

ORDINANCE NO. 7, SERIES 2021

**AN ORDINANCE AMENDING ORDINANCE NO. 2, SERIES 2014, AN ORDINANCE TO
REGULATE AND LICENSE THE SALE AT RETAIL OF ALCOHOLIC LIQUORS IN THE VILLAGE OF JOY,
COUNTY OF MERCER, STATE OF ILLINOIS**

BE IT ORDAINED by the President and Board of Trustees of the Village of Joy, Illinois:

SECTION 1

DEFINITIONS: Unless otherwise specified, the words and phrases herein defined are to be used in this Ordinance in the sense given them as follows:

LICENSEE: The word licensee shall mean any person, partnership, firm, or corporation to whom a license shall be issued hereunder.

ALCOHOL: the word alcohol shall mean the product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, and includes synthetic ethyl alcohol. It does not include any alcohol other than ethyl alcohol.

SPIRITS: The word spirits shall mean any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution and includes brandy, rum, whisky, gin, or otherwise mixed with alcohol or other substances.

WINE: The word wine shall mean any alcohol beverage obtained by the fermentation of the natural contents of fruits or vegetables, containing sugar, including such beverages when fortified by the addition of alcohol or spirits, as above defined.

BEER: The word beer shall mean a beverage obtained by alcoholic fermentation of any infusion or concoction of barley, or other grain, malt and hops in water, and includes, among other things, beer, ale, stout, lager beer, porter, and the like.

ALCOHOLIC LIQUOR: The term alcoholic liquor includes the four (4) varieties of liquor above defined, alcohol, spirits, wine, and beer and every liquor or solid, patented, or not, containing alcohol, spirits, wine, or beer, and capable of being consumed as a beverage by a human being. The provisions of this Ordinance shall not apply to alcohol used in the manufacture of denatured alcohol, nor to any liquid or solid containing on half of one percent

(0.5%), or less, of alcohol by volume. Nor shall the provisions of this Ordinance apply to flavoring extracts, concentrates, syrups, medicinal, mechanical, scientific, culinary, or toilet preparation, or food products unfit for beverage purposes, but the provisions of this Ordinance shall not be construed to exclude or not apply to alcoholic liquor used in the manufacture, preparation, or compounding of such products. None of the provisions of this Ordinance shall apply to wine intended for use and used by any church or religious organization for sacramental purposes.

ORIGINAL PACKAGE: The term original package shall mean any bottle flask, jug, can, cask, barrel, keg, hogshead, or other receptacle or container whatsoever used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and so convey any alcoholic liquor.

RETAILER: The word retailer shall mean a person who sells, or offers for sale, alcoholic liquor for use or consumption and not for resale in any form.

SELL AT RETAIL and SALE AT RETAIL: the terms sell at retail and sale at retail refer to and mean sales for use or consumption and not for resale in any form.

SALE: The word sale shall mean any transfer, exchange, or barter in any manner or by means whatsoever, for a consideration, and includes and means all sales made by any person, whether principal, proprietor, agent servant, or employee.

TO SELL: The term to sell includes to solicit or receive an order for, to keep or expose for sale, and to keep with intent to sell.

RESTAURANT: The word restaurant shall mean any public place kept, used, maintained, advertised, and held out to the public as a place where meals are served and where meals are actually and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook, and serve suitable food for its guests.

SECTION 2

LICENSE REQUIRED: It shall be unlawful to sell or offer for sale or retain in the Village of Joy any alcoholic liquor without having a retail dealer's license, or to be in violation of the terms of such license.

SECTION 3

APPLICATION: An applicant for a license or prior to a renewal of any previously issued liquor license, an applicant shall submit to the Village President an application in writing under oath stating:

- (a) The name, age, and address of the applicant in the case of an individual, in the case of co-partnership, the persons entitled to share in the profits thereof, and in the

case of a corporation, for profit or a not for profit corporation, the date of incorporation, the objects for which it was organized, the names and addresses of the officers and directors, and if a majority in interest of the stock of such corporation is owned by one person or his nominees, the name and address of such person.

