

ARTICLE 757
Private Clubs

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CROSS REFERENCES

Authority to license - see W.Va. Code 8-13-7; 60-7-7

Private clubs - see W.Va. Code Art. 60-7

Liquor control - see GEN. OFF. Art. 521

757.01 DEFINITIONS.

For the purposes of this article, the definitions of "private club," "licensee," "applicant," "commissioner," and "code," shall be the same as contained in West Virginia Code 60-7-2. (Passed 4-23-68.)

757.02 LICENSE REQUIRED.

No licensee authorized by the State to sell alcoholic liquors as provided by West Virginia Code 60-7-3, shall do so within the corporate limits of the City without first having obtained a City license issued by the Recorder as hereinafter provided. (Passed 4-23-68.)

757.03 APPLICATIONS; INFORMATION REQUIRED; VERIFICATION.

(a) Application for a license to operate a private club shall be made on such forms as may be prescribed by the Recorder and shall include:

- (1) The name of the applicant;
- (2) If such applicant be an unincorporated association, the names and addresses of the members of its governing board;
- (3) If such applicant be 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 the applicant is affiliated and the nature of such affiliation;
- (7) The size and nature of the dining and kitchen facilities operated by applicant; and
- (8) Such other information as the Recorder may reasonably require which shall include, but not be limited to the criminal records, if any, of each member of applicant's governing board or its officers and directors who have been convicted of a felony or a crime involving moral turpitude.

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

(Passed 4-23-68)

757.04 INVESTIGATION OF APPLICANT.

Upon receipt of the application referred to in Section 757.03, together with the accompanying license fee hereinafter set out, the Recorder and, at the Recorder's request, his duly authorized representatives may conduct such investigation as the Recorder may deem necessary to determine the accuracy of the matters contained in such application. The Police Department and all duly employed members thereof are hereby designated as authorized representatives of the Recorder and are hereby directed to make such investigation as the Recorder may direct to determine the accuracy of the matters contained in any such application. A written report of every such investigation shall be attached to the application which it concerns and shall be maintained as a part of the permanent records of the City. The Recorder shall withhold issuing such license until the applicant exhibits a valid private club license issued by the West Virginia Alcohol Beverage Control Commissioner. For the purpose of conducting such investigation, the Recorder may withhold the granting or refusal to grant such license for a period not to exceed thirty days. If it shall appear that such applicant is a bona fide private club, of good reputation in the City and that there is no false statement contained in such application, the Recorder shall issue a license authorizing the applicant to sell alcoholic liquors within this City and otherwise shall refuse to issue such license.

(Passed 4-23-68.)

757.05 REFUSAL TO ISSUE LICENSE.

Upon refusal to issue such license, the Recorder shall promptly notify the applicant, in writing, of the reasons for such refusal and such refusal shall be final unless a hearing is requested in accordance with the provisions of Section 757.12. When such refusal becomes final, the Recorder shall forthwith refund to the applicant the fee accompanying his application and shall promptly advise the Commissioner, in writing, of his reasons for denying such application.

(Passed 4-23-68.)

757.06 LICENSE LIMITED TO ONE LOCATION.

Any license issued pursuant to an application received hereunder shall authorize the licensee to sell alcoholic liquors at only the one location specified in the license.

(Passed 4-23-68)

757.07 EXPIRATION.

Any license issued hereunder shall expire on June 30, next following the date of issue and may be renewed upon the same showing as required for the issuance of the initial license, together with the payment of fees hereinafter prescribed.

(Passed 4-23-68.)

757.08 LICENSE NOT TRANSFERABLE.

A license issued under the provisions of this article shall not be transferable with regard to either licensee or location.

(Passed 4-23-68.)

757.09 COPY OF ARTICLE.

The Recorder shall deliver to the licensee of any license issued hereunder a copy of this article and shall advise the licensee to fully acquaint himself with the provisions thereof.

(Passed 4-23-68.)

757.10 ANNUAL LICENSE FEE.

(a) The annual Municipal license fee for a license issued under the provisions of this article shall be as follows:

- (1) For a licensee having **nine hundred ninety-nine members** or less, five hundred dollars (\$500.00);
- (2) For a licensee having one thousand members or more, one thousand two hundred dollars (\$1,250.00)

(Passed 5-23-00)

(b) The fee for any such license issued following January 1, of any year and to expire on June 30, of such year shall be one-half of that prescribed by subsection (a) hereof.

(Passed 4-23-68.)

