



Meeting: Village Board
Meeting Date: 6/11/12
Agenda Item: 7c

Mission Statement
Delivering quality services in a courteous, cost-effective and efficient manner.

VILLAGE BOARD MEETING STAFF REPORT

REPORT TO: Burt R. McIntyre, President
Village Board of Trustees

REPORT FROM: Paul Evert, Village Administrator

AGENDA ITEM: Review and take action on Ordinance 2012-08, establishing the number of reserve Combination "Class B" Liquor and Beer licenses

ACTION REQUESTED: Ordinance Resolution Motion Receive/File

POLICY ISSUE

Should the Village Board wish to revise Sec. 6-91 of the Village Code to clarify language regarding classes of licenses, establish the number of reserve Combination "Class B" Liquor and Beer licenses, and offer an economic development grant that would refund a majority of the reserve license fee?

BACKGROUND INFORMATION

In October of 1997, legislation was passed as part of the approved state budget that froze a municipality's regular tavern licenses at whatever number the municipality had issued as of December 1, 1997. At the same time, the legislature created the Reserve "Class B" license with a minimum fee of \$10,000, which is allotted based on a quota of one per every 500 increase of a municipality's population after December 1, 1997. These provisions of the state budget were lobbied for by the Tavern League as a way to prop up the value of existing taverns that had regular tavern licenses.

The initial provision in the state budget bill actually set the fee at \$100,000 for a reserve license, but Governor Thompson used his line item veto to remove one zero, changing the amount from \$100,000 to \$10,000. However, over time the \$10,000 fee has proven to be a barrier to many people trying to start up a bar or restaurant. The Village has never issued a reserve license and staff believes that is due to the high fee.

Many municipalities have found a way to work with the \$10,000 fee by refunding most of the fee as an economic development grant once a business has been up and running. I am recommending our Village Board adopt an ordinance providing for this economic development grant as a way to further the development of restaurants in the Village. There have been times recently when the Village did not have any tavern licenses available and the only option a restaurant operator had was the \$10,000 reserve license. Currently the No Name Bar (fire) and River's Bend (foreclosure) are expected to lose their licenses at least temporarily by not having control of their premises on July 1, 2012. The bank that has foreclosed on River's Bend is concerned that when they sell the property there may not be a regular tavern license available.

The attached ordinance amendment does three things. First, it recognizes that our number of potential reserve Class B licenses has grown from **7 to 11**, due to the respective increase in the village's population. Second, it also **cleans up the organization** of that section. Third, and most significantly, it **creates the economic development grant** that will allow the clerk to refund \$9,500 of the \$10,000 if the individual issued a reserve license makes an application and is in compliance with the conditions of their reserve class B license.

RECOMMENDED ACTION

Village staff recommends the Village Board approve Ordinance 2012-08, which will amend the existing ordinance regarding the classes of licenses.

If the Village Board agreed with this action, the following motion could be used, *"Motion to approve Ordinance 2012-08, establishing the number of reserve Combination "Class B" Liquor and Beer licenses."*

POLICY ALTERNATIVE(S)

The Village Board could take the following actions:

- Approve with revisions
- Deny the suggested motion
- Table the suggested motion and request additional information

ATTACHED INFORMATION

- I. Ordinance 2012-08

ORDINANCE NO. 2012-08

**AN ORDINANCE REPEALING AND RECREATING SECTION 6-91 (5-8)
OF THE MUNICIPAL CODE OF THE VILLAGE OF HOWARD
RELATING TO THE NUMBER OF RESERVE COMBINATION "CLASS B" LIQUOR
AND BEER LICENSES**

THE VILLAGE BOARD OF THE VILLAGE OF HOWARD, BROWN COUNTY,
WISCONSIN DOES ORDAIN THAT SECTION 6-91 (5-8)
IS REPEALED AND RECREATED TO READ AS FOLLOWS:

SECTION 1. SECTION 6-91

- (5) "Class B" combination license. License which results when one licensee applies for both a Class "B" (fermented malt beverage) license and a "Class B" (intoxicating liquor) license for use at one premises. (State quota 1997: 30. Village quota: 30.)
- (6) Reserve "Class B" license. The annual fee is \$10,000.00 per year. (State quota: 11.)
- a. Subject to the limitations contained herein the fee for a reserve "Class B" license shall be of ten thousand dollars (\$10,000.00) in addition to any other fee required under this chapter. The initial fee is not prorated and must be paid prior to issuance of the license.
 - b. Renewal. The annual fee for renewal of a reserve "Class B" license shall be five hundred dollars (\$500.00).
 - c. Recognition of Economic Development. 1997 Wisconsin Act 27 provides that reserve "Class B" licenses be required to pay an initial minimum license fee of nine thousand five hundred dollars (\$9,500.00). After review of the statutory language and various ordinances enacted throughout the state, the Village Board finds:
 - i. It is in the interests of the public welfare to increase the property tax base, provide employment opportunities, attract tourists and generally enhance the economic and cultural climate of the community by providing additional economic incentives for new businesses with liquor licenses.
 - ii. The present fee greatly exceeds the actual cost the municipality incurs to regulate the reserve "Class B" license.
 - iii. In the absence of action which alleviates the problem outlined above, said fee could deter new businesses from opening and new businesses from reopening in the Village of Howard.
 - d. Alcohol Beverage Development Grant:
 - i. The Village Board hereby creates a business development grant (hereafter development grant) to be funded by the fees paid by reserve "Class B" licenses.
 - ii. Thirty (30) days following the granting of any new reserve "Class B" license, the applicant may file an application for a development grant of ten thousand dollars (\$9,500.00) with the village clerk. Following the receipt of the application for said Development grant, the village clerk shall determine whether the licensee is operating in compliance with the approved reserve "Class B" license. The village clerk may require the assistance of any other village department in making said determination.
 - iii. If the village clerk determines the applicant/licensee is operating in compliance with the previously approved reserve "Class B" license, the village clerk shall authorize the approval of the nine thousand five hundred

