

**Ordinance No. 2018 -25**

**AN ORDINANCE OF THE VILLAGE OF WEST DUNDEE, KANE COUNTY, ILLINOIS,  
AMENDING THE WEST DUNDEE MUNICIPAL CODE PERTAINING TO THE  
REGULATIONS FOR THE LICENSING OF BUSINESSES**

**WHEREAS**, the Village of West 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 desires to update and clarify the general licensing procedures for business licenses by the adoption of this ordinance.

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

**Section 1:** That Chapter 1, General Licensing Provisions, of Title 3, Business and Licenses, of the West Dundee Municipal Code, as amended, be and is hereby repealed and replaced with the following:

**"Chapter 1**

**GENERAL LICENSING PROVISIONS**

**3-1-1 - 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.

**3-1-2 - Rules of construction and definitions.**

- A. All measured areas expressed in square feet shall be to the nearest integral square foot. If a fraction is one-half square foot or more, the integral square foot next above shall be taken.
- B. Definitions. The words and terms set forth in this section, wherever they occur in this chapter, shall be construed as herein defined:
  - (1) *Commercial establishments* includes the following activities of commerce or commercial activity located in the village:

- a. *Food establishment* is a building or premises or a portion thereof the principal use of which is for the sale or dispensing or distribution or serving or storage of food, foodstuff, or drink for consumption on or off the premises or in or out of the building.
- b. *Retail sales establishment* is a building or premises or portion thereof the principal use of which is for the retail sale or distribution of merchandise, goods or chattel not included with or related to the sale of material goods or chattel or the provision of services of food establishments or service establishments.
- c. *Service establishment* is a building or premises or a portion thereof the principal use of which is for the rendering of personal or material services to consumers for profit, including but not limited to the wholesale distribution, or storage of material goods or chattel, the sale or servicing or storage of motor equipment, the washing or cleaning or dyeing or repair of fabrics of wearing apparel on the premises, the storage or assembly or distribution or servicing or repair of building materials or electrical equipment or mechanical equipment, the storage or distribution of fuels or petroleum products, the services of printing or photocopying or publishing or similar reproduction services, the provision of facilities for a hotel or motor hotel or apartment hotel or similar structure housing facilities for the transient or permanent guests or persons, the provision of facilities for instruction or training or participation in or presentation of the fine arts or athletic skills or dexterity of physical skills or dexterity.

The term "commercial establishment" shall not include:

- a. A "home occupation" as defined in this Code;
  - b. A governmental unit; and
  - c. A public utility or cable television company which is subject to regulation by the Federal Communications Commission or the state commerce commission and which operates in the village pursuant to a franchise agreement with the village.
- (2) *Floor area* is the sum total of the gross horizontal areas of the several floors of a building and its accessory buildings measured in square feet from the exterior faces of the exterior walls or from the center line of party walls separating two buildings or business establishments on each of the respective floors and includes the basement floor, cellar floor, elevator shafts, and stair wells at each floor, floor space used for mechanical equipment, whether open or enclosed, including such equipment as may be located on the roof, penthouse, attic space, balconies, mezzanines, porches, and verandas, floor area devoted to and occupied by accessory uses. In computing such floor area, there shall not be included open area devoted to vehicular parking or loading or storage of materials, roof area not occupied by mechanical or similar equipment.
- (3) **AMUSEMENT(S)**: Including, but not limited to, places of entertaining commonly known as: amusement park, arcade, carnival, athletic competitions or events, bowling alley, carnival, circus, dance hall, entertainment club, exhibition, golf driving range, ice rink, kiddie park, miniature golf, nightclub, open air concert, playground, private club, rental

cart track, riding stable, roller rink (including in-line), teen club, tumbling center, water park and motion picture, dramatic, dance or musical theaters.

- (4) RESTAURANT: Any public place kept, used, maintained, advertised and held out to the public as a place where meals (i.e., breakfast, lunch and/or dinner) are served. The service of meals includes, but is not limited to, sit down dining, carryout service and drive-through service. For purposes of this definition, a restaurant need not have dining room equipment, but need only serve food, hot or cold, to the public.

### **3-1-3. - License required.**

- A. No person, firm, or corporation shall conduct, engage in, or maintain, operate, carry on, or manage any commercial establishment or activity either by himself or itself, or through an agent, employee, or partner, without first having obtained a license for such activity or commercial establishment.
- B. A license is required for the maintenance, operation, or conduct of any commercial establishment or activity, and any person, firm, or corporation shall be subject to the requirement, if, by himself or itself, or through an agent, employee, or partner, he or it is held forth as being engaged in the activity or commercial establishment, or if he or it solicits patronage therefore, actively or passively, or if he or it performs or attempts to perform any part of such activity or commercial establishment in the village.

