or license(s) will be issued.
- (C) Except as otherwise specifically provided in this Article I, if, after due consideration of the information contained in an application and the related supporting documentation, the Village President shall determine that the application is satisfactory, the application shall be approved. Thereupon, the Village Clerk shall be directed by the Village President to promptly notify the applicant that the application is approved and the required Certificate of Registration, Business Inspection Certificate, and permit(s) and/or license(s), if applicable, may be issued.
- (D) If an application is disapproved by the Village President, the applicant may appeal such decision to the Corporate Authorities of the Village pursuant to the provisions contained in this Article I.
- (E) An application may be disapproved for any of the reasons stated in Sections 114.13 of this Chapter or stated in Section 114.27(G) of this Chapter.

(Ord. 3-8-A, passed 10/18/2006; Amd. Ord. 2018-12-01, passed 12/19/2018)

§ 114.08 FEES AND/OR COSTS:

- (A) In addition to any fee(s) and/or cost(s) otherwise required by this Chapter to be paid by an applicant, all businesses registered with the Village pursuant to this Chapter shall be required to apply to the Village for a Business Registration Certificate and Business Inspection Certificate on an annual basis no later than April 30 of each year and pay to the Village an annual non-refundable inspection service fee to cover the cost of processing the respective annual application and the

inspection and/or one (1) reinspection of the business premises, identification of any violation(s) of applicable Village ordinance(s) and/or of any other applicable fire prevention and/or life safety regulations, the cost of which will be an annual non-refundable fee payable to the Village on or before April 30 of each year of \$200.00. Such fee will cover processing the respective application and the initial annual inspection and one re-inspection only of the same premises. This fee is a flat fee that shall not be prorated for applications received after April 30 of any given year.

- (B) For any subsequent inspection after the first reinspection of the same premises, an applicant shall be required to pay to the Village an additional non-refundable fee of \$100.00 for each such subsequent inspection.
- (C) All fee(s) and/or cost(s) required to be paid by an applicant pursuant to this Chapter are non-refundable.

(Ord. 3-8-A, passed 10/18/2006; Amd. Ord. 2018-12-01, passed 12/19/2018)

§ 114.09 TRANSFER OF CERTIFICATE(S), PERMIT(S), AND/OR LICENSE(S) PROHIBITED:

Registration Certificate(s), Business Inspection Certificate(s), and any permit(s) and/or license(s) issued by the Village for a business pursuant to this Chapter are specific to the particular applicant and business and may not be transferred to another person.

(Ord. 3-8-A, passed 10/18/2006; Amd. Ord. 2018-12-01, passed 12/19/2018)

§ 114.10 ANNUAL RENEWAL OF BUSINESS REGISTRATION CERTIFICATE(S), BUSINESS INSPECTION CERTIFICATE(S), PERMIT(S) AND/OR LICENSE(S) REQUIRED; LATE PAYMENTS:

- (A) Annual Renewal of Business Registration Certificate(s) and Business Inspection Certificate(s), Permit(s), and/or License(s) Required: On or before April 30 of each year, each business premises is required to be inspected and/or reinspected, if necessary, the required Business Registration Certificate(s) and Business Inspection Certificate(s) and/or any related permit(s) and/or license(s) issued by the Village, and the applicable fee(s) and/or cost(s) therefor paid to the Village. It is and shall be unlawful for any business to operate within the Village without current, valid Certificate(s) and/or without any other required Village permit(s) and/or license(s).
- (B) Late Payment(s): Whenever an application for renewal of Business Registration Certificate(s) and Business Inspection Certificate(s) and/or any related permit(s) and/or license(s) is received after April 30 of any given fiscal year, the annual fee required to be paid by an applicant as set forth in this Article shall be based on the following schedule:

<i>Application for Renewal Received</i>		<i>Required Fee</i>
<i>On or After</i>	<i>But On or Before</i>	
May 1	June 30	125% of annual fee
July 1	August 31	150% of annual fee
September 1	October 31	175% of annual fee
November 1	December 31	200% of annual fee

(Ord. 3-8-A, passed 10/18/2006; Amd. Ord. 2018-12-01, passed 12/19/2018)

§ 114.11 DISPLAY OF CERTIFICATE(S), PERMIT(S) AND/OR LICENSE(S) REQUIRED:

Every person conducting a business within the corporate limits of the Village is required to keep on display at all times in a prominent place on the business premises the respective current, valid Certificate of Registration, Business Inspection Certificate, and any permit(s) and/or license(s) issued by the Village relative to such business.

(Ord. 3-8-A, passed 10/18/2006; Amd. Ord. 2018-12-01, passed 12/19/2018) Penalty, see § 114.99

§ 114.12 SEPARATE CERTIFICATE(S), PERMIT(S), AND/OR LICENSE(S) REQUIRED FOR EACH BUSINESS LOCATION:

A Certificate of Registration, Business Inspection Certificate, and/or any other applicable permit(s) and/or license(s) for a business located within the corporate limits of the Village which are required by the applicable provisions of this Village Code shall be applicable only to one location of the business operation. A separate Certificate of Registration, Business Inspection Certificate, all other applicable permit(s) and/or license(s) shall be required for each separate and specific location of any such business, whether or not each such business is owned, operated, and/or managed by the same person and whether or not each such business has the same classification. For the purpose of this Chapter, “one location” shall mean all buildings containing a principal or accessory use which buildings are connected or located on the same lot or parcel.

(Ord. 3-8-A, passed 10/18/2006; Amd. Ord. 2018-12-01, passed 12/19/2018)

§ 114.13 SUSPENSION AND/OR REVOCATION OF CERTIFICATE(S), LICENSE(S), OR PERMIT(S); HEARING:

(A) Any Certificate(s), permit(s), and/or license(s) issued to a business operating within the Village may be suspended and/or revoked for cause by the Village President after notice thereof to the applicant(s), business owner(s) and/or operator(s), as the case may be, and a hearing thereon as provided in this Article I, including but not limited to for any of the following:

- (1) Any fraud, misrepresentation, or false statement contained in an application for any required Certificate of Registration, Business Inspection Certificate, and/or any other permit(s) or license(s); and/or
 - (2) Any violation of: (a) any applicable federal and/or state regulations, (b) any applicable provisions of the Village's Code of Ordinances, (c) the terms and conditions of any Certificate(s), license(s), permit(s) and/or approval(s) issued by the Village for and/or relating to the subject business, and/or (d) any violation existing and/or continuing on the premises on which said business is operated; and/or
 - (3) If the applicant and/or permittee and/or owner(s) and/or operator(s) of the subject business have been found guilty by a court of competent jurisdiction of any felony or of a crime or offense involving moral turpitude, and/or any offense opposed to decency and/or morality; and/or
 - (4) The applicant and/or permittee and/or owner(s) and/or operator(s) of the subject business being found liable of any offense involving moral turpitude, and/or any offense which is opposed to decency and/or morality by an administrative adjudication hearing officer or other administrative tribunal; and/or
 - (5) Failure of an applicant and/or permittee to pay on a timely basis any fee(s), cost(s), fine(s) and/or penalty(ies) due and owing to the Village; and/or
 - (6) Refusing to provide convenient access to the business premises or samples of the product(s), data or other information as may be reasonably requested by the Village in evaluating any application for renewal of any Certificate(s), permit(s), license(s) and/or approval(s) relative to the subject business or the premises.
- (B) The suspension and/or revocation of any Certificate(s) and/or permit(s) issued by the Village for the subject business shall not preclude the Village's prosecution of any applicant(s), and/or any business owner(s) and/or operator(s), and/or the owner(s) of the property on which the subject business is located and the imposition of any additional or other fine(s), cost(s), and/or penalty(ies) for the violation of any federal and/or state laws and/or regulations, any applicable provisions of this Village Code and/or of any other applicable ordinances of the Village.
- (C) Prior to the Village's denial, suspension or revocation of any Certificate, permit, or license issued by the Village, a hearing relative thereto shall be held before the Village President, at which time the applicant(s) shall be given an opportunity to be heard. Notice of said hearing shall be given to the respective applicant(s) and/or permittee in writing, setting forth the specific grounds of the complaint and the time and place of the hearing. The notice shall be sent by certified mail, return receipt requested, to the applicant(s) and/or the permittee at their last known address at least seven (7) days prior to the date of the hearing as set forth in said notice.
- (D) At said hearing, the applicant(s), licensee(s) and/or permittee(s), as the case may be, shall be permitted to be represented by counsel at the sole expense of the applicant(s), licensee(s) and/or permittee(s) and shall be given the right to be heard and to submit evidence and cross-examine witnesses. The Village President shall preside at said hearing and shall render the decision on said matter.

- (E) Recovery of Fees: Whenever any Certificate, permit, license, and/or approval hereunder has been revoked or suspended as provided for in this Chapter, the licensee shall not be refunded any monies that have been paid for said Certificate, permit, and/or license.

(Ord. 3-8-A, passed 10/18/2006; Amd. Ord. 2018-12-01, passed 12/19/2018)

§ 114.14 APPEALS:

- (A) Right to Appeal: After a hearing before the Village President, any person aggrieved of a decision by the Village President in regard to:

- (1) the disapproval by the Village President of an application for a Certificate of Registration, Business Inspection Certificate, and/or any required permit(s), license(s), and/or approval(s) for establishment and/or operation of a business within the Village, and/or
- (2) the decision of the Village President at a hearing to suspend and/or revoke any business Certificate(s), permit(s), license(s), and/or approval(s) issued by the Village relative to the establishment and/or operation of a business within the corporate limits of the Village,

such person may appeal any such decision to the Board of Trustees. A request for appeal shall be in writing and submitted to the Village President within ten (10) days of the decision rendered by the Village President which is the subject of said appeal.

- (B) Consideration by Village Board of Trustees: The Board of Trustees of the Village shall consider an appeal at its next regularly scheduled meeting which is at least five (5) days after receipt of a written request for an appeal, at which time the applicant, permittee, or licensee, as the case may be, shall be entitled to present such appeal orally or in writing and may be represented by counsel at such meeting at his or her sole expense.
- (C) The Board of Trustees of the Village will act on said appeal within ten (10) days after the completion of the hearing thereon and shall either uphold the decision of the Village President or reverse the Village President's decision and direct the issuance of the subject business Certificate(s), permit(s), and/or license(s) which the Village President had disapproved and/or denied. The decision of the Board of Trustees on an appeal is and shall be final and subject to judicial review only by a court of competent jurisdiction.
- (D) Notwithstanding the foregoing, any decision by the Village President, acting as the Local Liquor Control Commissioner, relative to the suspension or revocation of any Liquor License issued and any fine imposed on a licensee by the Village President shall solely be appealable to the Illinois Liquor Control Commission as provided by the Illinois Liquor Control Act, and such appeals shall be based upon the record of proceedings held before the Local Liquor Control Commissioner.

(Ord. 3-8-A, passed 10/18/2006; Amd. Ord. 2018-12-01, passed 12/19/2018)

§ 114.15 CONFLICTS:

In the event of any conflict between the provisions of this Article I and any other provisions in this Chapter, the more restrictive provisions shall apply.

(Ord. 2018-12-01, passed 12/19/2018)

**ARTICLE II:
ALCOHOLIC BEVERAGES**

§ 114.25 DEFINITIONS:

Except as otherwise set forth in this Title, words and phrases used in this Title shall have the respective meanings ascribed to them in the Illinois Liquor Control Act (235 ILCS 5/1-1, et seq.), as amended from time to time.

