

Ordinance # 6

AN ORDER REGULATING THE SALE OF BEER AND LIQUOR IN THE VILLAGE OF BEECH BOTTOM

6.01 TAX IMPOSED UPON PURCHASE AT RETAIL.

After the effective date of this section, pursuant to West Virginia Code 8-13-7, there is hereby imposed a tax of five percent (5%) of the retail purchase price of any and all intoxicating liquors purchased from the Alcohol Beverage Control Commissioner or from any person licensed to sell wine at retail to the public under the provision of West Virginia Code Article 60-8, within the corporate boundaries of the Village of Beech Bottom. Such tax shall be levied upon the purchaser of such intoxicating liquor or wine, and shall be added to any collected with the retail purchase price of such intoxicating liquor or wine. Such tax shall be received by the Municipality from the State Treasury pursuant to the rules and regulations adopted by the Alcohol Beverage Control Commissioner. Provided, however, that such tax shall not be collected on intoxicating liquors, other than wine, sold by or purchased from holders of a license issued under the provisions of West Virginia Code Article 60-7. Provided further, such tax shall be collected upon all sales of wine to holders of a license issued under the provisions of West Virginia Code from a wine distributor licensed pursuant to the provisions of West Virginia Code Article 60-3 et seq.

6.02 PRIVATE CLUBS

6.02.01 LICENSE REQUIRED; SALE OF ALCOHOLIC LIQUORS BY LICENSEE AUTHORIZED.

A license is required in order to operate within the Village as a private club as defined in West Virginia Code Article 60-7. A licensee granted a license pursuant to the provisions hereof shall be authorized to sell alcoholic liquors, other than in sealed packages, for consumption on the premises of such licensee, to its members and their guests, and such licensee shall be further authorized to keep and maintain on the premises a supply of alcoholic liquors in such quantities as may be appropriate for the conduct of the operations thereof.

6.02.02 DEFINITIONS.

For the purpose of this Ordinance, the following terms shall have the meanings ascribed to them in this section unless a different meaning is clearly indicated in the context.

(a) "Private club" means any corporation or unincorporated association which either:

(1) Belongs to or is affiliated with a nationally recognized fraternal or veterans'

organization, which is operated exclusively for the benefit of its members, which pays no part of its income to its shareholders or individual premises, to which club only duly elected or approved dues paying members in good standing of such corporation or association and their guests while in the company of a member are admitted, and to which club the general public is not admitted, and which club maintains in such building or on such premise's suitable kitchen and dining facilities with related equipment for serving food to members and guests; or

(2) is a nonprofit social club, which is operated exclusively for the benefit of its members, which pays no part of its income to its shareholders or individual members, which owns or leases a building or other premises, to which club only duly elected or approved dues-paying members in good standing of such corporation or association and their guests while in the company of a member are admitted, and to which club the general public is not admitted, and which club maintains in such building or on such premises a suitable kitchen and dining facility with related equipment for serving food to members and their guests; or

(3) is organized and operated for legitimate purposes, which has at least 100 duly elected or approved dues-paying members in good standing, which owns or leases a building or other premises, to which club only duly elected or approved dues-paying member in good standing of such corporation or association and their guests while in the company of a member are admitted and to which club the general public is not admitted, and which club maintains in such building or on such premises a suitable kitchen and dining facility with related equipment and employs a sufficient number of persons for serving meals to members and their guests; w

(4) is organized for legitimate purposes and owns or leases a building or other limited premises in any State, County or Municipal park or at any airport, in which building or premises a club has been established, to which club are admitted only duly elected and approved dues-paying members in good standing and their guests while in the company of a member and to which club the general public is not admitted, and which maintains in connection with such club a suitable kitchen

and dining facility and related equipment and employs a sufficient number of persons for serving meals in such club to members and their guests.

(b) "Licensee" means the holder of a license to operate a private club granted under the provisions of this Ordinance, which license shall remain unexpired, unsuspended and unrevoked.

(c) "Applicant" means a private club applying for a license under the provisions of this Ordinance.

