

**AN ORDINANCE AMENDING SECTION 5.36.280, ENTITLED “LICENSE—
REVOCATION”, OF CHAPTER 5.36, ENTITLED “LIQUOR SALES”, OF TITLE 5,
ENTITLED “BUSINESS LICENSES AND REGULATIONS”, OF THE MUNICIPAL
CODE OF THE VILLAGE OF WESTCHESTER, COOK COUNTY, ILLINOIS**

WHEREAS, the President and Board of Trustees of the Village of Westchester are expressly authorized by Section 4-1 of the Illinois Liquor Control Act of 1934 (235 ILCS 5/1-1 *et. seq.*) to regulate by general ordinance liquor licenses within the Village of Westchester; and

WHEREAS, the President and Board of Trustees of the Village of Westchester are further authorized to establish regulations, restrictions and penalties upon the Village of Westchester’s local liquor licenses not inconsistent with law as the public good may require; and

WHEREAS, the President and Board of Trustees of the Village of Westchester find that it is necessary, desirable and in the public interest that the Village amend Section 5.36.280, entitled “License – Revocation”, of Chapter 5.36, entitled “Liquor Sales”, of Title 5, entitled “Business Licenses and Regulations”, of the Westchester Municipal Code in order to reflect the current penalty scheme allowed by statute for violations of local liquor codes.

NOW, THEREFORE, BE IT ORDAINED by the President and the Board of Trustees of the Village of Westchester, Cook County, Illinois, as follows:

Section 1. The corporate authorities hereby incorporate the foregoing preamble clauses into this Ordinance.

Section 2. Section 5.36.280, entitled “License-Revocation”, of Chapter 5.36, entitled “Liquor Sales”, of Title 5, entitled “Business Licenses and Regulations”, is hereby amended as follows:

“5.36.280 – Hearings, Suspensions, Revocations, Penalties and Appeals.

(a) The Village President, in his capacity as the Local Liquor Control Commissioner, may revoke or suspend, for not more than thirty (30) days, any license issued by him if he determines that the licensee has violated any of the provisions of the Illinois Liquor Control Act of 1934, (235 ILCS 5/1-1 *et. seq.*) or of any ordinance or resolution enacted by the President and Board of Trustees of the Village of Westchester, or any applicable rule or regulation established by the Village President, in his capacity as the Local Liquor Control Commissioner, or any rule or regulation established by the State Liquor Control Commission.

In addition to a suspension, the Village President, in his capacity as the Local Liquor Control Commissioner, may levy a fine on the licensee for the types of violations delineated above. The fine imposed shall not exceed \$1,000 for a first violation within a 12-month period, \$1,500 for a second violation within a 12-month period, or \$2,500 for a third or subsequent violation within a 12-month period. Each day on which a violation continues shall constitute a separate violation. Not more than \$15,000 in fines under this Section may be imposed against any licensee during the period of his license. Proceeds from such fines shall be paid into the general corporate fund of the Village of Westchester.

(b) No such license shall be so revoked or suspended and no licensee shall be fined except after a public hearing by the Village President, in his capacity as the Local Liquor Control Commissioner, with a 3 day written notice to the licensee affording the licensee an opportunity to appear and defend. All such hearings shall be open to the public and the Village President, in his capacity as the Local Liquor Control Commissioner, shall reduce all evidence to writing and shall maintain an official record of the proceedings. If the Village President, in his capacity as the Local Liquor Control Commissioner, has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the Village of Westchester he may, upon the issuance of a written order stating the reason for such conclusion and without notice or hearing order the licensed premises closed for not more than 7 days, giving the licensee an opportunity to be heard during that period, except that if such licensee shall also be engaged in the conduct of another business or businesses on the licensed premises, such order shall not be applicable to such other business or businesses.

(c) The Village President, in his capacity as the Local Liquor Control Commissioner, shall within 5 days after such hearing, if he determines after such hearing that the license should be revoked or suspended or that the licensee should be fined, state the reason or reasons for such determination in a written order, and either the amount of the fine, the period of suspension, or that the license has been revoked, and shall serve a copy of such order within the 5 days upon the licensee.