For purposes of this Article II, “Alcoholic Beverages”, the following term(s) shall have the following meaning(s) ascribed to them:

AMBIENT SOUND LEVEL: Means the sound level of all-encompassing sound associated with a given environment, being usually a composite of sound from many or differing sources generated from a single parcel of property or a single commercial activity.

LICENSED PREMISES: Any premises having a current and valid liquor license issued by the Village pursuant to this Chapter may be referred to in this Chapter or in other Chapters of this Village Code as the “licensed premises”.

PERSON: Means any natural person, firm, company, corporation, partnership, limited liability company, or any other legal entity.

(Ord. 2015-09-02, passed 09/16/15; Amd. Ord. 2018/12/01, passed 12-19-2018; Amd. Ord. 2019-09-03, passed 09/18/2019)

§ 114.26 ALCOHOL REGULATION, GENERAL PROVISIONS:

(A) Individuals Restricted:

It shall be unlawful for any licensee, officer, associate, member, representative, agent or employee of such licensee to sell, give or deliver alcoholic liquor to any person under the age of twenty one (21) years, or to any intoxicated person or to any person known by him/her to be a habitual drunkard, spendthrift, insane, mentally ill, mentally deficient or in need of mental treatment, and no person, after purchasing or otherwise obtaining alcoholic liquor shall sell, give or deliver such alcoholic liquor to another person under the age of twenty one (21) years, except in the performance of a religious ceremony or service, or acting at the direction of a law enforcement officer; provided, however, no licensee to whom a license has been issued pursuant to the provisions of this Chapter shall permit or allow any employee or other person, male or female, under the age of twenty one (21) years, to draw, pour, mix, serve, or sell any alcoholic liquor, provided, however, nothing contained in this section or in this Chapter shall prohibit or be construed to prohibit the temporary possession of alcoholic liquor by an employee of a licensee holding a Class A or Class AA Liquor License which employee is at least eighteen (18) years of age but less than twenty one (21) years of age, while lawfully serving alcoholic liquor to one or more customers at table(s) in the course of their employment, if such employee is always working under the supervision of another employee of the licensee who is at least twenty one (21) years of age.

(B) Misrepresentation of Age:

It shall be unlawful for any person under the age of twenty one (21) years to misrepresent his or her age for the purpose of purchasing or obtaining alcoholic liquor in any place in the Village where alcoholic liquor is sold. If a licensee or licensee's agent or employees believe, has reason to believe, or should have reason to believe that a sale or delivery to a prospective recipient is prohibited, shall, before making such sale or delivery, demand presentation of some form of positive identification containing proof of age, issued by a public officer in the performance of his official duties. Reasonable care in compliance with the provisions of this subsection shall be competent evidence and may be considered in prosecution, revocation or suspension for the violation of any section of this Chapter relating to a person's age but shall not act as a defense or bar to prosecution, revocation or suspension for the violation of any other provision of this Chapter.

(C) Identification:

- (1) Transfer, Alteration or Defacing Identification: No person shall transfer, alter or deface such an identification card, allow another person to use their identification card, use the identification card of another, carry or use a false or forged identification card or obtain an identification card by means of false information all for the purpose of obtaining or seeking to obtain alcoholic liquor. No person shall purchase, accept delivery or have possession of alcoholic liquor in violation of this section.
- (2) Demand For Identification: If a licensee or licensee's agents or employees believe or have reason to believe that a sale or delivery of any alcoholic liquor is prohibited because of the age of this prospective recipient, he/she shall, before making such sale or delivery, demand presentation or some form of positive identification containing proof of age issued by a public officer in the performance of his or her official duties.
- (3) Refusal to Serve: For the purpose of preventing the violation of this Article II, any licensee, or licensee's agent or employee, may refuse to sell or serve alcoholic beverages to any person who is unable to produce the required written evidence of identity and of the fact that he/she is over the age of twenty one (21) years.

(D) Minors:

- (1) No person under the age of twenty one (21) years may purchase, receive, accept, have in his or her possession or control, or consume any alcoholic beverages.
- (2) It shall be unlawful for any licensee, licensee's agent or employee, to permit any person under the age of twenty one (21) years to draw, pour or mix any alcoholic liquor.
- (3) No persons under twenty one (21) years of age shall purchase, accept delivery or have possession of or consume alcoholic liquor.
- (4) No person after purchasing or otherwise obtaining alcoholic liquor shall sell, give or deliver such alcoholic liquor to another person under the age of twenty one (21) years, except in the performance of a religious ceremony or service, or acting at the direction of a law enforcement officer.
- (5) It is unlawful for any person to knowingly suffer, permit or allow the violation of the provisions of this section in any motor vehicle, conveyance, vessel, house, apartment, room, hotel room, shed, yard, premises, or other area of which such person is the owner, lessee, permittee, bailee, legal possessor or occupier thereof. Whenever a person is present within

any motor vehicle, conveyance, vessel, house, apartment, room, hotel room, shed, yard, premises or other area of which such person is the owner, lessee, permittee, bailee, legal possessor or occupier thereof at the time that a violation of the provisions of this section occurs therein, it shall be prima facie evidence that such person had knowledge of such violation.

- (6) It shall be unlawful for any parent or guardian to permit any minor child of which he or she be parent or guardian to violate any provisions of this section.
 - (7) It shall be unlawful for any person under the age of twenty one (21) to remain in any motor vehicle, conveyance, vessel, house, apartment, room, hotel room, shed, yard, premises, or other area when said person knows, or reasonably should know, that one or more other persons under the age of twenty one (21) years are located in such motor vehicle, conveyance, vessel, house, apartment, room, hotel room, shed, yard, premises, or other area are:
 - (a) In possession of any cannabis or controlled substance prohibited by Illinois statute, except in compliance with and as authorized by the Compassionate Use Act;
 - (b) In possession of any alcoholic beverages, except that a person under the age of twenty one (21) years may be in possession of or consume alcoholic beverages in the performance of a bona fide religious service or ceremony.
 - (8) It shall be unlawful for any person who has ownership or control of any premises to knowingly suffer, permit or allow two (2) or more persons under the age of twenty one (21) years to assemble or be assembled on such premises:
 - (a) In possession of any controlled substance prohibited by Illinois statute or to be in possession of any cannabis, except in compliance with and as authorized by the Compassionate Use Act;
 - (b) If any of such person(s) are in possession of any alcoholic beverages, except that a person under the age of twenty one (21) years may be in possession of or consume alcoholic beverages in the performance of a bona fide religious service or ceremony.
 - (9) Nothing contained herein shall prohibit, or be construed as prohibiting a person under the age of twenty one (21) years from:
 - (a) Participating in a religious ceremony;
 - (b) Acting at the direction of a law enforcement officer;
 - (c) Having the temporary possession of alcoholic liquor as an employee of a Class A or Class AA licensee which employee is at least eighteen (18) years of age but less than twenty one (21) years of age, while lawfully serving alcoholic liquor to one or more customers at table(s) in the course of their employment, if such employee is always working under the supervision of another employee of the licensee who is at least twenty one (21) years of age.
- (E) No person shall bring onto or within, sell, give away or drink any alcoholic liquors on any Village property or on any public street, except: a) alcoholic liquor may be transported on public highways, streets and alleys but only in the original package and with the seal unbroken, except as otherwise permitted by Section 6-33 of the Illinois Liquor Control Act; or b) pursuant to a special temporary license approved by the Village President as the Village's Local Liquor Control Commissioner, or

by one of his or her deputies, authorizing the use of specified location(s) on a Village street or on other Village property.

(F) Prohibited Acts and Conditions:

- (1) Refilling Original Packages: No person licensed under this chapter shall fill or refill, in whole or in part, any original package of alcoholic liquor with the same or any other kind or quality of alcoholic liquor and it shall be unlawful for any person to have in his or her possession for sale at retail any bottles, casks or other containers containing alcoholic liquors, except in original packages.
- (2) Solicitation Of Drinks: It shall be unlawful for any licensee, licensee's manager or other person in charge of any licensed premises where alcoholic liquor is sold or offered for sale for consumption thereon to engage, employ or permit the engagement or employment of any person nor shall any person be permitted to remain on said premises, who shall solicit any patron or customer thereof to purchase alcoholic or nonalcoholic liquor.
- (3) Denial Of Civil Rights: No licensee licensed under the provisions of this chapter shall deny or permit licensee's agents and employees to deny any person the full and equal enjoyment of the accommodations, advantages, facilities and privileges of any premises in which alcoholic liquors are authorized to be sold subject only to the conditions and limitations established by law and applicable alike to all citizens.
- (4) Sales On Credit: No person shall sell or furnish alcoholic liquor at retail to any person on credit or on a passbook, or order on a store, or in exchange for any goods, wares or merchandise, or in payment for any services rendered; and if any person shall extend credit for such purpose, the debt thereby attempted to be created shall not be recoverable at law, provided that nothing herein contained shall be construed to prevent any club from permitting checks or statements for alcoholic liquor to be signed by members or bona fide guests of members and charged to the account of such members or guests in accordance with the bylaws of said club, and provided further that nothing herein contained shall be construed to prevent any hotel from permitting checks or statements for liquor to be signed by regular guests residing at said hotel and charged to the accounts of said guests, and provided further that nothing herein contained shall be construed to prevent payment by credit card or other credit device for the purchase of liquor in the original package or container for consumption off the premises.
- (5) Employment of Minors: No licensee to whom a license has been issued pursuant to the provisions of this chapter shall employ any person, male or female, under the age of twenty one (21) years for the purpose of drawing, pouring, mixing, serving or selling any alcoholic liquor.
- (6) Premises: Where alcoholic liquor is sold or offered for sale for consumption thereon to engage, employ or permit the engagement or employment of any person nor shall any person be permitted to remain on said premises, who shall solicit any patron or customer thereof to purchase alcoholic or nonalcoholic liquor.
- (7) Employees and Others: It shall be unlawful to employ in any premises open to the public or engaged in the transportation, processing, preparation or packaging of food or beverages any person who the employer knew or should have known based upon reasonable observation was afflicted with, or who is a carrier of, any contagious or infectious disease; and it shall be unlawful for any person who knew or should have known that he or she was afflicted with or a carrier of any such disease to work in or about any such premises.