- (b) The citizenship of the applicant, his place of birth, and if a naturalized citizen, the time and place of his naturalization.
- (c) The character of the business of the applicant; and in the case of a corporation, the objects for which it was formed.
- (d) The length of time that said applicant has been in business of that character, or in the case of a corporation, the date on which its charter was issued.
- (e) The amount of goods, wares, and merchandise on hand at the time application is made.
- (f) The location and legal description of the premises or place of business which is to be operated under such license.
- (g) A statement whether applicant has made similar application for a similar other license on premises other than described in this application, and the disposition of such application.
- (h) A statement that applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this Ordinance, laws of this State, or the provisions of this Ordinance.
- (i) Whether a previous license by any State of subdivision thereof, or by the Federal Government has been revoked, and the reasons therefore.
- (j) A statement that the applicant will not violate any of the laws of the State of Illinois or of the United States, or any provisions of this Ordinance in the conduct of his place of business.
- (k) If said application is made in behalf of a partnership, firm, association, club, or corporation, then the same shall be signed and sworn to by at least two (2) members of such partnership or the president and secretary of such corporation.
- (l) If applicant requires a Class C license, applicant must submit a floor plan with the application showing the location and size of the bar area as well as the location and length of a permanent rigid partition which shall be a minimum height of forty-eight (48) inches from the floor and which partition shall separate the dining area from the bar area.

SECTION 4

BOND: Every applicant for a license hereunder shall file with his application a joint and several bond executed by at least two (2) good and sufficient sureties residing or licensed to do business with the State of Illinois, to the Liquor Control Commissioner, and to his successor in office, in the amount of Five Hundred (\$500.00) Dollars, conditioned upon true and faithful compliance by said licensee with all the provisions of this Ordinance and of the laws of the State pertaining to alcoholic liquors.

If a licensee shall be convicted of the violation of any of the provisions of this Ordinance, or his license shall be revoked and no appeal is taken from said order of revocation, or any appeal taken therefrom is decided adversely to the licensee, his bond shall thereupon be forfeited and the said Liquor Control Commissioner shall institute suit upon such bond in his name as such Commissioner for the entire amount of said bond and costs. In any action brought on any such bond said Commissioner shall be represented by the Village Attorney.

SECTION 5

REGULATION FOR LICENSED PREMISES: No person shall receive a license to sell alcoholic liquor upon any premises as a restaurant unless it has the qualifications, respectively, described in Section 1 and Section 3 regarding restaurants.

SECTION 6

LICENSEE RESTRICTIONS: No license shall be issued to:

- (a) A person who is not of good character and reputation in the community in which he resides.
- (b) A person who is not a citizen of the United States.
- (c) A person who has been convicted of a felony as defined under the laws of the State of Illinois.
- (d) A person who has been convicted of being the keeper or is keeping a house of ill fame.
- (e) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality.
- (f) A person whose license issued under this Ordinance has been revoked for cause.
- (g) A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application.
- (h) A co-partnership, unless all of the members of such co-partnership shall be qualified to obtain a license.
- (i) A corporation, if any officer, manager, or director thereof, or any stockholder or stockholders owning in the aggregate more than five (5%) percent of the stock of such corporation, would not be eligible to receive a license hereunder for any reason other than citizenship and residence within the political subdivision.
- (j) A person whose place of business is conducted by a manager or agent, unless said manager or agent possesses the same qualifications required of the licensee.
- (k) A person who has been convicted of a violation of any Federal or State law concerning the manufacture, possession, or sale of alcoholic liquor, subsequent to the passage of this Ordinance, or shall have forfeited his bond to appear in court to answer charges for any such violation.

- (l) A person who does not own the premises for which a license is sought, or does not have a lease thereon for the full period for which the license is to be issued, or is not purchasing the premises thereon under a written contract for purchase.
- (m) Any law enforcing public official, any Village President, Trustee, or member of the board or commission, or any president or member of a County Board; and no such official shall be interested in any way, either directly, or indirectly, in the manufacture, sale, or distribution of alcoholic liquor.
- (n) Any person not eligible for a State retail liquor dealer's license.

SECTION 7

TERM OF LICENSE FEES PRORATED: The license required herein shall be for not more than a one (1) year period and shall terminate on April 30th next following its issuance. The fee to be paid shall be reduced in proration to the full calendar months which have expired in the fiscal year prior to the issuance of the license.

SECTION 8

CLASSIFICATION FEE: All licenses shall be and are hereby divided into three (3) classes and irrespective of class, the local Liquor Commission shall not issue more than a total of three (3) licenses. Such classes and their respective rates are as follows:

- (a) Class "A" licenses shall authorize the sale at retail of any alcoholic liquor in original packages only for consumption off the premises where sold. The annual fee for such license shall be the sum of Seven Hundred Fifty (\$750.00) Dollars.
- (b) Class "B" licenses shall authorize the sale at retail of any alcoholic liquor by the drink and for consumption on the premises where sold, and also the sale of any alcoholic liquor in original packages for consumption off the premises. The annual fee for such license shall be the sum on One Thousand (\$1000.00) Dollars.
- (c) Class "C" licenses shall authorize the sale at retail of alcoholic liquor by the drink for consumption on the premises where sold and also the same of alcoholic liquor packages for consumption off the premises. Such license shall be issues only for any establishment qualifying as a "restaurant" defined herein. The annual fee for such license shall be the sum of One Thousand Two Hundred Fifty (\$1250.00) Dollars.