### **3-1-4. - Applications.**

- A. Applications for all licenses required by this chapter shall be made to the village manager on a form prepared by the village. Wherever in this chapter it refers to the village manager, it shall include the designees of the village manager
- B. If the applicant is an individual (sole proprietorship), the application shall contain his name, date of birth, residential address, and residential telephone number. If the applicant is a partnership or other noncorporate business entity, the application shall contain the name, date of birth, and residential address and residential telephone number of each partner, principal, or member. If the applicant is a corporation, the application shall contain the name, date of birth, and residential address of each principal officer and the registered agent thereof.
- C. Each application also shall contain:
- (1) A designation of the type or kind of license desired;
  - (2) The location or proposed location of the commercial establishment or activity;
  - (3) The applicable fee to be paid;
  - (4) The number of the certificate of registration required under the Retailers' Occupation Tax Act (35 ILCS 120/1 et seq.), Service Occupation Tax Act (35 ILCS 115/1 et seq.), and/or Use Tax Act (35 ILCS 105/1 et seq.), if applicable; and

- (5) Such additional information as may be needed for the proper guidance of village officials in the evaluation of such application, including but not limited to:
  - a. Proof of any insurance policy or bond if required.
  - b. Identity of management employees and their position with the applicant.
  - c. Applicants' businesses in other communities.
  - d. Whether the applicant has ever had a previous license denied, revoked, or suspended.
  - e. Whether the applicant has ever voluntarily withdrawn a license or application for a license during or pending an investigation for the suspension or revocation of that license.
  - f. Whether the applicant has ever been arrested or convicted of a misdemeanor or felony.
  - g. Proof of corporate good standing.
  - h. Identity of suppliers or manufacturers' representatives.

D. Applications for a video gaming license as required by this section shall be filed with the village manager and shall contain the following additional information:

- (1) The name, address and age of the owner of the video gaming terminal and the owner of the establishment where the video gaming terminal shall be located.
- (2) Any prior convictions of the owner of the video gaming terminal and the owner of the establishment where the video gaming terminal shall be located.
- (3) The name and address of the establishment where the video gaming terminal will be displayed and operated and the business conducted and a description of the video gaming terminal to be operated under the license.
- (4) The location of the video gaming terminal as it is to be located in the local establishment.
- (5) Evidence that a video gaming license has been issued by the Illinois gaming board to the owner of the video gaming terminal and the owner of the establishment where the video gaming terminal shall be located.
- (6) An annual fee for the license required for video gaming terminals shall be established by section 3-1-9 of this chapter, and shall not be prorated or refundable.

**3-1-5. - Investigation.**

A. An investigation or inspection by any department or official of the village is required before the issuance of a license, and requires the approval of such department or official regarding

the property location or condition of the premises in which the commercial establishment or activity for which a license is applied is to be managed, conducted, operated, or carried on.

- B. The designated official or department in a reasonable time after receiving a copy of the application:
  - (1) Shall make all necessary investigations and inspections, and the results thereof shall be reported in writing to the village manager; and
  - (2) Shall indicate on the application a recommendation for the approval or disapproval thereof.

### **3-1-6. - Approval; disapproval.**

- A. If, after due consideration of the information contained within the application and related investigative and inspection reports, the village manager determines that the applicant meets the standards set forth, including but not limited to compliance with all applicable village ordinances, State or County laws or regulations, the village manager shall approve the application. The village manager shall notify the applicant that the application has been approved and shall issue a license. All licenses shall be subject to the provisions of this Code which may be in force at the time of the issuance thereof or which may subsequently be passed by the village board of trustees.
- B. If, after due consideration of the information contained within the application and related investigative and inspection reports, the village manager determines that matters concerning the application are unsatisfactory, the village manager shall disapprove the application, indicating the reasons therefor. Thereupon, the village manager shall notify the applicant that the application has not been approved and that no license will be issued and the license fee paid shall be refunded.

### **3-1-7. - Appeal.**

- A. Any person aggrieved by the decision of the village manager in regard to the denial of an application for a business license, as provided in this chapter, shall have the right to appeal to the village president. Such appeal shall be taken by filing with the village clerk within five days after notice of a denial of an application, a written statement under oath setting forth specifically the grounds for appeal. The village president shall thereupon set the time and place for a hearing on such appeal, and notice of such hearing shall be given to the applicant or licensee or permittee in the same manner as provided in section 3-1-17. The decision of the village president on such appeal shall be final.
- B. The acceptance of the license, upon reversal by the village president, shall constitute a waiver of all claims against the village, the village manager, or any other officer or employee, arising out of the original refusal to issue the license. The burden shall be upon the applicant to show wherein the village manager has failed to meet the standards set forth in this section.