757.11 FAILURE TO OBTAIN LICENSE.

Any licensee authorized to sell alcoholic liquors as provided by West Virginia Code 60-7-3, who shall do so or who shall permit such sales to be made within the corporate limits of the Town/City without first having obtained a Town/City license therefore shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred dollars (\$500.00), or by imprisonment for a period not to exceed thirty days, or by both such fine and imprisonment. The Mayor shall have jurisdiction to hear and determine all cases brought hereunder. For the purposes of this section, the licensee shall be deemed to have permitted any sale of alcoholic liquors which take place on the licensed premises and shall be subject to the penalty provisions of this section for any sales so made.

(Passed 4-23-68)

757.12 REVOCATION OR SUSPENSION OF LICENSE.

(a) The Recorder may on his own motion, or shall on the sworn complaint of any person, conduct an investigation or cause an investigation to be conducted by his duly authorized representatives to determine if any provisions of this article have been violated by any licensee. A written report of any such investigation shall be attached to the application which it concerns and shall be maintained as a part of the permanent records of the City. The Recorder shall revoke any licensee's license if he finds that such licensee has violated any provision of this article, or if he finds the existence of any ground on which a license could have been refused, if such licensee were then applying for the same. Upon final conviction of a licensee, or any employee thereof acting within the scope of his employment, of any violation of any ordinance of this City relating to the regulation and control of alcoholic liquors, gambling, prostitution, or the sale, possession or distribution of narcotics or dangerous drugs, the Recorder shall forthwith revoke the licensee's license. Such revoked license shall not be reissued or reinstated for a period of one year from the date of such revocation. The location used by the licensee whose license shall have been revoked shall not be used or occupied by any other licensee during such one-year period, and the Recorder shall not issue a new license to any applicant to use the premises during the period of one year from the date of revocation.

(b) Whenever the Recorder shall refuse to issue a license, or shall revoke a license, he shall cause a notice, in writing, stating the reasons for such action to be served in person or by certified mail, return receipt requested, on the licensee or applicant, and shall immediately advise the commissioner of such action and the reasons therefore, in writing.

(c) Any applicant or licensee, as the case may be, adversely affected by such action by the Recorder shall have a right to a hearing thereon before Council; provided, that demand in writing for such hearing is served upon the Recorder, within ten days following the receipt of such applicant or licensee of the certified copy of such notice. The service of such demand for a hearing upon the Recorder shall operate to suspend the execution of the action with respect to which a hearing is being demanded.

(d) The Recorder shall immediately notify Council that such demand for hearing has been served and Council shall set a date for such hearing, the hearing to be held within thirty days after receipt of such demand by the Recorder, and shall cause the person demanding the hearing to be notified thereof. At such hearing Council shall hear evidence and thereafter shall, by resolution carried by a majority of Council, affirm, modify or vacate the action with respect to which such hearing was held, which resolution shall be final unless vacated or modified upon judicial review thereof.

(Passed 4-23-68.)

757.13 CERTAIN ACTS OF LICENSEE PROHIBITED.

(a) No licensee, or agent, employee or member thereof, on such licensee's premises shall:

- (1) Sell or offer for sale any alcoholic liquor other than from the original package or container;
- (2) Authorize or permit any disturbance of the peace; obscene, lewd, immoral or improper entertainment, conduct or practice;

- (3) Sell, give away, or permit the sale of, gift to, or the procurement of any alcoholic liquors, for any minor, mental incompetent, or person who is physically incapacitated due to the consumption of alcoholic liquor, or the use of drugs;
- (4) Sell, give or dispense alcoholic liquor in or on any licensed premises or in any rooms directly connected therewith, between the hours of 2:00 a. m. and 1:00 p. m. on any Sunday;
- (5) Permit the consumption by, or serve to, on the licensed premises, any alcoholic liquors, covered by this article, to any person under the age of twenty-one years; or
- (6) With the intent to defraud, alter, change or misrepresent the quality, quantity or brand name of any alcoholic liquor.

(b) No licensee shall advertise in any news media or other means, outside of the licensee's premises, the fact that alcoholic liquors may be purchased thereat.

(c) Any person who violates any of the foregoing provisions shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), or by imprisonment for a period not to exceed thirty days, or by both fine and imprisonment. The mayor shall have jurisdiction to hear and determine all cases brought hereunder.

(Passed 4-23-68.)

757.14 EFFECT OF ARTICLE ON LICENSES FOR SALE OF NONINTOXICATING BEER.

Notwithstanding any other ordinance of the City to the contrary, no licensee shall be prohibited from obtaining a license for the sale of non-intoxicating beer under the provisions of West Virginia Code 6-11-15, because such licensee sells alcoholic liquors, permits the consumption of alcoholic liquor on his premises, or is the holder of a federal tax stamp permitting the sale of such alcoholic liquor.

(Passed 4-23-68.)