All license fees shall be paid in full in advance or may be paid in advance in equal quarterly installments. If the installment method is selected by the applicant, the first installment shall accompany the application and the second installment shall be paid no later than July 31st, next following, the third installment shall be paid no later than October 31st, next following, and the fourth installment shall be paid no later than January 31st, next following. Failure to pay any such installment shall render the license void.

SECTION 9

HOURS OF SALE:

- (a) No alcoholic liquor shall be sold at retail or consumed on any licensed premises between the hours of 12:00 A.M. and 7:00 A.M. on Monday, Tuesday, Wednesday, Thursday, and Friday unless New Year's Day shall fall on any of these days in which case the prohibited hours for that New Year's Day shall be from 2:00 A.M. until 7:00 A.M.; no alcoholic liquor shall be sold at retail or consumed on any licensed premises between the hours of 2:00 A.M. and 7:00 A.M. on any Saturday and between the hours of 2:00 A.M. and 7:00 A.M. on any Sunday.
- (b) It shall be unlawful for any holder of a license issued hereunder to permit or allow any person other than the holder of such license, and his employee or employees, to be, or remain, in or upon the premises licensed under such license after the closing hours, as defined in this Ordinance, and the words "closing hours" shall be construed to mean that said place of business so licensed shall be closed to all patrons, and all patrons shall be out of said place of business by such time as period prohibiting sale of alcoholic liquor begins.
- (c) It shall be unlawful for the holder of any Class "A" or Class "B" license to open their establishment to the public during periods when their local liquor license is suspended or during closing hours. It shall be unlawful for the holder of a Class "C" license to permit patrons or employees or agents of the licensee access to the area in which alcoholic beverages are stored during periods when their local liquor license is suspended or during closing hours.

SECTION 10

LIST OF LICENSES: Notice of Revocation: The Village President shall keep or cause to be kept a complete record of all such licenses issued by him; and shall furnish the Clerk, Treasurer, and Chief of Police each with a copy thereof. Upon the issuance of any license the Village President shall give written notice of such action to each of these officers within forty-eight (48) hours of such action.

SECTION 11

TRANSFER OF LICENSE: A license shall be purely a personal privilege good for not to exceed the fiscal year during which issued unless sooner revoked as in this Ordinance provided, and shall not constitute property, nor shall it be subject to attachment, garnishment, or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such license shall not descend by the laws of testate or intestate devolution, but it shall cease upon the death of the licensee, provided that executors or administrators of the estate of any deceased licensee, and the trustee of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale or manufacture of alcoholic liquor under order of the appropriate court, and may exercise the privileges of the deceased or insolvent or bankrupt licensee, after the death of such decedent, or such insolvency or bankruptcy, until the expiration of such license, but not longer than six (6) months after the death, bankruptcy, or insolvency of such licensee. A

refund shall be made of that portion of the license fees paid for any period in which the licensee or the licensee fiduciary shall be prevented from operating under such license in accordance with the provisions of this Section. Any licensee may renew his license at the expiration thereof, provided he is then qualified to receive a license and the premises for which renewal license is sought are suitable for such purpose; provided, further, that the renewal privilege herein provided for shall not be construed as a vested right which shall in any case prevent the President and/or Village Board from decreasing or increasing the number of licenses to be issued with the Village jurisdiction.

SECTION 12

CHANGE OF LOCATION:

- (a) Retail liquor dealer's license shall permit the sale of alcoholic liquor only in the premises described in the application and license.
- (b) Such location may be changed only upon the written permit to make such change issued by the Village President. No change of location shall be permitted unless the proposed new location is a proper one for the retail sale of alcoholic liquor under the law of this State and the provisions of this Ordinance.