### **3-1-8. - License term; expiration; renewal.**

- A. All annual licenses shall commence on January 1 each year. No license shall be granted for a period longer than one year. Except where otherwise provided herein, every license shall expire on December 31 following the date of issuance. Applications received for new licenses between December 1 and December 31 of each year shall be issued licenses including for the ensuing year.
- B. The village manager shall endeavor to notify each annual licensee of the expiration of time of the license held by the licensee at least 21 days prior to such expiration date; provided, that a failure to make such notification or the licensee's failure to receive it, shall not relieve the licensee from the obligation to obtain a new license or renewal.
- C. Except as otherwise provided herein, each license may be renewed upon proper application and payment of the required fee. The requirements and procedures for granting and issuing a license renewal shall be the same as the requirements and procedures for granting a new license.

**3-1-9 License fee schedule.**

A. General fee

- 1. All persons proposing to engage in business within the municipal limits of the village shall apply for and pay a business registration fee for each outlet, branch, location, or place of business within the municipal limits of the village prior to engaging in business.
- 2. There is imposed on each place of business located in the village an annual business registration fee per annum due and payable by January 1 of each year, as follows:

Number of Square Feet	Fee
1-1,000 square feet	\$50.00 per year
1,001-5,000 square feet	\$75.00 per year
5,001-10,000 square feet	\$150.00 per year
Greater than 10,000 square feet	\$250.00 per year

Renewal of business registration shall be for a full twelve (12) month period and shall not be prorated for business conducted for a portion of the year.

- 3. There is imposed on each person who conducts, manages, owns or operates residential rental property located in the village an annual business registration fee per building per annum due and payable by January 1 of each year, as follows:

Number of Rental Units	Fee
Single-family with 1 rental unit	\$50.00 per year
2-6 rental units	\$125.00 per year

More than 6 rental units, including apartments, condominiums and townhomes under the same roof or ownership.	\$20.00 per unit
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Renewal of business registration shall be for a full twelve (12) month period and shall not be prorated for business conducted for a portion of the year.

4. Exemption: Except for a home based business, no business shall be exempt from the registration requirements pursuant to this chapter.

B. Renewal

1. Prior to the expiration of a business registration, the registrant shall apply to renew the business registration. Each application shall be accompanied by a renewal fee as outlined in section 3-1-9-A(2) for each place of business.
2. Prior to the expiration of a business registration for a residential rental property the registrant shall apply to renew the business registration. Each application shall be accompanied by a renewal fee for each building as outlined in section 3-1-9-A(3).

C. Late fee

There shall be imposed upon each delinquent registration fee, a late fee in an amount equivalent to the annual registration fee as outlined in section 3-1-9-A, in the event a registration fee is not paid before commencing business; before conducting, managing, owning or operating a residential rental property; or the annual renewal fee is not paid prior to expiration.

- D. The license or permit for the following businesses, professions and occupations shall be subject to the license and permit fees as follows and not the general fee:

Type of license or permit	Fee
Mechanical amusement device	\$135.00 per machine per year
Peddlers, solicitors, itinerant merchants. No license fee for a civic, charity, school or service organization	\$50.00 per day, \$200.00 per week, \$500.00 per year.
Video gaming device	\$250.00 per year
Video gaming establishment	\$1,000.00 per year

**3-1-9. - Licenses not assignable; unlawful use.**

- A. 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, tag, badge, or sticker which has been improperly acquired.
- B. No person, firm, or corporation shall alter, deface, forge, or counterfeit any license, certificate, plate, tag, badge, or sticker issued by the village.

**3-1-10. - License to be posted.**

- A. It shall be the duty of any person conducting a licensed commercial establishment or activity in the village to keep his license displayed at all times in a prominent place on the premises, machine, or vehicle used for such commercial establishment or activity.
- B. No person shall destroy, obliterate, take, remove, or carry away without the consent of the owner any license, certificate, plate, or sticker which has been discontinued or the licensed premises have been abandoned. Nothing herein shall prevent the village manager or his or her duty-authorized representative from removing any license, certificate, plate, or sticker from the possession of a former licensee, the premises, any vehicle, or any machine when said license has been revoked under the provisions of this chapter.
- C. In addition to the posting of licenses, unattended service-oriented businesses, such as coin-operated laundries and car washes, are required to display a sign that properly informs their customers of the appropriate telephone number to contact in case of emergency situations. The sign displaying the telephone number shall be conspicuous, unobstructed, permanent in nature, and contained in a heavy plastic-type framing device securely mounted to the wall.

**3-1-11. - Building and premises.**

No license shall be issued for any commercial establishment or activity if the premises and building to be used do not fully comply with all applicable ordinances and regulations of the village and the state.