- (8) Bringing Liquor Onto Licensed Premises: Except as otherwise provided by the Illinois Liquor Control Act and/or by this Chapter for consumption on its licensed premises, at no time shall any person bring or be permitted by the licensee to bring any alcoholic liquor which is not part of the inventory of the licensee onto any licensed premises to allow consumption of such alcoholic liquor on such licensed premises.
- (9) Nuisance Noise Prohibited:
- (A) Except as provided in Paragraph 9(C) below, it shall be unlawful for any person to make, allow, permit, cause, or continue any amplified music and/or other entertainment and/or other sound, whether live or recorded, and/or any other amplified sound to be emitted, played or broadcast out of doors or into the out-of-doors on or from any licensed premises unless a Special Event Permit (Category 1, 2 or 3) to authorize an amplified sound special event has been issued for the licensed premises and/or for such special event for the specific date(s) and time(s) in accordance with Chapter 115, "Special Events".
- (B) Except as provided in Paragraph 9(C) below, it shall be unlawful for any person to make, allow, permit, cause and/or continue the emission from any licensed premises of any noise that disturbs, injures, and/or endangers the comfort, repose, health, peace, and/or safety of any other person or person(s) on any other property, including but not limited to any one or more of the following:
- (i) It shall be unlawful for any person to make, allow, permit, cause and/or continue any noise to be emitted on or from any licensed premises by use and/or operation of a sound amplifying device any sound which can be heard by any person at a distance of not less than one hundred feet (100') from any property line of the licensed premises at any time if such amplified sound disturbs, injures, and/or endangers the comfort, repose, health, peace and/or safety of any other person or persons, including but not limited to any amplified live and/or recorded music, and/or other entertainment and/or other sound; and
- (ii) It shall be unlawful for any person to make, allow, permit, cause and/or continue any amplified live or recorded music and/or other entertainment and/or other sound to be played, emitted and/or broadcast on and/or from any licensed premises, unless authorized by a special event permit issued by the Village pursuant to Chapter 115, "Special Events", of this Village Code, and then only if subparagraphs (B)(i), (B)(ii), and B(iii) of this Paragraph 9(B) are not violated by such amplified live or recorded music and/or other entertainment, and/or other sound shall in any event be caused, permitted and/or allowed which can be heard at any property line of the licensed premises after 9:00 p.m. on Sundays, Mondays, Tuesdays, Wednesdays, and Thursdays, and after 11:59 p.m. on Fridays, on Saturdays, and/or on any night immediately preceding a bank holiday if such amplified sound disturbs, injures, and/or endangers the comfort, repose, health, peace and/or safety of any other person or persons; and
- (iii) It shall be unlawful for any person to make, allow, permit, cause, and/or continue any amplified live and/or recorded music and/or other entertainment and/or other sound to be emitted, played, and/or broadcast by any means on and/or from any

licensed premises outside of any building (including from on and/or within any building and/or from on and/or within any porch, deck, truck, trailer, tent, canopy, boat, dock, raft, pier, and/or other location lacking one or more permanent wall(s) and/or lacking a roof or part of a roof and/or on or within any other temporary structure) after 9:00 p.m. on Sundays, Mondays, Tuesdays, Wednesdays, and Thursdays, and after 11:59 p.m. on Fridays, on Saturdays, or on any night immediately preceding a bank holiday, and without any limitation on the foregoing, no such amplified sound shall in any event disturb, injure, and/or endanger the comfort, repose, health, peace and/or safety of any other person or persons.

- (C) Notwithstanding anything contained in this Paragraph 9 or in Section 91.048 to the contrary, a licensee which operates a permanent outdoor facility as an integral part of the licensed premises may provide, as a part of the operation of such outdoor facility, the outdoor broadcast of television, video, and/or other recorded music and/or other sound in, at, or into such outdoor facility after 9:00 p.m. on Sundays, Mondays, Tuesdays, Wednesdays, and Thursdays, and after 11:59 p.m. on any Friday or Saturday night, or on any night immediately preceding a bank holiday until the applicable closing hour as required by this Chapter if, and only if such broadcast sound is not discernable as part of the ambient sound level at any property line of the licensed premises.

(Ord. 2018-12-01, passed 12/19/2018; Amd. Ord. 2019-09-03, passed 09/18/2019)

§ 114.27 LICENSE REQUIRED FOR THE SALE AND/OR SERVING OF ALCOHOLIC BEVERAGES; APPLICATION FOR LICENSE; RENEWAL OF LIQUOR LICENSE:

- (A) All persons desiring to engage in the business of selling, serving, and/or offering for sale alcoholic beverages within the corporate limits of the Village are and shall be required to comply with the provisions of this Article II as well as with the provisions of Article I of this Chapter, including but not limited to the requirements for fingerprinting and criminal history background checks.
- (B) Village and State Licenses Required: No person shall engage in the business of or act as a liquor dealer, selling, serving, or offering for sale alcoholic beverages within the corporate limits of the Village, without first having obtained a current, valid license therefor issued by the State of Illinois as well as the applicable liquor license issued by the Village President, or his or her designee.
- (C) No person shall sell or offer for sale any alcoholic beverages in violation of any license therefor issued by the Village, in violation of any license therefor issued by the State of Illinois, in violation of any ordinance of the Village, and/or in violation of the Illinois Liquor Control Act (235 ILCS 5/1-1, et seq.).
- (D) It shall be a condition precedent to the Village's issuance of any liquor license hereunder that the respective licensee obtain, keep in full force during the entire term of any license issued hereunder, and provide to the Village Clerk respective Certificate(s) of Insurance for Dram Shop insurance in statutory amounts as well as liquor liability and public liability coverages, each in the separate amount of not less than one million dollars (\$1,000,000.00), insuring against any claim or injury or damages arising out of or in any way relating to said activity, business or occupation conducted

pursuant to the respective license, with each such policy naming “the Village of Port Barrington, its elected and appointed officials, officers, employees, and agents” as additional insureds.

(E) Application for License:

- (1) All persons desiring to engage in the business of selling, serving, and/or offering for sale alcoholic beverages within the corporate limits of the Village are and shall be required to submit to the Village President a fully-completed application for a license therefor on a form provided by the Village Clerk, together with any required and/or requested supporting documentation together with the payment of any required fee(s) and/or cost(s) relative thereto, for review thereof by the Village President as the Local Liquor Control Commissioner.
- (2) All premises shall be maintained in full compliance with the provisions of this Code requiring the premises to be in safe condition and requiring the safe and sanitary storage and handling of items for human consumption, and as a condition precedent to the Village’s issuance of a license hereunder, prior to the beginning of each license year, all applicants shall submit certificates and/or approved inspections issued within the last ninety (90) days from the respective County Health Department, from the applicable Fire Protection District, and from the Village’s Building Inspector, confirming that the proposed licensed premises complies with the respective regulations of each such jurisdiction.

(F) Renewal of Liquor License: In addition to the requirements set forth in Article I of this Chapter, any person having a liquor license issued by the Village pursuant to this Chapter may renew such license at the expiration thereof, provided such person is then qualified to receive such license and the premises for which such renewal license is sought are suitable for such purpose, and provided further that such renewal privilege shall not be construed as a vested right which shall, in any case, either prevent a revocation of the license for cause or which shall in any case prevent the Board of Trustees from decreasing the number of licenses to be issued within the Village.

(G) Persons Not Eligible for License: No license required by the provisions of this Chapter shall be issued to:

- (1) A person who is not a resident of the Village, unless the licensee is a corporation or limited liability company;
- (2) A person who is not of good character and reputation;
- (3) A person who is not a citizen of the United States;
- (4) A person who has been found guilty of a felony under any federal or state law, if the Local Liquor Control Commissioner determines after investigation that such person has not been sufficiently rehabilitated to warrant the public trust. The burden of proof relative to sufficient rehabilitation shall be on the applicant;
- (5) A person who has been found guilty of keeping a place of prostitution or promoting prostitution or pandering;
- (6) A person who has been found guilty of any offense or misdemeanor involving moral turpitude or opposed to decency and morality;
- (7) A person whose license issued pursuant to the Illinois Liquor Control Act, as amended from time to time, or this Chapter has been revoked for cause;
- (8) A person who at the time of application for renewal of any license issued under this Chapter would not be eligible for such license upon a first application;

- (9) A partnership or limited liability company, unless all of the partners or members of such a partnership and/or all of the members and managers of a limited liability company shall be qualified to obtain a license;
 - (10) A corporation or limited liability company, if any member, officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than five percent (5%) of the stock of such corporation, would not be eligible to receive a license under the Illinois Liquor Control Act or this Chapter for any reason other than citizenship and residence within the political subdivision;
 - (11) A corporation or limited liability company, unless it is incorporated in Illinois or unless it is a foreign corporation which is qualified by law to transact business in the State of Illinois;
 - (12) A person whose place of business is conducted by a manager or agent unless such manager or agent possesses the same qualifications required by the licensee;
 - (13) A person who has been found guilty of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor, subsequent to the passage of the Illinois Liquor Control Act or shall have forfeited his bond to appear in court to answer charges for any such violation;
 - (14) A person who does not beneficially own the premises for which a license is sought or does not have an executed lease thereon for the full period for which the license is to be issued;
 - (15) Any law enforcing public official, including any member of the Local Liquor Control Commission, if any, President of the Village Board of Trustees, any member of the Village Board of Trustees, and no such official shall be interested in any way, either directly or indirectly, in the manufacture, sale or distribution of alcoholic liquor, except that a license may be granted to such official in relation to premises which are not located within the territory subject to the jurisdiction of that official if the issuance of such license is approved by the state Liquor Control Commission;
 - (16) A person who is not a beneficial owner of the business to be operated by the licensee;
 - (17) A person who has been found guilty of a gambling offense as proscribed by any of subsections (a)(3) through (a)(11) of Section 28-1 of, or as proscribed in Section 28-1.1 or Section 28-3 of the Illinois Criminal Code, as heretofore or hereafter amended, or as proscribed by a statute replaced by any of the aforesaid statutory provisions;
 - (18) A person or entity to whom a federal gaming device stamp or a federal wagering stamp has been issued by the federal government for the current tax period, 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.);
 - (19) Any person who is not eligible for a Village license under Section 114.13 of this Village Code.
- (H) Display of License Required: Every licensee shall cause the respective license issued by the Village to be framed and hung in plain view in a conspicuous place on the licensed premises.
- (I) Change in Personnel: Any addition or change in owner(s), partner(s), manager(s), member(s), officer(s), director(s), shareholder(s), or any other change in ownership or management personnel shall be reported in writing to the Local Liquor Control Commissioner within ten (10) days of the change. All new personnel shall meet all the standards of this Article and must otherwise qualify to hold a liquor license. All such changes in personnel shall be subject to review by the Local Liquor Control Commissioner.
- (1) When a license has been issued to an entity, and a change of owner(s), partner(s), manager(s), member(s), (officer(s), director(s), shareholder(s), or any other change in ownership or

management personnel occurs resulting in the licensee no longer being eligible to hold a liquor license, said license shall be revoked.

- (2) When a license has been issued to an individual who is no longer eligible for a license, said license shall be revoked.

(Ord. 3-4-A, passed 04/15/09; Amd. Ord. 2018-12-01, passed 12/19/2018)

§ 114.28 LIQUOR CONTROL AUTHORITIES:

The Village President shall be and serve as the Local Liquor Control Commissioner and shall be charged with the administration of the provisions of this Chapter, of the Illinois Liquor Control Act, and of such ordinances of the Village relating to alcoholic liquor. The Local Liquor Control Commission may appoint up to three (3) members of the Board of Trustees of the Village to assist in these duties. Together, the above members shall constitute the Village Liquor Control Commission.

(Ord. 3-4-A, passed 04/15/09; Amd. Ord. 2018-12-01, passed 12/19/2018)

§ 114.29 OTHER INFORMATION REQUIRED:

In addition to any information otherwise required on an application for a liquor license, each person shall provide to the Village the following information:

- (A) Proof of ownership and/or occupancy of the business premises in the nature of a recorded deed and/or executed lease for the business premises;
- (B) Proof of insurance as required by Section 114.27(D) of this Chapter;
- (C) State sales tax number;
- (D) State retailers license, if applicable;
- (E) Federal tax stamp from Bureau of Alcohol, Tobacco, and Firearms; and
- (F) Any corporation or limited liability company applying for a permit pursuant to this Article II is also required to provide with said application a copy of the Articles of Incorporation for said entity.