dollar (\$9,500.00) development grant. If the village clerk determines the applicant/licensee is not in compliance with the approved license, no development grant may be authorized and the village clerk shall make such finding in writing and deliver a copy of the findings to the applicant/licensee. If the applicant/licensee disagrees with the village clerk's determination, the applicant/licensee may file a written notice of appeal with the village clerk within ten (10) calendar days of the delivery of the written notice of the village clerk's findings. upon receiving such notice from the applicant/licensee, the village clerk shall relay said notice to the Village Board which shall hold a hearing thereon. The Village Board may affirm or reverse the village clerk's determination. If the village clerk's determination is upheld, appeal thereof may be taken to circuit court pursuant to the Village Code. If the village clerk's determination is reversed, the village clerk shall authorize the payment of the development grant.

- iv. In accepting the one-time development grant, the applicant/licensee agrees to waive any claim he/she/it may have against the Village of Howard for refund of any part of the reserve "Class B" license fee paid to the Village by the applicant/licensee. This waiver shall be effective whether such license fee be repealed, rescinded or modified by action of the state legislature or by the courts. By accepting this one-time development grant of nine thousand five hundred dollars (\$9,500.00), the applicant/licensee also agrees that, in the event any court of competent jurisdiction shall determine the village's development grant program does not serve a public purpose or is otherwise contrary to law, the applicant/licensee will, upon demand by the village repay the one-time development grant to the village.

- (7) When the village has granted or issued a number of "Class B" liquor licenses equal to its quota, the village may issue a "Class B" intoxicating liquor license to any of the following:
- A full-service restaurant that has a seating capacity of 300 or more persons.
 - A hotel that has 50 or more rooms of sleeping accommodations and that has either an attached restaurant with a seating capacity of 150 or more persons or a banquet room in which banquets attended by 400 or more persons may be held.
- (8) Temporary Class "B" (picnic) license. A temporary Class "B" (picnic) license is issued for a period not to exceed three consecutive days to bona fide clubs, county or local fair associations, or agricultural societies, churches, lodges, or societies that have been in existence for not less than six months prior to the date of the application, or to veteran organizations or posts, authorizing them to sell fermented malt beverages and wine containing not more than six percent alcohol by volume at a particular picnic, gathering, or meeting, or during a fair conducted by a fair association or an agricultural society. Ten dollars per event for not more than three consecutive days.
- (9) "Class C" (wine) license. Authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold. The annual fee is \$100.00 per year.
- (10) Operator's license. The two-year period fee is \$40.00 with no proration of the fee for a partial two-year term.

- a. Operators' licenses may be granted to individuals by the village board for the purpose of complying with Wis. Stats. §§ 125.32(2) and 125.68(2).
- b. Operators' licenses may be issued only on written application on forms provided by the village clerk.
- c. Operators' licenses shall be valid for two years and shall expire on June 30 of the second year.
- d. All applicants for an operator's license shall have successfully completed a responsible beverage server training course at any location that is offered by a vocational, technical and adult education district or unless the applicant fulfills one of the following requirements:
 - i. The person is renewing an operator's license, within the past two years;
 - ii. The person held a Class "A," Class "B," "Class A" or "Class B" license or permit or a manager or operator's license; or
 - iii. The person has completed the training course within the past two years.
- e. A provisional operator's license may be issued to a person who is enrolled in a training course referenced in subsection (8)d of this section; however the provisional license shall be revoked if the applicant fails to successfully complete the course. A provisional license expires 60 days after its issuance or when an operator's license is issued to the holder, whichever is sooner. The fee for a provision license is \$15.00. A provisional license will not be issued to any person who has been denied an operator's license and will be revoked if the holder of the provisional license made a false statement on the application.
- f. A temporary operator's license may be issued to a person who is employed by or donating their services to nonprofit corporations. No person may hold more than one license of this kind per year. The license is valid for any period from one day to 14 days, and the period for which it is valid shall be stated on the license.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. This ordinance shall take effect upon adoption and publication.

Dated this 11th day of June, 2012.

Burt McIntyre, Village President

Christopher Haltom, Village Clerk

Date of publication:

June 15, 2012