

ORDINANCE NO. 2014- 08

**AN ORDINANCE FURTHER AMENDING ORDINANCE NO. 97-11  
ENTITLED "AN ORDINANCE ESTABLISHING A LIQUOR CONTROL  
COMMISSION AND PROVIDING FOR THE CONTROL AND  
REGULATION OF THE SALE AND CONSUMPTION OF ALCOHOLIC  
LIQUORS IN THE VILLAGE OF WINNEBAGO, ILLINOIS"**

**TO**

**SET REVISED RENEWAL APPLICATION FILING AND PAYMENT  
DEADLINE PROVISIONS, MODIFY RULES ON LATE RENEWAL OF  
LIQUOR LICENSE, REVOKE ORDINANCE NO. 2014-04 IN ITS  
ENTIRETY AS ITS TERMS ARE INCORPORATED HEREIN, AND  
REVOKE SECTION ON ANNUAL PAYMENT REQUIREMENT IN  
ORDINANCE NO. 97-11**

**WHEREAS**, the original Village of Winnebago liquor ordinance, namely, Ordinance No. 97-11, contains a still effective provision which indicates that thirty (30) days prior to expiration of the liquor license each licensee shall file a request for renewal of the liquor license on a form provided by the Liquor Commissioner, and be accompanied by the fee for the ensuing year for the given liquor license class; and

**WHEREAS**, this thirty (30) day date application rule has not been faithfully followed by all liquor license holders, with the Village continuing to attempt to accommodate the license holders, and thus resulting in an undue burden on the Village and its attorney to try to get the materials reviewed and any open issues handled prior to the expiration date, and

**WHEREAS**, the imposition of a significant consequence to untimely filing of a liquor license renewal application would encourage timely filing, and help ensure that all necessary materials are submitted and able to be approved by April 30th of a given year so as to enable renewal as of May 1<sup>st</sup> of a given year, and not result in any lapse of the license; and

**WHEREAS**, the Board of Trustees of the Village of Winnebago, on March 8, 2010, voted, via Ordinance No. 2010-03, upon the recommendation of the Village of

Winnebago Liquor Control Commission, to, inter alia, increase the initial liquor license application fee and further decrease certain liquor license renewal fees; and

**WHEREAS**, the recommendation of the Village of Winnebago Liquor Control Commission for such initial application fee increase was provided at the time because it had been determined that a substantial amount of legal work by the Village Attorney, and work by the Liquor Control Commission and Village staff is required when an initial liquor license application is presented, and it would be more fair and equitable to increase the initial non-refundable liquor license application fee from Five hundred and 00/100 Dollars (\$500.00) to Five thousand and 00/100 Dollars (\$5,000.00), and again lower the annual fee for all classes of liquor licenses, except for the already lower rate caterer's license; and

**WHEREAS**, said Ordinance No. 2010-03 also provided that all liquor license fees shall be paid in one installment, and received by the close of business on the last business day of April of a given year, since the annual liquor licenses all expire on April 30<sup>th</sup> of a given year, with no grace period allowed, and no renewal fees accepted thereafter; and

**WHEREAS**, the effect of such rule was that for any license not renewed as described, the former involved liquor license holder who wished to renew a liquor license would have to submit a whole new application with a non-refundable Five thousand and 00/100 Dollar (\$5,000.00) application fee, and by its terms such rule would apply to any liquor license holder who did not renew its liquor license by April 30<sup>th</sup> of a given year, regardless of the circumstances; and

**WHEREAS**, Ordinance No. 2014-04 was recently passed by the Village Board on April 7, 2014, to provide a procedure for change in license classification request at the time of renewal of an annual liquor license or thereafter during the annual term of a given liquor license, and its provisions will be incorporated in the instant ordinance such that Ordinance No. 2014-04 should be revoked in its entirety; and

**WHEREAS**, upon recommendation of the Village Liquor Commission, the Village Board believes it is in the best interests of its citizenry to set revised renewal application filing deadline provisions, with consequences to encourage compliance, to modify the rules on late renewal of liquor licenses contained in the annual payment requirement provisions of Ordinance No. 2010-03, and to incorporate previous recently established provisions for a change in license classification request at the time of renewal of an annual liquor license or thereafter during the annual term of a given liquor license.

**NOW THEREFORE, BE IT ORDAINED** by the President and Board of Trustees of the Village of Winnebago, Illinois as follows:

**PART I-REVISED RENEWAL APPLICATION FILING AND PAYMENT**

**DEADLINE PROVISIONS**

**Article IV Section 10** of the Village of Winnebago's Liquor Ordinance No. 97-11 shall be revoked in its entirety and the following substituted in place thereof:

**Section 10. Renewal; Effect of Failure to Renew**

- A) Any licensee under this ordinance may renew his license at the expiration thereof, provided he is then entitled to receive a license, and the premises for which such renewal license is sought are suitable for such purpose. Each licensee, by no later than April 20<sup>th</sup> of a given year, or by the closest business day prior thereto if April 20<sup>th</sup> falls on a holiday wherein there would not be postmarking of mail, shall submit a fully completed and properly executed liquor license renewal application on a form provided by the Village Liquor Commissioner and available at the Village Office. The appropriate license renewal fee based on license classification may be submitted with the renewal application, but must be received by the Village by no later than the

close of business on the last business day of April of a given year. No grace period shall be allowed. The purpose of this timetable is to provide adequate time for review by the Village Attorney of all renewal applications before the license expiration date, while still providing the maximum amount of time to the licensee to pay the annual license fee before the expiration of the annual license. The date of postmark shall control for all renewal applications mailed to the Village at the address designated on the renewal form, and the receipt date hand stamped by Village personnel shall control for all renewal applications that are hand delivered. A dated and time stamped written receipt shall be issued by Village personnel for all payments received reflecting the date of payment in accordance with the provisions recited above.