(Ord. 3-4-A, passed 4/15/2009; Amd. Ord. 2018-12-01, passed 12/19/2018)

§ 114.30 NUMBER OF LIQUOR LICENSES AUTHORIZED, LICENSE FEES, AND HOURS OF OPERATION:

In addition to any annual or special event license fee required to be paid by a licensee hereunder, a licensee shall also be required to pay to the Village those applicable non-refundable fee(s) and costs(s) set forth in Article I of this Chapter. However, if an application for a liquor license hereunder is denied by the Village, only the respective license fee paid by an applicant shall be refunded to the respective

applicant. The following classes and numbers of licenses authorizing the sale and/or serving of alcoholic beverages within the Village shall be as set forth below:

(A) *Class A.*

- (1) A Class A liquor license authorizes consumption of alcoholic liquor indoors on the licensed premises only, unless a Special Use Permit has been issued for the licensee at a temporary location authorized by the Illinois Liquor Control Commission and the Village's Local Liquor Control Commissioner.
- (2) Weekdays: 8:00 a.m. to 2:00 a.m.;
- (3) Friday and Saturday: 8:00 a.m. to 3:00 a.m.;
- (4) Sunday: 8:00 a.m. to 2:00 a.m.;
- (5) No retail package goods shall be sold on the licensed premises;
- (6) Annual license fee: \$750;
- (7) The applicant/licensee shall provide to the Village proof of current dram shop (liquor liability) insurance coverage as required by Section 114.27(D) of this Chapter.
- (8) There are no Class A liquor licenses presently authorized.

(B) *Class AA.*

- (1) A Class AA liquor license authorizes the retail sales of alcohol on the licensed premises for consumption on the licensed premises only, unless a Special Use Permit has been issued for the licensee at a temporary location authorized by the Illinois Liquor Control Commission and the Village's Local Liquor Control Commissioner. May also sell liquor and packaged goods not for consumption on the licensed premises;
- (2) Same hours as a Class A liquor license.
- (3) Annual license fee: \$1,312.00;
- (4) The applicant/licensee shall provide to the Village proof of current dram shop (liquor liability) insurance coverage as required by Section 114.27(D) of this Chapter.
- (5) There shall be not more than three (3) Class AA liquor licenses authorized.

(C) *Class B.*

- (1) Retail sales only, but not for consumption on the licensed premises: beer, wine, liquor, pop, and the like;
- (2) Hours: 10:00 a.m. to 11:00 p.m., Monday through Sunday;
- (3) Annual license fee: \$1,062.00;
- (4) The applicant/licensee shall provide to the Village proof of current dram shop (liquor liability) insurance coverage as required by Section 114.27(D) of this Chapter.
- (5) There are no Class B liquor licenses presently authorized.

(D) *Class C.*

- (1) A Class C Not-for-Profit Special Event Liquor License may only be issued by the Village's Local Liquor Control Commissioner to a not-for-profit or governmental organization for the sale and serving of alcoholic liquor only, whether indoors or outdoors, at a location specifically approved in advance by the Village Board and by the Illinois Liquor Control Commissioner. A Class C license shall be valid for not more than two days, except with specific prior Village Board approval. A Class C License shall not be issued for any premises already having a Class A, Class AA, or Class B License;

- (2) Hours: 11:00 a.m. to 10:00 p.m.;
- (3) The applicant/licensee shall provide to the Village proof of current dram shop (liquor liability) insurance coverage as required by Section 114.27(D) of this Chapter;
- (4) Per event license fee: \$31.00;
- (5) There shall be no limit to the number of Class C liquor licenses which may be specifically authorized by the Village Board.

(Ord. 3-4-A, passed 4/15/2009; Amd. Ord. 2013-3-5-A, passed 8/21/2013; Amd. Ord. 2015-01-01, passed 1/21/2015; Amd. Ord. 2015-06-02, passed 6/17/15; Amd. Ord. 2018-12-01, passed 12/19/2018; Amd. Ord. 2019-09-03, passed 09/18/2019)

§ 114.31 BASSET TRAINING REQUIRED; HAPPY HOURS REGULATED:

- (A) BASSET Training Required: Licensees shall comply with the Illinois Liquor Control Act (235 ILCS 5/1-1, et seq.), and without any limitation on the foregoing, with the requirements of that Act relative to responsible alcohol service servers training [i.e., Beverage Alcohol Sellers and Servers Education and Training (“BASSET”)] and relative to “happy hours” and product sampling.
- (B) Happy Hours Regulated: All licensees authorized to sell and serve any alcoholic liquor of any type on the licensed premises shall maintain a schedule of the prices charged for all drinks of alcoholic liquor to be served and consumed on the licensed premises or in any room or part thereof. Whenever a hotel or multiuse establishment which holds a valid liquor license operates on its premises more than one establishment at which drinks of alcoholic liquor are sold at retail, the hotel or multiuse establishment shall maintain at each such establishment a separate schedule of the prices charged for such drinks at that establishment.
 - (1) Prohibited: No liquor licensee, employee or agent of such licensee shall:
 - (a) Sell more than one drink of alcoholic liquor for the price of one drink of alcoholic liquor;
 - (b) Sell, offer to sell or serve to any person an unlimited number of drinks of alcoholic liquor during any set period of time for a fixed price, except at private functions not open to the general public, or except as permitted by the Illinois Liquor Control Act;
 - (c) Increase the volume of alcoholic liquor contained in a drink or the size of a drink of alcoholic liquor without increasing proportionately the price regularly charged for the drink on that day;
 - (d) Encourage or permit on the licensed premises, any game or contest which involves drinking alcoholic liquor or the awarding of drinks of alcoholic liquor as prizes for such game or contest on the licensed premises; or
 - (e) Advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under subsections B1 through B3 of this Section.
 - (2) Allowed: Nothing in this Section shall be construed to prohibit a licensee from:
 - (a) Offering free food or entertainment at any time;
 - (b) Including drinks or alcoholic liquor as part of a meal package;

- (c) Selling or offering for sale a party package only if the liquor licensee: a) offers food in the dedicated event space; b) limits the party package to no more than three (3) hours; c) distributes wristbands, lanyards, shirts, or any other such wearable items to identify party package attendees so the attendees may be granted access to the dedicated event space; and d) excludes individuals not participating in the party package from the dedicated event space;
 - (d) Including drinks or alcoholic liquor as part of a hotel package;
 - (e) Negotiating drinks of alcoholic liquor as part of a hotel package;
 - (f) Providing room service to persons renting rooms at a hotel;
 - (g) Selling pitchers (or the equivalent, including, but not limited to, buckets of bottled beer), carafes or bottles of alcoholic liquor which are customarily sold in such manner or selling bottles of spirits;
 - (h) Increasing prices of drinks of alcoholic liquor in lieu of, in whole or in part, a cover charge to offset the cost of special entertainment not regularly scheduled; or
 - (i) Discounting any drink of alcoholic liquor during a specified time period only if:
 - (i) The price of the drink of alcoholic liquor is not changed during the time that it is discounted;
 - (ii) The period of time during which any drink of alcoholic liquor is discounted does not exceed four (4) hours per day and fifteen (15) hours per week; however, this period of time is not required to be consecutive and may be divided by the licensee in any manner;
 - (iii) The drink of alcoholic liquor is not discounted between the hours of ten o'clock (10:00) P.M. and the licensed premises' closing hour; and
 - (iv) Notice of the discount of the drink of alcoholic liquor during a specified time is posted on the licensed premises or on the licensee's publicly available website at least seven (7) days prior to the specified time. All licensees affected by this Section must also comply with all other applicable provisions of the Illinois Liquor Control Act and of this Village Code, as amended from time to time.
- (3) Private Functions: Notwithstanding the provisions of this section, a liquor licensee, or an employee or agent thereof, may offer an unlimited number of drinks during any set period of time for a fixed price at a "private function" as that term is defined in the Illinois liquor control act.
- (C) Violation: A violation of this section shall be grounds for the suspension or revocation of a licensee's license by the Village's Local Liquor Control Commissioner.
- (D) Product Sampling:
- (1) Retailer, distributor, importing distributor, manufacturer and nonresident dealer licensees may conduct product sampling for consumption at a licensed retail location. Up to three (3) samples, consisting of no more than: a) one-fourth ($\frac{1}{4}$) ounce of distilled spirits, b) one ounce of wine, or c) two (2) ounces of beer may be served to a consumer in one day.
 - (2) Notwithstanding the provisions of Paragraph B of this section, an on-premises liquor licensee may offer for sale and serve more than one drink per person for sampling purposes.

- (3) In any event, all provisions of section 6-28 of the Illinois Liquor Control Act and of this section relative to happy hour restrictions shall apply to an on-premises liquor licensee that conducts product sampling.

(Ord. 2015-09-02, passed 09/16/2015; Amd. Ord. 2018-12-01, passed 12/19/2018)

§ 114.32 LOCATION RESTRICTIONS:

No license shall be issued for the sale at retail of any alcoholic liquor within one hundred feet (100') of any church, school, hospital, home for the aged or indigent persons or for veterans, their spouses or children or any military or naval station; provided that this prohibition shall not apply to hotels offering restaurant service, or to restaurants, food shops or other places where the sale of alcoholic liquors is not the principal business carried on, nor to the renewal of a license for the sale at retail of alcoholic liquor on premises within one hundred feet (100') of any church or school where such church or school has been established within such one hundred feet (100') since the issuance of the original license.

(Ord. 2018-12-01, passed 12/19/2018)

§ 114.33 VIOLATION OF RETAILER OCCUPATION TAX ACT:

In addition to other grounds specified herein, the Local Liquor Control Commissioner, upon the complaint of the Illinois Department of Revenue, may refuse the issuance or renewal of a Village liquor license or suspend or revoke such license for any of the following violations of the "Retailer Occupation Tax Act", as amended:

- (A) Failure to make a tax return.
- (B) The filing of a fraudulent return.
- (C) Failure to pay all or part of any tax or penalty finally determined to be due.
- (D) Failure to keep books and records.
- (E) Failure to secure and display a certificate or subcertificate of registration.
- (F) Willful violation of any rule or regulation of the Illinois Department of Revenue relating to the administration and enforcement of tax liability.

(Ord. 2018-12-01, passed 12/19/2018)

§ 114.34 COMPLAINTS FOR VIOLATION:

- (A) Any person shall have the right to file a complaint with the Local Liquor Control Commissioner stating that any licensee within the Village has been or is violating any of the provisions of Illinois statutes, including but not limited to the provisions of the Illinois Liquor Control Act, any regulations of the Illinois Liquor Control Commission, and/or any provisions of the Code of Ordinances of the Village, and/or any of the rules, regulations, and orders of the Local Liquor Control Commissioner. Such complaint shall be in the form prescribed by the Local Liquor Control Commissioner and shall be in writing and shall be signed and sworn to by the parties complaining. The complaint shall state the particular statute, ordinance, rule, regulation, or order believed to have been violated and the facts in detail upon which such belief is based. If the Local Liquor Control Commissioner is satisfied that the complaint substantially charges a violation and that from the

facts alleged there is reasonable cause for such belief, the Local Liquor Control Commissioner shall set the matter for hearing and shall serve notice of such complaint upon the licensee of the time and place of such hearing and of the particular charge in the complaint.