SECTION 13

LOCAL RESTRICTIONS:

- (a) No license shall be issued for the sale at retail of any alcoholic liquor within one hundred (100) feet of any church, school, hospital, home for aged or indigent persons or for veterans, their wives or children, or any military or naval station; provided that this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs, or to restaurants, food shops, or other places where sale of alcoholic liquors is not the principal business carried on, if such place of business so exempted shall have been established for such purpose prior to the taking effect of this Ordinance. No person shall hereafter engage in business as a retailer of any alcoholic liquor within one hundred (100) feet of any undertaking establishment or mortuary.
- (b) No license for the sale of alcoholic liquor shall be issued to any person when the application for such license shall show that the location where it is proposed to sell at retail alcoholic liquor under such license is outside the Village limits.

SECTION 14

GAMBLING: No licensee shall permit any gambling, the playing of card games, or games of chance, for money, in any place for which he has a license hereunder, with the exception of

those games authorized by **"ORDINANCE No. 5, Series 2012, AN ORDINANCE PROVIDING FOR REGULATIONS UNDER THE ILLINOIS VIDEO GAMING ACT"**

SECTION 15

SALE TO MINORS:

- (a) It shall be unlawful for any licensee or his employee or agent to sell, give, or deliver alcoholic liquor to any person of either sex, under twenty-one (21) years of age or to any intoxicated person, or to any person known by him to be a habitual drunkard, spendthrift, or insane, feeble minded, or distracted person.
- (b) It shall be unlawful for any licensee granted a Class "B" license under this Ordinance, or his employee or agent, to knowingly permit any person, of either sex, under twenty-one (21) years of age, to enter into, or to be in, or to remain in or upon the premises described in such license.
- (c) It shall be unlawful for any licensee granted a Class "C" license under this Ordinance, or his employee or agent, to knowingly permit any person, of either sex, under twenty-one (21) years of age, to enter into, or to be in, or to remain in or upon the bar area designated in Section 3 of this ordinance.
- (d) It shall be unlawful for any person, of either sex, under twenty-one (21) years of age to enter into, or to be in, or to remain upon the premises described in any Class "B" license or in the bar area of a Class "C" licensed premises.
- (e) It shall be unlawful for any person licensed to sell alcoholic liquor, or his employee or employees, to knowingly permit any person or for any patron or other person, while in or upon the premises so licensed, to use, consume, or have in their possession in the original package with the seal thereon broken, any intoxicating liquor, other than that which has been purchased on said premises.

SECTION 16

VIEW FROM STREET: In the premises upon which the sale of alcoholic liquor for consumption upon the premises is licensed, no screen, blind, curtain, partition, article, or thing shall be permitted in the windows or upon the doors of such licensed premises not inside such premises, which shall prevent a clear view into the interior of such licensed premises from the street, road, or sidewalk at all times, and no booth, screen, partition, or other obstruction nor any arrangement of lights or lighting shall be permitted in or about the interior of such premises which shall prevent a full view of the entire interior of such premises from the street, road, or sidewalk, and said premises must be so located that there shall be in full view the entire interior of such premises from the street, road, or sidewalk. All rooms where liquor is sold for consumption upon the premises shall be continuously lighted during business hours by natural light or artificial white light so that all parts of the interior of the premises shall be clearly visible. In case the view into any such licensed premises required by the foregoing shall be willfully obscured by the licensee or by him willfully suffered to be obscured or in any manner obstructed, then such license shall be subject to revocation in the manner herein provided.

SECTION 17

ALCOHOLIC BEVERAGES UPON VILLAGE STREET:

- (a) The consumption, or the possession of alcoholic beverages, liquor, wine, or beer with the seal or container broken, upon a Village street, sidewalk, or public place shall be unlawful and shall subject the offender to a fine hereafter set forth.
- (b) It shall be unlawful for any local licensee to knowingly permit any person to violate provisions of Section 16(a) hereof.

SECTION 18

LIQUOR CONTROL COMMISSION: The Village President shall be the Liquor Control Commissioner and shall be charged with the administration of the appropriate provisions of this Ordinance and of such ordinances and resolutions relating to alcoholic liquor as may be enacted. The Village President may appoint a person, or persons, to assist him in the exercise of the powers and performance of the duties herein provided for such Liquor Control Commissioner. The Liquor Control Commissioner shall have the following powers, functions, and duties with respect to licenses:

- (a) To grant and revoke for cause all liquor licenses issued to persons for premises within his jurisdiction.
- (b) To enter or authorize any law enforcing officer to enter at any time upon any premises licensed hereunder to determine whether any of the provisions of this Ordinance have been or are being violated, and at such time to examine said premises of said licensee in connection therewith.
- (c) To receive complaint from any citizen within his jurisdiction that any of the provisions of this Ordinance or rules or regulations adopted pursuant hereto, have been or are being violated and to act upon such complaints in the manner hereinafter provided.
- (d) To receive liquor license fees and to pay the same forthwith to the Village Treasurer. In the event the license applied for is denied, the fee shall be returned to the applicant. If the license is granted, the fee shall be deposited in the Village General Fund, or in such other fund as shall have been designated by the Board by proper action. Then in this Ordinance the Liquor Control Commissioner shall be referred to, it shall include any committee or other agency appointed by such Commissioner. The Liquor Control Commissioner may revoke or suspend any license issued by him if he determines that the licensee has violated any of the provisions of this Ordinance or any State law pertaining to the sale of alcoholic liquor.