- B) Any fully completed liquor license renewal application, along with all other required documents referenced in the renewal application, that is not submitted by April 20<sup>th</sup> of a given year, or by the closest business day prior thereto if April 20<sup>th</sup> falls on a holiday wherein there would not be postmarking of mail, and/or any full annual renewal fee due that is not received by April 30<sup>th</sup> of a given year, shall be assessed a Two thousand five hundred and 00/100 Dollar (\$2,500.00) cumulative late fee up until the date which is ninety (90) days from when the annual liquor license expired. If an annual liquor license renewal form is submitted within the prescribed maximum ninety (90) day time period referenced above, it shall be accompanied by both the annual license fee and the late payment fee before the renewal application shall be

considered for renewal. No liquor license holder shall be allowed to serve alcoholic liquor during the time period when the annual license is expired, and before renewal of the same. There shall be no proration of the liquor license fee for any application or payment submitted late, as described above. Further, if reissued, there shall be no extension of the time frame of the liquor license based on late payment, but rather the same shall expire on the regular annual license expiration date of April 30<sup>th</sup> of the given renewal year. After ninety (90) days from when the liquor license expires, any former liquor license holder desiring to again hold a liquor license for a given establishment, shall be subject to starting a new application process, and paying a non-refundable Five thousand and 00/100 Dollar (\$5,000.00) initial application fee.

- C) In addition to whatever other information is required on the renewal form supplied by the Village Liquor Commissioner, the form shall indicate the class of license held, and the class of license requested for the annual renewal term. When a change in license classification is requested at the time of timely submission of the liquor license renewal application, there shall not be an additional fee charged beyond the normal established fee for the type of license classification submitted. If a change in license classification is requested within 6 months of when a renewal application is submitted, then the additional fee, which is an administrative fee, shall be One hundred and 00/100 dollars (\$100.00) over and above the prorated fee due, if any, for the change in license classification. If a change in license classification is requested

more than six (6) months after a renewal application is submitted, then the additional fee, which is an administrative fee, shall be Two hundred and 00/100 Dollars (\$200.00) over and above the prorated fee due, if any, for the change in license classification. All license classification change applications submitted after the annual renewal time period at which the annual fee was paid for the license classification requested at that time, shall be accompanied by the fee for the license classification change.

- D) Any license issued pursuant to this ordinance shall terminate by operation of law if not renewed according to the procedures set forth herein by the date of its expiration. However, an application for reissuance of the license may be submitted within the ninety (90) day time period referenced above, the consideration of which application shall be governed by the procedures established in this ordinance. Further, the renewal or reissuance privilege herein provided shall not be construed as a vested right which shall in any case prevent the Village Board of Trustees from decreasing the number of liquor licenses to be issued within its jurisdiction, provided that the maximum total number of liquor licenses of all classes allowed to be issued shall never be fewer than seven (7). Further, any change in classification request privilege is, likewise, not an automatic right, and shall not prevent the Village Liquor Commissioner from denying a change in license classification request if such denial is deemed to be in the best interest of the citizenry of the Village of Winnebago.

**PART II-REVOCATION OF ANNUAL PAYMENT**

**REQUIREMENT SECTION OF ORDINANCE NO. 97-11**

Based on the incorporation hereinabove of the necessary remaining portions of the annual payment requirement terms added, via Ordinance No. 2010-03, as Section 1.5 of Article V to Ordinance No. 97-11, the Section 1.5 of Article V of Ordinance No. 97-11 that is captioned as "Annual Payment Requirement" is hereby revoked in its entirety.

**PART III--REPEAL OF ANY PRIOR OR CONFLICTING ORDINANCES**

Any and all ordinances or parts of ordinance provisions passed by the Board of Trustees of the Village of Winnebago, Illinois, which are in conflict with this Ordinance No. 2014-\_\_\_ are hereby repealed.

**PART IV--ORDINANCE EFFECTIVE DATE**

This ordinance shall be in full force and effect from and after the date of its passage, approval, and publication, as provided by law.

**APPROVED:**



*Paul D. Elsen  
President  
Pro Tem*

Franklin J. Eubank, Jr., President of the Board of Trustees of the Village of Winnebago, Illinois

**ATTEST:**



Sally Jo Huggins, Village Clerk

**PASSED:**

6-9-2014

**APPROVED:**

6-9-2014

**PUBLISHED**

**(in pamphlet form):** \_\_\_\_\_