- (B) Any liquor license(s) issued by the Village may be suspended and/or revoked for cause by the Village President after notice thereof to the licensee, and a hearing and opportunity to be heard thereon. In addition to any of the other remedies of the Village provided for in this Section and/or in this Chapter, or as otherwise provided in this Code, including but not limited to the fines and other remedies provided for in Section 114.99 of this Chapter and/or as provided in the Illinois Liquor Control Act, any violation of any of the provisions of Illinois statutes, including but not limited to the provisions of the Illinois Liquor Control Act, of any regulations of the Illinois Liquor Control Commission, and/or of any provisions of the Village of Port Barrington Code of Ordinances, and/or any of the rules, regulations, and orders of the Local Liquor Control Commissioner may be grounds for the suspension or revocation of the Village liquor license(s) applicable to the licensed premises and/or the suspension or revocation of any Special Event Permit issued by the Village to such licensee.
- (C) Each of the fines and other remedies of the Village set forth in this Section and/or as provided in Section 114.99 of this Chapter and/or as provided in the Illinois Liquor Control Act shall be cumulative, and none of such fines and other remedies shall constitute an exclusive remedy of the Village. Without any limitation on the foregoing, any suspension or revocation of a liquor license, if ordered, shall not preclude prosecution for and/or imposition of any other penalties provided for the violation of other applicable provisions of this Chapter, of this Article, and/or of other applicable provisions of this Village Code.

(Ord. 2018-12-01, passed 12/19/2018; Amd. Ord. 2019-09-03, passed 09/18/2019)

**ARTICLE III:
AMUSEMENT DEVICES AND VENDING MACHINES**

§ 114.40 AMUSEMENT AND VENDING MACHINE FEES; LICENSE REQUIRED:

It shall be unlawful to operate any amusement device and/or vending machine for gain on a premises within the Village without first having applied to the Village for and having obtained the required license(s) therefor and paying to the Village the required fee(s) as set forth below:

- (A) Any person desiring to keep and/or operate any vending machine and/or amusement device(s) for gain on a premises within the Village shall be required to apply to the Village for a license therefor on an application form provided by the Village Clerk and pay to the Village any associated fee(s) and/or cost(s) relative thereto. The licensing period for each amusement device and/or vending machine located within the Village shall be from May 1 to April 30 of the year following issuance of the respective license;
- (B) The annual fees to be paid to the Village for the keeping and/or operation for gain on a premises within the Village of any vending machine, pool table, video machine, juke box, bowling machine, dart machine, or similar amusement device(s) are non-refundable and shall be as follows:
 - (1) Operator's fee for one to fifteen (15) vending machines and/or amusement devices: \$125 annual fee, per location, plus \$50.00 per vending machine or amusement device; and
 - (2) Operator's fee for sixteen (16) or more (constitutes arcade) vending machines and/or amusement devices: \$500 annual fee, per location, plus \$50 per machine.
- (C) Cigarette Vending Machines: It shall be unlawful to operate any such cigarette vending machine within the Village except in compliance with Section 114.54 of this Chapter.
- (D) Inspections Required: Any premises upon which any amusement device(s) and/or vending machine(s) is or are operated for gain will be inspected by the Village a minimum of twice annually. The owner(s) and/or operator(s) of the premises shall be required to pay the Village the required fee(s) for the Village's issuance of the required Business Registration Certificate and Business Inspection Certificate therefor as set forth in Article I of this Chapter; and
- (E) Licenses Are Not Transferable: Licenses issued by the Village for the operation of amusement device(s) and/or vending machine(s) pursuant to this Article III are not transferable and not refundable.
- (F) The Village President, or his or her designee, is authorized to issue any licenses required by this Article III.

(Ord. 3-4-A, passed 4/15/2009; Amd. Ord. 2018-12-01, passed 12/19/2018)

**ARTICLE IV:
TOBACCO PRODUCTS AND ALTERNATIVE NICOTINE PRODUCTS**

§ 114.50 DEFINITIONS:

For the purposes of this Article IV, the following words and phrases shall have the following meanings:

ALTERNATIVE NICOTINE PRODUCT: A product, substance, or device not consisting of or containing tobacco that provides for the ingestion into the body of nicotine, whether by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing, or by any other means. “Alternative nicotine product” excludes cigars, cigarettes, smokeless tobacco, or other tobacco products as these terms are defined in 720 ILCS 675/1 et seq., and any product approved by the United States Food and Drug Administration as a non-tobacco product for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

SMOKELESS TOBACCO: Any tobacco products that are suitable for dipping or chewing.

SMOKING or TO SMOKE: The act of inhaling and/or exhaling the smoke from or carrying or possessing any form of lighted tobacco product(s), or the act of inhaling, exhaling, or otherwise ingesting or using, vaporizing, or vaping alternative nicotine products, smoking herbs, and/or smokeless tobacco products.

SMOKING HERBS: All substances of plant origin and their derivatives, including, but not limited to, broom, calea, California poppy, damiana, hops, ginseng, lobelia, jimsonweed and other members of the Datura genus, passionflower and wild lettuce, which are processed or sold primarily for use as smoking materials.

TOBACCO ACCESSORIES: Cigarette papers, pipes, holders of smoking materials of all types, cigarette rolling machines and other items designed primarily for the smoking or ingestion of tobacco products or of substances made illegal under any statute or of substances whose sale, gift, barter or exchange is made unlawful under this Article.

TOBACCO PRODUCTS: Any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, or smokeless tobacco.

VAPING or TO VAPE: The act of inhaling, exhaling, vaporizing, or otherwise using or ingesting alternative nicotine product(s).

VENDING MACHINE: Any mechanical, electric or electronic self-service device which, upon insertion of money, tokens or any other form of payment, dispenses tobacco products or alternative nicotine products.

(Ord. 2018-12-01, passed 12/19/2018)

§ 114.51 TOBACCO VENDOR'S LICENSE REQUIRED:

No person shall sell tobacco products, tobacco accessories, alternative nicotine products, or smoking herbs within the corporate limits of the Village unless they have a current and valid tobacco vendor's license issued by the Village President, or his or her designee.

(Ord. 2018-12-01, passed 12/19/2018)

§ 114.52 UNDERAGE PERSONS:

(A) Tobacco Products, Alternative Nicotine Products, and Smoking Herbs:

- (1) No person under twenty-one (21) years of age shall buy, possess, smoke, or inhale any tobacco product(s), alternative nicotine product(s), and/or smoking herbs in any of their respective forms.
- (2) No person, including but not limited to any licensee, shall sell, buy for, distribute samples of or furnish any tobacco product(s), alternative nicotine product(s), and/or smoking herbs in any of their respective forms to any person under twenty-one (21) years of age.
- (3) It shall be unlawful for any licensee or any officer, associate, member, representative, agent or employee of such licensee to engage, employ or permit any person under twenty-one (21) years of age to sell tobacco products, tobacco accessories, alternative nicotine product(s), and/or smoking herbs in any of their respective forms.

(B) Tobacco Accessories:

- (1) No person shall knowingly sell, barter, exchange, deliver or give away or cause or permit or procure to be sold, bartered, exchanged, delivered or given away any tobacco accessory(ies) to any person under twenty-one (21) years of age.
- (2) No person under twenty-one (21) years of age shall buy or possess any tobacco accessory(ies).

(C) Sale(s) to Persons Under the Age of Twenty-One Prohibited: Before selling, offering for sale, giving, or furnishing any tobacco product(s), tobacco accessory(ies), alternative nicotine product(s), and/or smoking herbs, or any cartridge, component, or part thereof to another person, the person selling, offering for sale, giving, or furnishing any such product(s) and/or accessory(ies) shall verify that the person receiving any such product(s) and/or accessory(ies) is at least twenty-one (21) years of age by:

- (1) Obtaining from any person who appears to be under thirty (30) years of age and examining such person's government-issued photographic identification that establishes that such person is at least twenty-one (21) years of age, or
- (2) For sales made through the Internet or other remote sales methods, performing an age verification through an independent, third-party age verification service that compares information available from public records to the personal information entered by the person

placing such order during the ordering process that establishes the person is twenty-one (21) years of age or older.

(D) False Identification Cards: It shall be unlawful for any person to display or use a false or forged form of identification or to transfer, alter or deface any government-issued form of identification for the purpose of obtaining any tobacco product(s), tobacco accessory(ies), alternative nicotine product(s), and/or smoking herbs in any of their respective form.

(E) Warning To Underage Persons:

(1) Any person, firm, partnership, company or corporation operating a place of business wherein tobacco products, tobacco accessories, alternative nicotine products and/or smoking herbs in any of their respective forms are sold or offered for sale shall post in a conspicuous place upon the business premises near every display of tobacco products, tobacco accessories, alternative nicotine products and/or smoking herbs a sign upon which there shall be imprinted the following statement:

SALE OF TOBACCO PRODUCTS, TOBACCO ACCESSORIES, ALTERNATIVE NICOTINE PRODUCTS, AND/OR SMOKING HERBS TO PERSONS UNDER TWENTY-ONE (21) YEARS OF AGE OR THE MISREPRESENTATION OF ONE'S AGE FOR THE PURPOSE OF PROCURING ANY OF SUCH ITEMS IS PROHIBITED BY LAW. POSSESSION OF TOBACCO PRODUCTS, TOBACCO ACCESSORIES, ALTERNATIVE NICOTINE PRODUCTS, AND/OR SMOKING HERBS BY ANY SUCH UNDERAGE PERSON IS ALSO PROHIBITED BY LAW.

(2) Such a sign shall be printed on a white card in red letters at least one-half inch (1/2") in height.

(F) Smoking and/or Vaping Prohibited: No person shall smoke or vape in a public place on Village property except in that portion of a public place which may be established by the Village Board as a smoking area.

(Ord. 2018-12-01, passed 12/19/2018; Amd. Ord. 2019-07-01, passed 07/17/2019)

§ 114.53 SAMPLE DISTRIBUTION:

No person shall distribute without charge sample(s) of any tobacco product(s) or of any alternative nicotine product(s) to any other person, regardless of age:

(A) Within a retail establishment selling tobacco product(s) and/or alternative nicotine product(s), unless the retailer has verified that the recipient is twenty-one (21) years of age or older by the recipient's presentation of a government-issued form of photographic identification; or

(B) From any mobile vehicle; or

(C) On a public way as a promotion or advertisement of a distributor and/or manufacturer of tobacco, tobacco product(s), and/or alternative nicotine product(s).

(Ord. 2018-12-01, passed 12/19/2018; Amd. Ord. 2019-07-01, passed 07/17/2019)

§ 114.54 VENDING MACHINES; LOCKING DEVICES:

It shall be unlawful for any licensee to sell or offer for sale, give away, deliver or to keep with the intention of selling, giving away or delivering tobacco products and/or alternative nicotine products by use of a vending machine unless such vending machine is equipped with a manual, electric or electronic locking device controlled by the licensee so as to prevent its operation by persons under the age of twenty-one (21) years. Any premises where access by persons under the age of twenty-one (21) years is prohibited by law or premises where the public is generally not permitted and where vending machines are strictly for the use of employees of a business located at such premises shall be exempt from the requirements of this Section.

(Ord. 2018-12-01, passed 12/19/2018; Amd. Ord. 2019-07-01, passed 07/17/2019)

§ 114.55 SMOKE-FREE ILLINOIS ACT:

The “Smoke-Free Illinois Act” (410 ILCS 82/1, et seq.) is hereby incorporated into this Village Code by reference as fully as if set forth herein in its entirety, provided, however, for the purposes of this Section and the Smoke-Free Illinois Act as adopted herein, the terms “to smoke” or “smoking” and “to vape”, or “vaping” shall be as defined in this Article.