SECTION 19

LOCATION: All premises to be license by the Village for the sale of alcoholic beverages shall be located within the territory commonly known and described as the Village of Joy.

SECTION 20

PENALTY:

- (a) **General Penalty:** Any person convicted of a violation of any Section or provision of this Ordinance shall be deemed guilty of a misdemeanor and shall be fined in a sum not to exceed Five Hundred (\$500.00) Dollars for each and every offense, and the person may be confined in the Mercer County Jail for a period of not more than six (6) months.
- (b) **License:** When a person is convicted of a violation of any Section of this Ordinance, any license previously issued to him under this Ordinance may be revoked by the Court or by the Village Board.
- (c) **Application:** The penalty provided in this Ordinance shall be applicable to every Section of this Ordinance the same as though it were a part of each and every separate Section. Any person convicted of a violation of any Section of this Ordinance where any duty is prescribed or declared to be unlawful, shall be deemed guilty of a misdemeanor. A separate offense shall be deemed committed upon each day such duty or obligation remains unperformed or such act continues, unless otherwise specifically provided in this Ordinance. Whenever the doing of any act or the omission to do any act constitutes a breach of any Section or provision of this Ordinance, and there shall be no fine or penalty specifically declared for such breach, the provisions of this Section shall apply and a separate offense shall be deemed committed upon each day during or on which a breach or violation occurs or continues.
- (d) **Liability of Officers:** No provisions of this Ordinance designating the duties of any Village Officer or employee liable for any fine or penalty provided for a failure to perform such duty, unless the intention of the Village Board to impose such fine or penalty on such Village Officer or employee is specifically and clearly expressed in the Section creating the duty.

SECTION 21

Every act or omission of whatsoever nature constituting a violation of any of the provisions of this Ordinance by any officer, director, manager, or other agent or employee of any licensee, shall be deemed and held to be the act of such employer or licensee, said employer or licensee shall be punishable in the same manner as if said act or omission has been done or omitted by him personally.

STATE OF ILLINOIS)

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County of Mercer)

I, Gwen Pritchett, as Clerk of the Village of Joy, Illinois, do hereby certify that I am the duly appointed, qualified Village Clerk of said Village; that I am the official keeper of all books and records of said office and of said Village; that the foregoing is a full, true, correct, and complete copy of **“ORDINANCE NO. 7, SERIES 2021, AN ORDINANCE AMENDING ORDINANCE NO. 2, SERIES 2014, AN ORDINANCE TO REGULATE AND LICENSE THE SALE AT RETAIL OF ALCOHOLIC LIQUORS IN THE VILLAGE OF JOY, COUNTY OF MERCER, STATE OF ILLINOIS”**, which was adopted by the President and Board of Trustees of said Village on the 17th day of November, 2021 at a specially called and constituted meeting of said President and Board of Trustees; that said Ordinance was passed by a roll call vote at said meeting at which more than a quorum was present, all of which fully appears in the official records and minutes of said Board of Trustees in my office now remaining.

IN WITNESS WHEREOF, I have hereunto affixed my hand and signature as Clerk of the Village of Joy, Illinois, and the corporate seal of said Village, at Joy, Illinois, this 17th day of November, 2021.


Clerk of the Village of Joy, Illinois

(CORPORATE SEAL)

SECTION 22

All ordinances or parts of Ordinances in conflict herewith are hereby repealed insofar as such conflicts exist, and if any of the provisions of the Ordinance shall be held invalid such fact shall not be construed to invalidate any other provisions of the Ordinance.

SECTION 23

This Ordinance shall be in full force and effect after its passage, approval, and publication as provided by law.

PASSED by the Board of Trustees of the Village of Joy, Mercer County, Illinois this 17th day of November, 2021 and approved by the President of the Village of Joy, Mercer County, Illinois this 17th day of November, 2021.


Mark Heater, Village President

ATTEST:


Gwen Pritchett, Village Clerk