

**AN ORDINANCE OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS AMENDING THE BUSINESS LICENSE REGULATIONS**

**WHEREAS**, the Village of East Dundee (the "*Village*") is a duly organized and validly existing home-rule municipality created in accordance with the Constitution of the State of Illinois of 1970 and the laws of the State; and,

**WHEREAS**, the Village pursuant to its home rule powers has the authority to exercise any power and perform any function pertaining to its government and affairs including the power to regulate for the protection of the public health, safety and welfare and to establish general license regulations for all commercial businesses in the Village; and,

**WHEREAS**, the Village hereby adopts this ordinance pursuant to its home rule authority.

**NOW, THEREFORE, BE IT ORDAINED** by the President and Board of Trustees of the Village of East Dundee, Cook and Kane Counties, Illinois, as follows:

*Section 1.* That the Code of the Village of East Dundee, as amended, be and is hereby amended by deleting Chapter 110 entitled "GENERAL LICENSING PROVISIONS" and replacing it with the following:

**"CHAPTER 110**

**GENERAL LICENSING REGULATIONS**

**110.01 PURPOSE**

Because each commercial establishment located in the village is a basic part of and affects the physical and economic well-being of the village necessitating services from the village in the form of building, health, fire, and police inspections and other services, such commercial establishments shall in all respects be in full compliance with the provisions contained in this chapter. This chapter is designed to provide for the means whereby the village may render the necessary inspections and services to commercial establishments and commercial activities in order to promote, protect, and safeguard the public health, safety, and welfare of the residents and consumers of the village and to enable the effecting of an accurate record of commercial establishments located and carrying on commercial activities or commerce within the village.

**110.02 DEFINITIONS**

For the purpose of this chapter, the following definitions, whether capitalized or not, shall apply unless the context clearly indicates or requires a different meaning.

*ENGAGING IN BUSINESS.* Persons operating, conducting, doing, carrying on, causing to be carried on or pursuing any business activity, profession, occupation, trade, pursuit or activity for

the purpose of profit. "Business activity" includes but is not limited to the following activities of commerce or commercial activity located in the Village:

1. "*Food establishment*" means a building or premises or a portion thereof, the principal use of which is for the sale, dispensing, distribution, serving or storage of food, foodstuff or drink for consumption on or off the premises.
2. "*Retail and wholesale sales establishment*" means a building or premises or portion thereof, the principal use of which is for the sale or distribution of merchandise, goods or chattel for a price or fee by a seller to a consumer or by one business to another business.
3. "*Service establishment*" means a building or premises or a portion thereof, the principal use of which is for the rendering of personal or material services for a price or fee whether or not a commodity or material good is worked upon or exchanged.
4. "*Industrial establishment*" means a building or premises or a portion thereof, the principal use of which is for manufacturing, including assembly, processing, fabrication, storage or warehousing, including scientific or manufacturing research, engineering and development.

*PERSON.* Any individual, male or female, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity engaging in a business, profession, occupation, trade, pursuit, or activity.

*PLACE OF BUSINESS.* The building or premises or portion thereof the principal use of which is, temporary or otherwise, for the retail sale or distribution of merchandise, goods or food rendering of personal or material services to consumers for profit. In the event there is no such location, but the business is transacted at the location of the buyer, then the general sales area shall be considered a place of business. Place of business shall not include a business conducted at a personal residence.

#### **110.03 – LICENSE REQUIRED**

No person shall engage in, conduct, maintain, operate or carry on any business, occupation, activity or establishment, either by himself or itself, or through an agent, employee or partner, without first having obtained a license for such business, occupation, activity or establishment.

#### **110.04 – APPLICATIONS**

A. Applications for licenses shall be filed with the village clerk in writing on a form provided for that purpose, except as otherwise provided.

B. If the applicant is an individual or sole proprietorship, the application shall contain his name, date of birth, business name, if any, business and residence addresses and business and residence telephone numbers. If the applicant is a partnership or other noncorporate business entity, the application shall contain the business names, if any, address and telephone number of the partnership or other entity, and the names, dates of birth and residence addresses and residence telephone numbers of each partner or member thereof. If the applicant is a corporation, the

application shall contain the name of the corporation and its address and telephone number and the names, residence addresses and residence telephone numbers of each officer and director thereof, and if a majority in interest of the stock of such corporation is owned by one person or his nominee or nominees; the application shall also contain the name, date of birth, residence address and residence telephone number of such person.

C. Each application shall also contain:

- (1) A designation of the type or kind of license desired;
- (2) The location or proposed location of the place of business, occupation, activity or establishment;
- (3) The applicable fee to be paid as provided by any village ordinance;
- (4) The number of the certificate of registration required under the Illinois Statutes relating to retailer's occupation tax, service occupation tax, and/or use tax, if applicable; and,
- (5) Such additional information as may be needed by village officials in evaluating such application, including evidence of any insurance policy or bond required by any village ordinance.