(Ord. 2018-12-01, passed 12/19/2018)

**ARTICLE V:
MASSAGE ESTABLISHMENTS**

§ 114.60 DEFINITIONS:

For purposes of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

APPLICANT: The applicant for any massage establishment license shall mean and include, but shall not be limited to, any person (as herein defined) who applies to the Village for a license to permit the establishment, operation, and maintenance of a massage establishment on property located within the corporate limits of the Village, which term shall include but not limited to any partner or limited partner of a partnership applicant, any officer or director of a corporate applicant, any stockholder holding more than five percent (5%) of the stock of a corporate applicant, and any member, manager, or owner of any limited liability company.

EMPLOYEE: Any and all persons other than the massage therapist, who render any service to the licensee, who work on the premises and/or who receive compensation directly or indirectly from the licensee, and who have physical contact with customers and clients.

LICENSE: A massage establishment license as provided in this Article.

LICENSED MASSAGE THERAPIST: Any person who is holds a current, valid massage therapist license issued by the State of Illinois pursuant to the Illinois Massage Therapy Licensing Act and who, for any consideration whatsoever, engages in the practice of “massage” as herein defined, whether or not there is any consideration provided in every specific massage.

LICENSEE: The person to whom or entity to which a license is issued by the Village pursuant to this Article to permit the establishment, operation, and maintenance of a massage establishment within the Village.

MASSAGE: Any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance, or by the application of air, liquid, or vapor baths of any kind, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice.

MASSAGE ESTABLISHMENT: Any establishment having a source of income or compensation derived from the practice of “massage” as defined in this Section, and which has a fixed place of business where any person engages in, or carries on, or permits to be engaged in or carried on any of the activities or practices of “massage” as defined in this Article.

MASSAGE THERAPIST: Any person who engages in the practice of “massage” as herein defined, whether or not there is any consideration provided in every specific massage.

OUTCALL MASSAGE: Any business, the function of which is to engage in or carry on massage at a location other than a licensed massage establishment.

PATRON: An individual who receives a massage at a massage establishment under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefor.

PERSON: Any individual, partnership, association, joint stock company, limited liability company, corporation, or combination of individuals of any form, kind or character whatsoever, or any other legal entity.

SEXUAL OR GENITAL AREA: The genitals, pubic area, buttocks, anus or perineum of any person, or the vulva or breasts of a female.

(Ord. 2018-12-01, passed 12/19/2018)

§ 114.61 EXEMPTIONS:

- (A) The provisions of this Article shall not apply and no license shall be required for any units of government, hospitals, or nursing homes, or for any individual while engaged in the personal performance of their respective professions, provided such individual is holding a current, valid (i.e., not suspended or revoked) license or certificate to practice certain of the healing arts under the laws of the State of Illinois (i.e., physicians, surgeons, dentists, chiropractors, naprapaths, osteopaths, physical therapists, nurses, and athletic trainer licensees who administer athletic related massages in the normal course of training duties and who are registered with the state of Illinois)

("a licensed professional in the healing arts") or to any massage therapist(s) holding a current, valid massage therapy license from the State of Illinois working under the direction of any such licensed professional in the healing arts if such licensed professional in the healing arts executes and files with the Village an affidavit stating that the person(s) employed by them to provide massage therapy on their premises are and will remain duly licensed by the State of Illinois as a massage therapist and will work only under the direct supervision of such a licensed professional in the healing arts and only while such a licensed professional in the healing arts is and remains present on the premises.

- (B) No license shall be required for any barber, beautician or cosmetologist lawfully carrying on their respective businesses to the extent authorized under a valid unrevoked license or certificate of registration issued by the State of Illinois. Notwithstanding the foregoing, this exemption is only intended to permit normal and customary barber, beautician or cosmetologist services which involve incidental physical contact, such as hair, scalp and neck rubs and facials, which would otherwise qualify as a massage. This exemption is not intended to, and does not permit massage activities as part of any barber, beautician or cosmetologist business beyond that authorized by their respective Illinois license or certification.

(Ord. 2018-12-01, passed 12/19/2018)

§ 114.62 MASSAGE ESTABLISHMENT LICENSE REQUIRED:

It shall be unlawful for any person to engage in, conduct, carry on, or to permit to be engaged in, conducted, or carried on, in or upon any premises in the Village, the business of operating a massage establishment without first having obtained a valid and current license therefor issued by the Village President, or his or her designee, pursuant to the terms of this Chapter. A separate license shall be required for each massage establishment location regardless of whether such multiple establishments are operated by the same person. The requirements set forth in this Article V shall be in addition to those requirements set forth in Article I, "Registration Requirements Applicable to All Businesses", of this Chapter. In the case of a conflict between the provisions of Article I and this Article V, the more restrictive provisions shall apply. Any location used as a massage establishment in violation of this Article V is hereby declared to be a nuisance.

(Ord. 2018-12-01, passed 12/19/2018)

§ 114.63 APPLICATION FOR MASSAGE ESTABLISHMENT LICENSE; TERM:

- (A) Application:

An application for a massage establishment license as required in this Chapter shall be submitted to the Village Administrator, upon a form provided by said Village Administrator, together with the payment to the Village of a non-refundable application fee of Five Hundred Dollars (\$500.00). The application shall be fully and accurately completed and signed by each of the Applicant(s), if an individual or by a duly authorized agent thereof, if not an individual, verified by oath or affidavit, that all of the information in the application is complete, true and correct and shall include, but shall not be limited to, the following:

- (1) For each Applicant, the full name, home address with zip code, social security number, date of birth, sex and a physical description of each and every Applicant including height, weight, and color of hair and eyes.
- (2) All residential addresses of each Applicant for the past ten (10) years.
- (3) The application must be accompanied by written proof that each of the Applicant(s) is at least eighteen (18) years of age.
- (4) The type of ownership of the business, i.e., whether individual, partnership, corporation, or otherwise.
- (5) The exact name of the entity under which the business is to be conducted and any “doing business as” (“d/b/a”) assumed name(s).
- (6) The location and description of the premises or place of business which is to be operated under such license as well as all telephone numbers where the business is to be operated.
 - (a) If a leased premises, a copy of the lease shall be provided. The term of such lease must not end until after the expiration date of the license for which application is being made.
 - (b) The name and address of the owner(s) of the premises, and, if said premises is held in trust, the names and addresses of all the owners of the beneficial interest of a trust.
 - (c) Whether any other activities or business will be conducted at the same location and the physical facilities to be used.
- (7) The application for a license to operate a massage establishment shall set forth the exact nature of the massage to be administered, and the proposed place of business and facilities therefor.
- (8) The business, occupation or employment of each and every Applicant for the ten (10) years immediately preceding the date of Application.
- (9) The massage or similar business license history of each and every Applicant; whether such person, in previously operating in this or another city or state under license, has had such license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.
- (10) As to each and every Applicant, whether such Applicant has committed any crime or ordinance violation(s) resulting in conviction(s), finding(s) of guilt, default judgment, forfeiture of bonds, or finding of liability, except traffic offenses, within the last ten (10) years.
- (11) The fingerprints and photograph of each of the Applicant(s).
- (12) The date of formation of the partnership, if a partnership, the date of incorporation, if an Illinois corporation or an Illinois limited liability company, or the date of becoming qualified under the Illinois business corporation act, 805 Illinois Compiled Statutes 5/1.01 et seq., to transact business in Illinois, if a foreign (out of state) entity.
- (13) A complete list of the names and residence addresses of all licensed massage therapists and of all other employees employed by the business and the names and residence addresses of all managers, assistant managers or other persons principally in charge of the operation of the business.
- (14) The business, occupation, and employment of Applicant, if an individual, for three (3) years preceding the date of application.
- (15) Whether any of the Applicant(s) have ever made an application for a license under this Article, or a massage business license or similar license to a state or county, city, village or other unit of local government, and if so, where and when, and if such application was granted or denied, and if such application was denied, the reasons for the denial.
- (16) Whether a license was ever issued to any of the Applicant(s) under this Article or a massage business license or similar license was ever issued by any state or county, city or village or

- other unit of local government, and if so, where and when, and if such license has ever been suspended or revoked and the reasons for the suspension or revocation.
- (17) Whether any of the Applicant(s) have ever pled guilty to or liable for or been found guilty of or liable for a violation of any of the provisions of this Article or any ordinance of any municipality or unit of government which regulates massage establishments or the providing of massages, or any statute regulating massage establishments by a court or an administrative tribunal.
- (18) As to each and every Applicant, a complete statement of all instances in which each such Applicant has pled guilty or has been found guilty or has been found liable under the laws of any state or under the laws of the United States as provided in this section, or under the ordinances of any municipality. Such statement shall be submitted for each of the Applicant(s), as that term is defined in this Article. Such listing shall include but not be limited to the following:
- (a) Any offense involving sexual misconduct with children or other sex offenses as defined in 720 Illinois Compiled Statutes 5/1-1 et seq.
 - (b) Any felony based upon conduct or involvement in such related business activity or similar business activity.
 - (c) Any felony unrelated to conduct or involvement in such related business activity or similar business activity, but which felony involved the use of a deadly weapon, traffic in narcotic drugs or controlled substances, or violence against another person, including rape or other sexual misconduct.
 - (d) All misdemeanor and ordinance violation(s) of each Applicant and of each business entity with which each such Applicant has been associated for the past ten (10) years.
- (B) All applicants for the establishment, operation, and/or maintenance of any new massage establishment business within the Village, and all applicants for the annual renewal of any existing massage establishment business within the Village, shall be subject to fingerprinting and a criminal history background check which will be conducted by the applicable law enforcement agency in which such business is or is proposed to be located in compliance with Article I, “Registration Requirements Applicable to All Businesses” of this Chapter.
- (C) Each of the Applicant(s) shall submit a written authorization for the Village, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of each of the Applicant(s) for a license.
- (D) Each of the Applicant(s) shall submit a copy of identification which shall include, but shall not be limited to, a driver’s license, if any, and a social security card and two (2) copies of a current portrait photograph of each such Applicant at least two inches by two inches (2” x 2”). The portrait shall include the head and shoulder area with the face forward pose. A new and current portrait shall be required with each renewal application. The Village, in its sole discretion, may require that any portrait photograph required by these provisions be taken by the applicable law enforcement agency.
- (E) Each of the Applicant(s) shall submit such other information, documentation, and identification of each such Applicant as the Village Administrator, or a Village employee designated by him, and/or the applicable law enforcement agency shall deem necessary to determine the identity of each the Applicant(s) or to process the application.
- (F) Notification; Inspection: The Village Administrator shall forward copies of the application to the Building Department and the applicable law enforcement agency. Each department shall inspect the

premises proposed to be operated as a massage establishment and make written findings to the Village Administrator concerning compliance with this Village Code.

- (G) Issuance: Upon receipt of the findings and recommendation of each department, the Village President, or his or her designee, shall issue a license to establish, operate, maintain and/or conduct a massage establishment, unless it is found that the Applicant(s), or any of them, is ineligible to receive such license pursuant to any provisions of this Village Code.
- (H) Term: Every massage establishment license issued pursuant to this Article shall expire on April 30 following issuance of the license, unless sooner suspended, revoked, or renewed pursuant to provisions of this Article.
- (I) Display: Every licensee shall display a valid and current massage establishment license in a conspicuous place within the massage establishment so that the same may be readily seen by persons entering the premises.
- (J) Renewal: Applications for renewal of a massage establishment license must be filed with the Village Administrator not more than sixty (60) days nor less than thirty (30) days prior to expiration of an existing license.