**3-1-12. - Location.**

No license for the operation of a commercial establishment or activity 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 chapter, the existence of a single location shall be evidenced by the fact that all buildings containing the principal or accessory uses shall be:

- (1) Connected or shall be located on the same lot or zoning lot;
- (2) Operated and managed by the same person or owner; and
- (3) An establishment with the same classification.



### **3-1-13. - Nuisances prohibited.**

- A. No commercial establishment, or activity whether or not licensed, shall be so conducted or operated as to constitute a nuisance in fact; and no building, vehicle, structure, yard, lot, premises, or part thereof shall be used, kept, maintained, or operated in connection with any business so as to occasion any nuisance, or otherwise threaten the public health, safety, morals, or welfare. Any charge of conducting or operating a nuisance may be made under this chapter or under the provisions of any other village ordinance.
- B. No building or structure, utilized, constructed, or maintained in connection with any commercial establishment or activity shall evidence an unsanitary, unsafe, or any other dangerous or unlawful condition.
- C. Hours for restaurants, shows, or amusements: No restaurant, show or amusement shall be open to the public between the hours of two o'clock (2:00) A.M. and five o'clock (5:00) A.M. Any restaurant, show or amusement that is open between the hours of two o'clock (2:00) A.M. and five o'clock (5:00) A.M. shall be fined as provided in the general penalty in section 1-4-1 of this code, plus the village's costs of prosecution. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

### **3-1-14. - Investigation and inspections.**

- A. Whenever an investigation or a hearing pursuant to this chapter by any department or official of the village requires additional information from the licensee, the licensee shall be given written notice by the village of what additional information from the licensee is required, and the licensee shall fully and completely comply with that request.
- B. Whenever inspections of the premises used for or in connection with the operation of a licensed commercial establishment or activity are provided for or required by this chapter, 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.
- C. Whenever an analysis of any commodity or material is reasonably necessary to assure compliance with the provisions of this chapter or any ordinance or regulations, or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to give to any duly-authorized officer or employee of the village requesting the same sufficient samples of such material or commodity for such analysis upon official request.

### **3-1-15. - Municipal misrepresentation.**

It shall be unlawful for any licensed business in the village subject to the Municipal Retailers' Occupation Tax (35 ILCS 120/1 et seq.) or Municipal Service Occupation Tax (35 ILCS 115/1 et seq.) in chapter 94 of this Code to represent or advertise that its building or premise is located in a municipality other than the village. It is not a violation of this section if the name of another municipality is a part of the name of the licensed business.

### **3-1-16. - Enforcement.**

The village manager shall take all necessary and appropriate action to compel compliance with the regulatory provisions of this chapter. All municipal employees duly authorized and acting as license inspectors shall be conservators of the peace with police powers for the purpose of enforcing the provisions of this chapter and other village ordinances relating to the licensing of commercial establishments and activities and their regulations.

### **3-1-17. - Suspension, revocation of license.**

#### **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 manager 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 manager and the business is allowed to resume and reopen, within eight days after a license or permit 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 or permit should be revoked or further suspended.

#### **B. Revocation of license.**

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

1. Any fraud, misrepresentation, or false statement contained in the application for the license;
2. 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;
3. 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;
4. Failure of the licensee or permittee to pay any fine, penalty, charge or debt owed to the village;
5. 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;
6. 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;

7. Any other violation of any village ordinance, resolution, or regulation; or
  8. 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 manager.
  2. Procedural rules.
    - a. At the hearing, the licensee shall be permitted counsel and shall have the right to respond, present evidence, and cross-examine witnesses.
    - b. All proceedings shall be stenographically or electronically recorded.
    - c. 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 not apply
    - d. The standard for proof for hearings shall be by the preponderance of the evidence.
    - e. The village manager shall preside and render the decision within a reasonable time after the conclusion of the hearing, but not later than 21 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 manager. The village manager 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 manager may allow.
- b. The licensee shall pay said costs to the village within 30 days of notification of the costs by the village manager. 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.

**3-1-18. - Business vehicles.**

Whenever the number of vehicles used is the basis, in whole or in part, for a license fee, the village manager shall furnish the licensee with a tag or sticker for each vehicle covered by the license, and such tag or sticker shall be posted or affixed in a conspicuous place on each such vehicle."

**Section 4:** That this ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

Passed this 12th day of November, 2018

AYES: Trustees Hanley, Yuscka, Anderley, Wilbrandt, Kembitzky and Price

NAYS: None

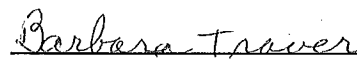
ABSENT: None

Approved this 12th day of November, 2018



\_\_\_\_\_  
Village President

Attest:

  
\_\_\_\_\_  
Village Clerk

Published in pamphlet form:

November 12, 2018