#### **110.05 – INSPECTION OR INVESTIGATION**

Upon receipt of an application for a license, if an inspection or investigation is require before the issuance of such license, the village clerk shall promptly refer such application to the village official who is responsible for making such inspection or investigation. Such village official shall make such inspection or investigation and deliver a written report to the village clerk within ten days after receiving the application or a copy thereof with a recommendation for the approval or disapproval thereof.

#### **110.06 – ISSUANCE OF LICENSE**

All applications and inspection and/or investigation reports, if applicable, shall be promptly delivered to the village clerk for review and approval or disapproval. If approved, the license shall be signed by the village president, attested by the village clerk and issued. If disapproved, the village clerk shall indicate the reasons therefore in writing on the application and the applicant shall be notified by the village clerk.

#### **110.07 – FEES**

A. All fees and/or charges for licenses shall be deposited with the village clerk at the time the application is filed. Fees shall not be prorated for business conducted for a portion of a year.

B. The annual fee shall be fifty dollars (\$50.00).

**110.08 – EXPIRATION AND RENEWAL**

Unless otherwise provided, all licenses shall expire on the last day of December each year. Such licenses shall be reissued upon the filing and approval of a new application and the deposit of the fee with the village clerk. Prior to approving such new application, the village clerk may request a reinspection and/or reinvestigation in cases in which the clerk deems it appropriate. No license shall be renewed or reissued if the licensee, applicant, business, activity or establishment has any overdue accounts with village for fees, penalties, fines, or charges in connection with the business, activity, occupation or establishment.

**110.09 – BUILDING AND PREMISES**

No license shall be issued for any business, occupation, activity or establishment unless the building and premises to be used fully comply with all ordinances, codes, rules and regulations of the village and the statutes of the State of Illinois.

**110.10 – NUISANCES PROHIBITED**

No business, occupation, activity or establishment, whether or not a license has been issued therefore, shall be conducted, operated, maintained or carried on so as to constitute a nuisance.

**110.11 – INSPECTIONS AND ANALYSIS**

A. Inspections at reasonable times may be made by authorized village officials or employees of any building or premises used for or in connection with the operation of a business, occupation, activity or establishment for which a license has been applied, or when issued, and the licensee or the person in charge of the building or premises shall allow such an inspection.

B. Whenever an analysis of any commodity or material is reasonably necessary to assure compliance with the provisions of any village ordinance, code, rules or regulations, or to detect violations thereof, the licensee or the person in charge of the building or premises shall furnish any authorized village official or employee sufficient samples of such material or commodity for such analysis upon request.

**110.12 – REVOCATION AND SUSPENSION**

A. *Suspension of business operations.*

(1) When the conduct or operation of any commercial establishment or activity, whether licensed or unlicensed, shall constitute a nuisance in fact and a clear and present danger to the public health, safety, or general welfare, the village administrator shall be authorized to summarily order the cessation of business and the closing of the premises for a period not to exceed ten days.

(2) Unless (i) waived by the affected business; or (ii) the nuisance is substantially abated in the opinion of the village administrator and the business is allowed to resume and reopen, within eight days after a license is suspended, the village president shall call a

hearing as provided in subsection (d) of this section for the purpose of determining whether or not the license should be revoked or further suspended.

*B. Revocation of license.*

(1) Licenses issued by the village may be suspended for up to 30 days or revoked in addition to any fine imposed by the village president after notice and hearing as provided in subsection (d) of this section for any of the following causes:

- a. Any fraud, misrepresentation, or false statement contained in the application for the license;
- b. Failure by the applicant to comply with any provision of this Code or any statutes of the State relating to the business, occupation, or activity of the license;
- c. Conviction of the applicant of any felony or of a misdemeanor where such conviction indicates their inability to operate a safe, honest, and legitimate business operation within the village;
- d. Failure of the licensee to pay any fine, penalty, or charge owed to the village;
- e. Any deceptive trade practices as defined by state or federal law or regulation and shall comply with all applicable laws and regulations regarding consumer protection and deceptive trade practices;
- f. Compliance with all village zoning, building, fire and health codes, and ordinances, as well as all other applicable village codes, ordinances, rules, and regulations and the premises shall be maintained in good repair, free of litter and debris and kept in a safe condition for employees, customers, and other persons present therein or thereon;
- g. Any other violation of any village ordinance, resolution, or regulation; or
- h. Refusal to permit an inspection or sampling or any interference with a duly authorized village officer or employee while in the reasonable performance of his duties in making such inspections.

C. Such revocation, if ordered, shall not preclude prosecution and imposition of any other penalties provided for the violation of other applicable provisions of this chapter or other ordinances of the village. No person whose license has been revoked shall be eligible for a new license during the period for which the original license was originally issued.

D. Hearing procedures.

(1) *Notice.*

- a. Notice of a hearing shall set forth specifically the grounds of the complaint and the time and place of the hearing.
- b. Such notice shall be served by certified mail (return receipt requested) to the licensee at his last known residence or business address, at least five days prior to the date set for the hearing or personally served on the licensee at least three days prior to the date set for the hearing.
- c. If the licensee shall request a continuance in the date of the hearing, any suspension in effect shall be continued until the continued hearing date.
- d. All pleadings, motions, notices, and orders shall be filed with the village clerk.