(d) After receipt of such order of suspension or revocation, licensees shall have the privilege, within a period of 20 days after the receipt of such order of suspension or revocation, of appealing the order to the State Liquor Control Commission, pursuant to Section 7-9 of the Illinois Liquor Control Act of 1934 (235 ILCS 5/7-9).

The appeal shall be limited to a review of the official record of the proceedings of the Village President, in his capacity as the Local Liquor Control Commissioner. A certified official record of the proceedings or certified shorthand report shall be filed by the Village President, in his capacity as the Local Liquor Control Commissioner, within 5 days after notice of the filing of such appeal, if the appellant licensee pays for the cost of the transcript. The State Liquor Control Commission shall review the propriety of the order or action of the Village President, in his capacity as the Local Liquor Control Commissioner, and shall consider the following questions:

- (1) whether the Village President, in his capacity as the Local Liquor Control Commissioner, has proceeded in the manner provided by law;
- (2) whether the order is supported by the findings;

- (3) whether the findings are supported by substantial evidence in the light of the whole record.

No new or additional evidence in support of or in opposition to such order or action under appeal shall be received other than that contained in such record of the proceedings.

(e) In any case where a licensee appeals to the State Liquor Control Commission from an order or action of the Village President, in his capacity as the Local Liquor Control Commissioner, having the effect of suspending or revoking a license, denying a renewal application, or refusing to grant a license, the licensee shall resume the operation of the licensed business pending the decision of the State Liquor Control Commission and the expiration of the time allowed for an application for rehearing. If an application for rehearing is filed, the licensee shall continue the operation of the licensed business until the denial of the application or, if the rehearing is granted, until the decision on rehearing.

In any case in which a licensee appeals to the State Liquor Control Commission a suspension or revocation by the Village President, in his capacity as the Local Liquor Control Commissioner, that is the second or subsequent such suspension or revocation placed on that licensee within the preceding 12 month period, the licensee shall consider the suspension or revocation to be in effect until a reversal of the President's action has been issued by the State Liquor Control Commission and shall cease all activity otherwise authorized by the license.

(f) If the Village President, in his capacity as the Local Liquor Control Commissioner, has evidence that the following criminal activity has occurred inside the licensed premises: the sale of or possession with intent to sell controlled substances or marijuana, the sale of or possession with intent to sell firearms, homicide, criminal sexual assault or criminal sexual abuse, aggravated assault or aggravated battery, then the Village President, in his capacity as the Local Liquor Control Commissioner, may, without notice or hearing, and upon the issuance of a written order stating that the continued operation of the licensed premises poses an immediate threat to the health, safety, or welfare of the Village of Westchester, order the licensed premises closed for a period of not more than 7 days, giving the licensee an opportunity to be heard during that period.

Notwithstanding the foregoing, the licensed premises will be allowed to remain open if the criminal activity is timely reported by the licensee, or its agents, pursuant to local ordinance, and the criminal activity shall not be used as a basis for suspension under this Act.

Section 3. The provisions of this Ordinance are hereby declared severable; and if any section, phrase, or provisions shall for any reason be declared invalid, such declaration shall not affect the validity of the remainder of this sections phrases, or provisions.

Section 4. All ordinances or part of ordinances in conflict with this Ordinance are hereby amended to the extent of the conflict.

Section 5. This Ordinance shall be in full force and effect ten (10) days after its passage, approval and publication in the manner provided by law.

ADOPTED this 10th day of May, 2016, pursuant to a roll call vote as follows:

Angelo A. Calcagno Aye

Celestine Reda Aye

Carl C. Celestino Aye

Nick Steker Aye

Frank Perry Aye

Tom Yurkovich Aye

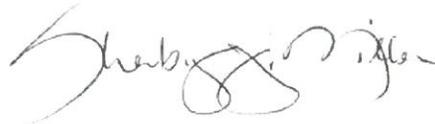
President Pulia Aye

APPROVED this 10th day of May, 2016.



Sam D. Pulia, Village President

ATTEST:



Sherby J. Miller, Village Clerk