(Ord. 2018-12-01, passed 12/19/2018)

§ 114.64: LIMITATIONS AND RESTRICTIONS ON ISSUANCE AND RENEWAL OF LICENSE:

- (A) Investigation of Applicant(s): Upon receipt of a fully, properly, and accurately completed application including payment in full of all fees in connection therewith for a massage establishment license, the Village Administrator, or a Village employee designated by him or her, shall submit the completed application to the applicable law enforcement agency for fingerprinting of the respective applicant(s) and criminal background check(s) as required by and in compliance with Article I of this Chapter.
- (B) Inspection Of Premises; Recommendations: The applicant(s) for a massage establishment license shall permit the Village's inspection of the premises to be licensed as required by and in compliance with Article I of this Chapter.
- (C) Issuance/Denial Of License: Upon receipt of a fully-completed application for the establishment, operation, and/or maintenance of a massage establishment business within the Village and payment in full by the applicant(s) of any and all fees and/or costs relative thereto, the Village Clerk shall forward such application and all supporting documentation to the Village President for his or her review, approval, or disapproval as required by and in compliance with Article 1 of this Chapter.
- (D) Conditions of Denial and/or Renewal:
 - (1) No massage establishment license shall be issued to or renewed for:
 - (a) Any Applicant(s) where one or more of the Applicant(s) has pled guilty to, or has been found guilty by a court of competent jurisdiction of, or liable by an administrative

adjudication hearing officer or by any administrative tribunal for any one or more of the following offenses:

- (i) Any offense involving sexual misconduct with children or other sex offenses as defined in 720 Illinois Compiled Statutes 5/1-1 et seq., and/or any offense involving prostitution, soliciting for a prostitute, pandering, keeping a place of prostitution, pimping or other offense or crime involving moral turpitude and/or opposed to decency and morality, or has been found guilty of or has pled guilty to a reduced charge related to any of the foregoing, and/or any offense involving the licensing and/or regulation of a massage establishment or massage therapist(s).
 - (ii) Any felony.
 - (iii) Any misdemeanor or ordinance violation based upon conduct or involvement in such related business activity or similar business activity;
 - (iv) The denial, suspension or revocation of such a similar license held by any of the Applicant(s) by any state or other unit of local government has occurred within two (2) years of the date of the present application.
- (b) Any Applicant(s) where one or more of such Applicant(s) has had a license issued under this Article revoked for cause or one or more of the Applicant(s) has pled guilty to or has been found guilty of any violation of any provision of this Article.
- (c) Any Applicant(s) where one or more of them at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application.
- (d) Any Applicant(s) where one or more of them is under the age of eighteen (18) years of age.
- (e) Any Applicant(s) where one or more of them employs anyone under eighteen (18) years of age.
- (f) Any Applicant(s) where one or more of them has failed to submit a complete application/
- (g) Any Applicant(s) where none of them have cured any defect(s) in said application within ten (10) days after written notice of any such failure to cure.
- (h) Any Applicant(s) where one or more of them has pled guilty to, been found guilty of, or found liable for any other crime or offense or ordinance violation involving dishonesty, fraud, deceit or moral turpitude, or opposed to decency and morality.
- (i) Any Applicant(s) where one or more of them has had any massage establishment license, or massage therapist license, denied, revoked, or suspended within two (2) years prior to the date of the application.
- (j) An application may also be disapproved for any of the reasons stated in Section 114.13 of this Chapter.
- (2) In addition to the provisions in subsection D1 of this Section, no massage establishment license shall be issued to or renewed for:
- (a) Any Applicant(s) whose place of business is conducted by a manager unless every officer, director, stockholder, manager, member and partner possesses the same qualifications required of the licensee.
 - (b) Any Applicant(s) who is not a beneficial owner of the business to be operated by the licensee.

- (c) A partnership, if any general partners thereof, or any limited partner owning any interest in such partnership, or an LLC, if any member or manager has pled guilty to, or liable for, or has been found guilty by a court of competent jurisdiction of, or liable by an administrative adjudication hearing officer or other administrative tribunal for any one or more of the offenses listed in this Article.
- (d) A corporation, if any officer, director, or any stockholder(s) owning any of the stock of such corporation has pled guilty to, or liable for, or has been found guilty by a court of competent jurisdiction of, or liable by an administrative adjudication hearing officer or other administrative tribunal for any one or more of the offenses listed in this Article.
- (e) A corporation unless it is incorporated in Illinois or unless it is a foreign corporation which is qualified under the Illinois Business Corporation Act, 805 Illinois Compiled Statutes 5/1.01 et seq., to transact business in Illinois.
- (f) Any Applicant(s) if the premises in which the massage establishment is to be operated shall not be in compliance with all applicable codes and ordinances of the Village, including, but not limited to, zoning, building, and life safety codes.

(Ord. 2018-12-01, passed 12/19/2018)

§ 114.65: REVIEW BY CORPORATE AUTHORITIES OF DENIAL OF LICENSE:

The denial by the Village President, or a Village officer designated by him or her, to issue a license pursuant to an application made therefor shall be subject to review by the Corporate Authorities of the Village, provided that a request for such review shall be made in writing by the Applicant to the Village President and submitted to the Village President within ten (10) days of the issuance by U.S. mail to the Applicant(s) of the written denial of the application. The Corporate Authorities shall conduct a hearing to review the application submitted to the Village by the Applicant, any reports of the applicable law enforcement agency and/or any other reports of inspections made and of any other relevant facts and evidence determined. The Applicant(s) may present any relevant evidence in support of his, her, or its request that the denial of the application be reviewed and reversed. The Corporate Authorities of the Village shall determine whether the denial of the application shall be affirmed or whether the denial shall be reversed and the application approved. If the Corporate Authorities of the Village reverses the decision and approves the application, the license applied for shall be issued. The decision of the Corporate Authorities of the Village to affirm the denial of the application shall be final and subject to judicial review only by a court of competent jurisdiction.

(Ord. 2018-12-01, passed 12/19/2018)

§ 114.66: REGULATIONS APPLICABLE TO EMPLOYEES:

The following regulations shall be applicable to all massage establishment licensees:

- (A) Massage therapists and all other employees and agents of a massage establishment are required to be at least eighteen (18) years of age and are required to wear clean, nontransparent outer garments covering their sexual and genital areas which shall include the genitals, pubic area, buttocks, anus or perineum of any person or the vulva or breasts of a female.

- (B) Patrons to be Covered: The sexual or genital areas of patrons shall be completely covered at all times by towels, cloths or undergarments when in the presence of an employee of the massage establishment or in the presence of any massage therapist on the premises.
- (C) No massage therapist or employee or agent of a massage establishment shall place his or her hand upon, to touch with any part of his or her body, with intent to fondle in any manner, a sexual or genital area of any other person.
- (D) No massage therapist or employee or agent of a massage establishment shall perform, offer or agree to perform any act which would require the touching of a patron's genital or sexual area.
- (E) No massage therapist or employee or agent of a massage establishment shall administer a massage to any part of a patron's body which exhibits any skin fungus, skin infection, skin inflammation or skin eruption, unless a physician duly licensed by the State certifies in writing that such persons may be safely massaged, and which prescribes the conditions thereof.
- (F) The occurrence of any event which would render the holder of a massage establishment license or massage therapist license unqualified for issuance of such license pursuant to this Article shall be grounds for revocation or suspension of the existing license.
- (G) Any license issued under this Article shall be displayed in a conspicuous location within the customer area of a licensed massage establishment.

(Ord. 2018-12-01, passed 12/19/2018)

§ 114.67: FACILITY REQUIREMENTS:

No license to conduct a massage establishment shall be issued unless an inspection by the Village reveals that the establishment complies with each of the following minimum requirements:

- (A) Premises Generally: The massage establishment premises shall be in compliance with all applicable codes and ordinances of the Village, including, but not limited to, zoning, building and life safety codes.
- (B) Electrical Requirements: All electrical equipment shall be installed in accordance with the requirements of this Village Code.
- (C) Waterproof Construction; Plumbing Requirements:
 - (1) Construction of rooms used for toilets, tubs, steam baths and showers shall be made waterproof with approved waterproof materials and shall be installed in accordance with this Village Code. Plumbing fixtures shall be installed in accordance with this Village Code.
 - (2) Steam rooms and shower compartments shall have waterproof floors, walls and ceilings approved by the Village.
 - (3) Floors of wet and dry heat rooms shall be adequately pitched to one or more floor drains properly connected to the sewer. (Exception: Dry heat rooms with wooden floors need not be provided with pitched floors and floor drains.)
 - (4) A source of hot water must be available within the immediate vicinity of dry and wet heat rooms to facilitate cleaning.

- (D) Disinfection and Sterilization Equipment: The premises shall have adequate equipment for disinfecting and sterilizing non-disposable instruments and materials used in administering massages. Such non-disposable instruments and materials shall be disinfected after use on each patron.
- (E) Storage of Linens:
- (1) Closed cabinets shall be provided and used for the storage of clean linen, towels, and other materials used in connection with administering massages.
 - (2) All soiled linens, towels, and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas.
- (F) Toilet Facilities:
- (1) Toilet facilities shall be provided in convenient locations.
 - (2) At a minimum, a single unisex water closet shall be provided in an establishment when less than twenty (20) (in the aggregate) employees and patrons of different sexes are reasonably calculated to be on the premises at the same time.
 - (3) When twenty (20) or more (in the aggregate) employees and patrons of different sexes are reasonably calculated to be on the premises at the same time, the following shall be applicable: Separate toilet facilities shall be provided for each sex. A single water closet per sex shall be provided for each twenty (20) or more employees or patrons of that sex on the premises at any one time.
- (G) Lavatories or Washbasins: Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or washbasins shall be provided with soap and a dispenser and with sanitary towels.
- (H) Dressing or Locker Facilities: Adequate dressing or locker facilities shall be provided for the patrons to be served at any given time. In the event male and female patrons are to be served simultaneously, segregated dressing, locker and massage room facilities shall be provided.

(Ord. 2018-12-01, passed 12/19/2018)

§ 114.68: OTHER OPERATING REQUIREMENTS:

- (A) Licenses Displayed: The current massage establishment license issued by the Village as required by this Article and a current copy of the current massage therapist license issued by the State of Illinois of each and every massage therapist employed in the massage establishment shall be displayed in an open and conspicuous place in the licensed premises.
- (B) Rates Posted: Price rates for all services shall be prominently posted in the reception area in a location available to all prospective patrons.
- (C) Advertising: No massage establishment issued a license under the provisions of this Article shall place, publish or distribute or cause to be placed, published, or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective patrons that any services are available, other than those services permitted by this Article, and/or any

advertisement, picture, or statement which is known or through the exercise of reasonable care should be known to be false, deceptive or misleading in order to induce any person to purchase or utilize any massage services.