(2) *Procedural rules.*

- a. Prior to the beginning of any hearing, the village president may adopt additional procedural rules as may be necessary for that hearing.
- b. At the hearing, the licensee shall be permitted counsel and shall have the right to respond, present evidence, and cross-examine witnesses.
- c. All proceedings shall be stenographically or electronically recorded.
- d. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in civil cases in the circuit courts of the State shall be followed. Evidence not admissible under those rules of evidence may be admitted, however, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Objections to evidentiary offers may be made and shall be noted in the record.
- e. No discovery procedure shall be used prior to a hearing except by leave of the village president who shall supervise all or any part of any discovery procedure.
- f. The standard for proof for hearings shall be by the preponderance of the evidence.
- g. The village president shall preside and render the decision within a reasonable time after the conclusion of the hearing, but not later than 30 days after such conclusion. The decision shall be in writing and shall summarize the evidence and state the reasons for the decision.

(3) *Hearing costs.*

a. Any licensee whose license is suspended or revoked, or a business that operates without a license shall pay to the village the costs of the hearing before the village president. The village president shall determine the costs incurred by the village for said hearing, including, but not limited to, court reporter fees, the costs of transcripts or records, attorneys' fees, the cost of preparing the mailing notices and orders, and all other miscellaneous expenses incurred by the village or such lesser sum as the village president may allow.

b. The licensee shall pay said costs to the village within 30 days of notification of the costs by the village president. Failure to pay said costs within 30 days of notification is a violation of this section and may be cause for license suspension or revocation, or the levy of a fine.

**110.13 – LICENSE TO BE POSTED – DESTRUCTION OR REMOVAL PROHIBITED UNLESS AUTHORIZED**

A. All licensees shall keep the license certificate, plate, tag, badge or sticker posted at all times in a conspicuous place on the building or premises used for the business, occupation, activity or establishment for which such license is issued.

B. No person shall destroy, obliterate, take, remove or carry away without the consent of the licensee any certificate, plate, tag, badge or sticker which has been issued by the village except when such certificate, plate, tag, badge or sticker has expired or been revoked or suspended or the building or premises for which the license is issued has been abandoned.

C. In the event that a license is revoked or suspended, an authorized village official or employee may remove the certificate, plate, tag, badge or sticker relating thereto from the building or premises on which it is posted if the licensee fails or refuses to forthwith surrender it upon receiving notice of the revocation or suspension.

**110.14 – LICENSES NOT ASSIGNABLE – UNLAWFUL USE**

No license may be assigned, sold, loaned, transferred, used as collateral or otherwise encumbered. No person, firm or corporation shall use or display any license certificate, plate, tag, badge or sticker which has been improperly acquired. No person, firm or corporation shall alter, deface, forge or counterfeit any license certificate, plate, tag, badge or sticker issued by the village.

**110.15 – SEPARATE LICENSES REQUIRED FOR EACH LOCATION**

No license for a business, occupation, activity or establishment in the village shall be construed to permit its operation in more than one location in the village; a separate license shall be required for each location. For the purpose of this ordinance, the existence of a single location shall be evidenced by the fact that all buildings and premises containing the principal and accessory uses shall be:

A. connected or situated on the same or adjoining lots or parcels, and

B. owned or leased by the same person, firm or corporation. Unless otherwise provided, the location of any such business, occupation, activity or establishment may be changed upon written notification to the village clerk and the payment of a ten-dollar (\$10.00) transfer fee.

**110.16 – SEPARATE LICENSES REQUIRED FOR EACH BUSINESS**

Unless otherwise provided in this chapter or another ordinance, any person who conducts, engages in, maintains, operates or carries on more than one business, occupation, activity or establishment for which a license is required, regardless of whether or not they are operated out of the same building or premises, shall apply for and obtain a separate license for each such business, occupation, activity and establishment.

**110.17 – ENFORCEMENT**

Whenever a person neglects or refuses to apply for and obtain any license required by this chapter or any other village ordinance, or otherwise violates the provisions of this chapter, the village may also cause appropriate legal action and proceedings, in law or equity, to be instituted and maintained to enforce the license requirement.

*Section 2.* This Ordinance shall be in full force and effect upon its passage, approval, and publication in pamphlet form as provided by law.

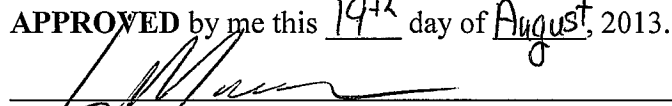
ADOPTED this 19<sup>th</sup> day of August, 2013, pursuant to a roll call vote as follows:

AYES: Trustees Gorman, Lynam, Wood and Selep


NAYS: Trustee Skillicorn

ABSENT: Trustee Ruffalo

APPROVED by me this 19<sup>th</sup> day of August, 2013.

  
Village President

Attest:

  
Village Clerk

Published in pamphlet form:

August 20, 2013