

ORDINANCE NO. 114

AN ORDINANCE SETTING FORTH PROCEDURES FOR, AND INFORMATION REQUIRED FROM, AN INDIVIDUAL OR ENTITY SEEKING APPROVAL FOR A LIQUOR LICENSE ISSUED BY THE MICHIGAN LIQUOR CONTROL COMMISSION; TO SET FORTH STANDARDS AND GUIDELINES FOR A REQUEST BY THE VILLAGE OF DECATUR, VAN BUREN COUNTY, MICHIGAN, TO THE MICHIGAN LIQUOR CONTROL COMMISSION TO NOT RENEW A LICENSE OR TO REVOKE A LICENSE; TO SET PROCEDURES FOR HOLDING OF A HEARING FOR A LICENSEE WHEN THE VILLAGE OF DECATUR INTENDS TO REQUEST THE MICHIGAN LIQUOR CONTROL COMMISSION TO NOT RENEW A LICENSE OR TO REVOKE A LICENSE; TO REQUIRE FACTUAL FINDINGS AND DETERMINATIONS AFTER THE HOLDING OF A HEARING.

THE VILLAGE OF DECATUR, MICHIGAN ORDAINS:

Section 1. SHORT TITLE.

 This Ordinance shall be known and may be cited as the "Liquor Control Ordinance".

Section 2. APPLICATIONS; CONTENTS; FEES.

 A. Whenever a person, partnership, corporation, association or other legal entity which is in the process of obtaining a license from the Michigan Liquor Control Commission to sell alcoholic beverages requests approval from the Village of Decatur for the issuance of the license from the Michigan Liquor Control Commission, the person, partnership, corporation, association or other legal entity shall file a formal application for approval with the Village Council for the Village of Decatur.

 B. The application to be filed with the Village Clerk for the Village of Decatur shall contain the following information:

 1. The name, age, and address of the applicant in the case of an individual; or, in the case of a partnership, the persons entitled to share in the profits thereof; in the case of a corporation, association, or other legal entity, the names and addresses of the officers, directors, shareholders or other principal individuals.

 2. The address and property description of the premises or place of business which is to be operated under such license.

3. A statement whether applicant has made application for a similar or other license on premises other than described in this application, and the disposition of such application.

4. 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 or the laws of the State of Michigan.

5. A statement that the applicant will not violate any of the laws of the State of Michigan or of the United States or any rules or regulations of the Michigan Liquor Control Commission, or any Ordinances of the Village of Decatur in the conduct of its business.

6. Any application for approval of a new license or for approval of the transfer of any currently valid or renewal license to a new location shall be accompanied by an eight and one-half (8-1/2) inch by eleven (11) inch building and grounds layout diagram showing the entire structure, premises, and grounds, and in particular the specific areas where the license is to be utilized. The plans shall demonstrate adequate off-street parking, lighting, refuse disposal facilities and, where appropriate, adequate plans for screening and noise control.

C. Along with the application, the applicant shall pay a processing fee which shall be established by the Village Council from time to time.

Section 2. PUBLIC HEARING; APPROVAL.

The Village Council shall set a date for a Public Hearing at which time comments can be received from the general public in

regard to the application and at which time the applicant or its agents can be questioned by the Village Council. After passing a Resolution setting a Public Hearing, the Village Clerk shall cause notice to be published in a local newspaper in general circulation in the Village of Decatur at least five (5) business days prior to the Hearing. Approval of the application shall be by a majority of the Village Council.

Section 3. REFUSAL TO APPROVE.

If the Village Council refuses to approve the application the applicant shall be advised in writing and shall be advised as to the basis for the refusal.

Section 4. LENGTH OF APPROVAL.

Approval of the applicant as a licensee of the Michigan Liquor Control Commission shall be continuing until a transfer to a subsequent applicant or until action is taken by the Village Council as hereinafter set forth to object to the annual renewal required by the Michigan Liquor Control Commission or until a request by the Village Council to the Michigan Liquor Control Commission that the license be revoked.

Section 5. STANDARDS AND GUIDELINES FOR OBJECTION TO RENEWAL OF OR REQUEST FOR REVOCATION TO MICHIGAN LIQUOR CONTROL COMMISSION.

The Village Council may object to the annual renewal of the license by the Michigan Liquor Control Commission or may request that the license be revoked upon a determination based on a preponderance of the evidence presented at the Public Hearing described hereafter, that any of the following exist:

A. Violation of any law of the State of Michigan or United States, or any rule or regulation of the Michigan Liquor Control Commission, or a violation of any Ordinances of the Village of

Decatur.

B. Maintaining of a nuisance upon the premises, including but not limited to any of the following:

1. A pattern of patron conduct in the neighborhood of the licensed establishment which is in violation of the law and/or disturbs the peace, order, and tranquility of the neighborhood.

2. Entertainment which disturbs the peace, order, and tranquility of the neighborhood.

C. Making a false or fraudulent statement or answer in the application described in Section 2 above.

D. Non-payment of real property taxes and/or personal property taxes as same become due.

Section 6. PUBLIC HEARING.

The Public Hearing referenced above in Section 5 shall be conducted by the Village Council as a whole at a regular or special meeting. The Village Clerk shall serve the license holder, by first class mail, mailed not less than ten (10) days prior to the Public Hearing, which notice shall contain the following information:

A. Notice of proposed action;

B. Date, time, and location of the Public Hearing;

C. A detailed statement as to the reasons for the proposed action citing specific standards and guidelines the licensee has not complied with or has otherwise violated;

D. A statement as to the Licensee's rights at the hearing, including the opportunity to defend against the allegations by confronting any adverse witnesses and by presenting witnesses, evidence, and arguments;

E. A statement that the licensee has the right to be represented by an attorney at said Public Hearing.

Section 7. PROCEDURE AT PUBLIC HEARING; FINDINGS AND DETERMINATION; NOTIFICATION.

A. At the Public Hearing the Village President shall act as the presiding official. The Village representative shall present witnesses and evidence in support of the proposed action; the witnesses called by or on behalf of the Village may be cross-examined by the licensee or the licensee's attorney. The licensee shall thereafter present any witnesses, evidence or argument against the proposed action; the Village representative may thereafter cross-examine the licensee's witnesses. Any individual Council member may question witnesses called by either the licensee or the Village. There shall be an opportunity for comments from the general public.

B. Following the Public Hearing the Village Council shall make specific findings of fact and determinations in regard to the proposed action.

C. If the Village Council passes a Resolution to request that the license not be renewed by the Michigan Liquor Control Commission or to have the license revoked, a certified copy of the Resolution and a certified copy of the separate statement of findings and determinations shall be delivered to the licensee and to the Michigan Liquor control Commission.

Section 9. SEVERABILITY.

Should any section, subsection, sentence, clause, phrase or portion of this Ordinance be held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such determination shall not affect the validity of the remaining portions of this Ordinance.

Section 10. EFFECTIVE DATE.

This Ordinance shall become effective the 18th day of
November, 1996.

Adopted by the Village Council of the Village of Decatur, Michigan on
this 28th day of October, 1996.