6.02.03 LICENSE APPLICATION; INFORMATION AND VERIFICATION.

(a) An application for a license to operate within the Village as a private club shall be made on such form as may be prescribed by the Village and shall include:

(1) The name of the applicant;

(2) if such applicant is an unincorporated association, the names and addresses of the members of its governing board;

(3) if such applicant is a corporation, the names and addresses of its officers and directors;

(4) The place at which such applicant will conduct its operations and whether the same is owned or leased by the applicant;

(5) The number of members of the applicant;

(6) The name or names of any national organizations with which such applicant is affiliated and the nature of such affiliation;

(7) The number and date of the private club license issued to such applicant by the State of West Virginia; and

(8) Such other information as the Village may reasonably require.

(b) Such application shall be verified by each member of the governing board of the applicant if an unincorporated association or, if the applicant is a corporation, by each of its officers and all members of its board of directors. Such application shall be accompanied by the license fee hereinafter prescribed.

(c) Under no circumstance shall any college fraternity or sorority be issued a license to operate a private club.

(d) No license to operate a private club will be issued to applicants who discriminate against any person or group of persons because of race or color of such person or group of persons except clubs as defined in Section 6.02.02 (a)(1) and (2).

6.02.04 LICENSE ISSUANCE OR REFUSAL; NONTRANSFERABILITY; VALID AT ONE LOCATION.

Upon receipt of the application referred to in Section 6.02.03, together with the accompanying fee, the Village may conduct such investigation as it may deem necessary to determine the accuracy of the matters contained in such application and whether the applicant is a bona-fide private club of good reputation in this Village. If it appears that such applicant is a bona-fide private club and of good reputation, that there is no false statement contained in such application, and that the applicant has been issued a private club license by the State, the Village shall issue a license authorizing the applicant to sell alcoholic liquors as provided in Section 6.02.01 ; otherwise the Village shall refuse to issue a license.

Such license shall be of such form and design as the Village shall prescribe. A license shall authorize the licensee to sell alcoholic liquors at only one location. A license issued under the provisions of this Ordinance shall not be transferable.

6.02.05 LICENSE FEE.

The annual license fee for a license issued under the provisions of this Ordinance shall be as follows:

- (a) The fee for a license issued to a fraternal or veterans' organization or a nonprofit social club shall be three hundred seventy-five dollars (\$375.00).
- (b) The fee for a license issued to a private club other than a private club of the type specified in subsection (a) hereof shall be five hundred dollars (\$500.00) if such private club has less than 1,000 members, and one thousand two hundred fifty dollars (\$1,250) if such private club has 1,000 or more members.

The fee for any such license issued following January 1 of any year and expiring on June 30 of each year shall be one-half of that prescribed by this section.

6.02.06 LICENSE REVOCATION OR SUSPENSION

Upon final conviction of a licensee or of any employee thereof acting within the scope of his employment, for any violation of this Ordinance or a statute of the State relating to the regulation and control of alcoholic liquors, gambling, prostitution or the sale, possession or distribution of narcotics or dangerous drugs, before the Police Court of the Village or any court of record, the Village shall forthwith revoke the license of such licensee. Upon the revocation of a license issued by the West Virginia Alcohol

Beverage Control Commissioner to a licensee under this Ordinance, the Village shall forthwith revoke the license issued under this Ordinance. Whenever the Village shall suspend or revoke a license, it shall give written notice of such suspension or revocation to a licensee by certified mail, return receipt requested, or may cause such notice to be served in person on the licensee.

6.02.07 VIOLATIONS AND PENALTIES

No licensee, agent, employee or member thereof on the licensee's premises shall perform, authorize or permit any of the acts specified as unlawful in West Virginia Code 60-7- 12. No licensee, agent, employee or member thereof on such licensee's premises shall violate any of the rules and regulations legally Issued by the West Virginia Alcohol Beverage Control Commissioner. Any person who violates the provisions of such statute or any of such rules and regulation, shall violate the provisions of this Ordinance and shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), or imprisoned for not more than thirty days, or both.

II. This ordinance shall be effective from and after its date of passage