- (D) Sanitary Conditions: All licensed massage establishments operating within the Village shall be maintained in sanitary condition, including but not limited to the following:
- (1) Every portion of the massage establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.
 - (2) All employees, including massage therapists, shall be in good health, clean and shall be fully covered by wearing clean, nontransparent outer garments, completely covering the sexual and genital areas.
 - (3) All massage establishments shall maintain a sufficient quantity of clean, sanitary, laundered sheets, towels, and any other items of clothing provided to patrons, to serve each patron, which sheets and towels, and other such items shall be laundered after each use thereof and stored in a sanitary manner.
 - (4) Each massage therapist shall wash his or her hands in hot running water with proper disinfectant before administering a massage to each patron.
 - (5) Oils, creams, lotions or other preparations used in administering massages shall be kept in clean, closed containers or cabinets and shall be dispensed in unit doses so that bulk containers are not contaminated between clients.
 - (6) Eating in the massage work areas shall not be permitted.
 - (7) Animals, except guide dogs, shall not be permitted in the massage work areas.
- (E) Manager and Licensed Massage Therapist On Premises: At all times during the hours of operation of a massage establishment, there shall be present a manager or other employee of the licensee, and a licensed massage therapist, each of whom shall not be less than eighteen (18) years of age. A licensed massage therapist may also serve as a manager.
- (F) Hours of Operation: No massage establishment shall be open for business or in operation between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M.
- (G) Name and Place of Business: No person issued a massage establishment license pursuant to this Article shall operate the massage establishment under a name not specified in the license, nor shall the business be conducted under any different designation or at any location not specified in the massage establishment license.
- (H) Liquor Prohibited: No person shall sell, give, dispense, provide or keep, or cause to be sold, given, dispensed, provided or kept, any alcoholic beverage on the premises of any massage establishment, and no massage establishment shall be located on any premises for which a license to sell alcoholic liquor has been issued.
- (I) Indecent, Obscene Conduct: No massage establishment licensee under the provisions of this Article shall permit any person to remain in or upon the licensed premises who commits any act of public indecency or obscenity as provided in this Village Code or as provided in the Illinois Criminal Code.

- (J) Compliance With Other Laws: Each massage establishment shall operate in compliance with all applicable local, State and federal laws and regulations, including, but not limited to, any such laws and regulations relating to discrimination based on any protected status, as such laws and regulations may be amended from time to time.

(Ord. 2018-12-01, passed 12/19/2018)

§ 114.69: CHANGE OF LOCATION OR MANAGER; TRANSFER OF LICENSE:

- (A) Change of Location: Any license issued pursuant to this Article shall be applicable only to the specific licensee and location designated, and may not be sold, transferred, or otherwise assigned to another person or to another location.
- (B) Change of Licensee; Nontransferability: A transfer in the ownership or control of a massage establishment shall constitute a change in the licensee, and the existing license shall be deemed surrendered and extinguished. A new application and license shall be filed and processed as provided in this Article prior to such transfer taking effect. Any transfer in the ownership or control of a massage establishment in violation of this Article shall constitute the operation of an unlicensed massage establishment.
- (C) Change of Manager: Notice shall be provided prior to any change of the designated manager conducting business for the massage establishment licensee. The new manager shall be qualified to operate the massage establishment as provided in this Article. The licensee shall, not less than ten (10) business days before such change is to take effect, give the Village Administrator, or a Village officer designated by him or her, notice of such change. The notice shall include any information concerning the new manager which is required in this Article.

(Ord. 2018-12-01, passed 12/19/2018)

§ 114.70 EMPLOYMENT OF MASSAGE THERAPIST REQUIRED:

- (A) No person shall employ as a massage therapist any person unless said person is a licensed massage therapist.
- (B) No person shall perform any massage on another person in a massage establishment unless the person performing such massage is a licensed massage therapist.
- (C) No person shall perform any massage on another person in a massage establishment unless a copy of the current, valid massage therapist license issued by the State of Illinois to the person performing the massage is on file with the Village Administrator, or with a Village officer designated by the Village Administrator.

(Ord. 2018-12-01, passed 12/19/2018)

§ 114.71 UNLAWFUL ACTS:

It shall be unlawful:

- (A) For any individual, in a massage establishment, to place his or her hand or hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage a sexual or genital area or part of any other person.
- (B) For any individual, in a massage establishment, to expose his or her sexual or genital parts, or any portion thereof, to any other individual.
- (C) It shall also be unlawful for any individual, in a massage establishment, to expose the sexual or genital parts, or any portions thereof, of any other individual.
- (D) For any individual, while in the presence of any other individual in a massage establishment, to fail to conceal with a fully opaque covering, the sexual or genital parts of his or her body.
- (E) For any massage therapist, employee or operator to perform, offer to perform, or agree to perform any act which would require a touching of a patron's genital or sexual area.
- (F) For any individual owning, operating, or managing a massage establishment, to cause, allow or permit in or about such massage establishment any agent, employee, or any other individual under his control or supervision to perform any such acts as prohibited by this Article.
- (G) For any person who holds a license to operate a massage establishment within the Village, or any employee of such establishment, to fail to comply with any of the conditions and regulations set forth in this Article.

(Ord. 2018-12-01, passed 12/19/2018)

§ 114.72 INSPECTIONS:

- (A) The Building Inspector shall from time to time, and at least twice a year, make an inspection of each massage establishment for the purposes of determining that the provisions of this Article are complied with. Such inspections shall be made at reasonable times and in a reasonable manner.
- (B) Whenever inspections of the premises used for or in connection with the operation of a licensed massage establishment are provided for or required by this Article, or any other ordinance of the Village, or are reasonably necessary to assure compliance with the provisions of any ordinance or regulation of the Village, or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to admit thereto for the purpose of making the inspection any officer or employee of the Village who is duly authorized to make such inspection at any reasonable time that such admission or entry is requested. Each such inspection shall be made at a reasonable time and in a reasonable manner. It shall be unlawful for any licensee to fail to allow such inspection officer or employee of the Village access to the premises or to hinder such inspection officer(s) or employee in any manner.

(Ord. 2018-12-01, passed 12/19/2018)

§ 114.73 SUSPENSION OR REVOCATION OF ESTABLISHMENT LICENSE:

(A) Suspension or Revocation of License:

- (1) Procedures: Any license issued for a massage establishment may be suspended for a period not to exceed thirty (30) days or revoked by the Village President upon written notice to the license holder, which notice shall state a basis or charge. The notice shall be served by mailing a copy thereof by regular U.S. mail, addressed to the licensee at the address of the licensed premises, and shall be deemed served on the date of mailing (the “service date”) and by delivering a copy of the notice to the manager of the licensed premises or to any other employee on the licensed premises. The license holder may file with the Village Administrator a request in writing for a hearing before the Corporate Authorities of the Village within ten (10) days of the service date. If a written request for a hearing is not filed with the Village Administrator within ten (10) days of the service date, the Village President may suspend any license for a period not to exceed thirty (30) days or revoke any license for any of the reasons hereinafter set forth in the provision of this subsection. Upon receiving a timely written request for such a hearing, the Corporate Authorities of the Village shall conduct the hearing within a reasonable time thereafter and may thereafter suspend a license for a period of time not to exceed thirty (30) days or may revoke a license for any of the following reasons:
 - (a) If any of the provisions of this Article are violated by the licensee or any employee of the licensee, or any employee of the licensee is engaged in any conduct at licensee’s place of business which violates any of the provisions of this Article or any other ordinances of the Village relating to the license, the licensed premises, or any state law; and/or
 - (b) Where any applicant has committed any fraud, misrepresentation or made a false statement on an application for a license under this Article; and/or
 - (c) In any case where the licensee refuses to permit any duly authorized police officer or inspector of the Village to inspect the premises or the operations therein; and/or
 - (d) For a failure or refusal of the licensee to pay any fee(s), fine, penalty, and/or charge owed to the Village; and/or
 - (e) In the event that the licensee would not now qualify for the issuance of an initial license or for the renewal thereof; and/or
 - (f) If a massage therapist engages in any conduct on the licensed premises which violates any of the provisions of this Article of this Village Code, and/or of other provisions of this Village Code, or of any Illinois statute; and/or
 - (g) Any of the Applicant(s) has made a false statement on an application for a license under this Article; and/or
 - (h) If such business is being managed, conducted or maintained without regard for the public health and safety, without regard for the health and safety of employees and/or patrons, and/or without due regard for proper sanitation or hygiene.
 - (i) A licensee conducted massage activities in the Village during a period of time when the licensee’s license was suspended.
 - (j) A licensee, or an employee of a licensee, has allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, bestiality, prostitution, or flagellation to occur in or on the licensed premises.
 - (k) There is no licensed massage therapist employed by the licensee or otherwise engaged to provide massage services on the licensed premises.

- (1) For any of the reasons stated in Section 114.13 of this Village Code.
 - (2) The licensee shall be deemed to have actual or constructive knowledge of any violations of this Chapter if they occur on the licensed premises.
 - (3) Appeals: Any decision of the Village President to suspend or revoke a license may be appealed to the Corporate Authorities of the Village by filing such appeal in writing with the Village Administrator within ten (10) days after the date of issuance by the Village President of any order of suspension or revocation. Within a reasonable time after any such appeal is filed, the Corporate Authorities of the Village shall review the record of the hearing held before the Village President, if any was held, or if no hearing was held, the basis for such order of suspension, and based upon such review, shall make a decision to either affirm or reverse the decision of the Village President to suspend or revoke the license. If the Corporate Authorities of the Village decide to affirm the decision to suspend or revoke the license, the Corporate Authorities of the Village may also modify the term of the suspension or revocation; provided that in no event shall a suspension exceed thirty (30) days. Any suspension or revocation ordered by the provisions hereof shall be stayed until all administrative appeals made to officials of the Village as provided herein have been concluded. The decision of the Corporate Authorities of the Village shall be final and subject to judicial review only by a court of competent jurisdiction.
 - (4) Period of Revocation: Any licensee whose license has been revoked is barred from applying for a new license for a minimum period of twenty four (24) months from the date of revocation.
 - (5) Location Restricted After Revocation: If a license has been revoked for any cause, no license shall be granted to any person for the conduct of the business of a massage establishment at that same location for a period of twenty four (24) months.
- (B) Other Penalties Applicable: Any suspension or revocation of the license, if ordered, shall not preclude prosecution and imposition of any other penalties provided for the violation of other applicable provisions of this Article or other applicable provisions of this Village Code.

(Ord. 2018-12-01, passed 12/19/2018)

**ARTICLE VI:
VIOLATIONS/ PENALTIES**

§ 114.99 VIOLATIONS; PENALTIES:

- (A) Petty Offense: Any person who shall be found guilty by a court of competent jurisdiction or found liable by an administrative adjudication hearing officer duly authorized by this Village of violating any provisions of this Chapter, of failing to comply with any of the requirements hereof, or who shall violate a license, any approval or condition of approval, or any directive of the Local Liquor Control Commissioner or of the Board of Trustees of the Village, issued under the provisions of this Chapter shall be guilty of a petty offense, punishable by mandatory fine(s) of not less than \$200.00 per day and not more than \$750.00 per day for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

- (B) Court Costs: Any person who shall be found guilty by a court of competent jurisdiction or found liable by an administrative adjudication hearing officer duly authorized by this Village of violating a provision of this Chapter or of failing to comply with any requirement thereof, or of violating any license, any approval or any directive of the Local Liquor Control Commissioner or of the Board of Trustees of the Village, issued under the provision of this Chapter, shall, in addition to the fine(s) and other penalties provided, be obligated to reimburse the Village for its attorneys' fees to the extent permitted by law, court costs, court reporter costs, expert witness fees and all other out of pocket costs incurred by the Village in the prosecution of the said violation or violations.
- (C) Joint Liability: The owner of record, beneficiaries, general agent and/or contractor for the building, premises or property where such violation has been committed or shall exist, and the lessee or tenant of an entire building, premises or property, or any part thereof, and anyone who assists in such violation shall all be jointly and severally liable for any such violation.
- (D) Injunction: The Village may make application to the applicable circuit court for an injunction requiring conformance with this Chapter or obtain such other order as the court deems necessary to secure compliance with this Chapter.

(Ord. 2018-12-01, passed 12-19-2018; Amd. Ord. 2019-09-03, passed 09/18/2019)