

ORDINANCE NO. 09-12

**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
DECREASE LIQUOR LICENSE FEES, AMEND CLASS A AND B LIQUOR
LICENSE ACCOUNTING REQUIREMENTS, MODIFY THE PHYSICAL
SEPARATION REQUIREMENT, MODIFY CESSATION OF BUSINESS
REQUIREMENTS, AND MAKE TECHNICAL CORRECTIONS**

WHEREAS, the immediately prior administration of the Village of Winnebago Board of Trustees, upon the recommendation of the Village of Winnebago Liquor Commission, passed Ordinance No. 09-03 on April 13, 2009, increasing liquor license fees by doubling the same for all classes of liquor license holders on the basis of increased need for revenue for the Village of Winnebago, and increase in services generally provided to liquor license holders due to the increased size of the Village of Winnebago, and the fact that the annual liquor license fees had never been increased since the liquor ordinance was initially passed in 1997; and

WHEREAS, the current Village of Winnebago Liquor Commissioner has received complaints from some of the liquor license holders as to the amount of the increase and, thus, the current Liquor Commissioner has reviewed the reasoning behind such increase with the Liquor Control Commission members; and

WHEREAS, the current Village of Winnebago Liquor Commissioner has determined that part of the reason for the increase in services has been the need for increased legal services when certain of the liquor license holders have not timely complied with certain liquor license regulations and requirements; and

WHEREAS, the current Liquor Commissioner has recommended that strict enforcement of the liquor ordinance and the levying of fines would be a more equitable

way to handle the circumstances of a liquor license holder not properly complying with the regulations of the Village of Winnebago liquor ordinance; and

WHEREAS, the current Village of Winnebago Board of Trustees believes that the circumstances have changed since the liquor ordinance was established in 1997, and the fees established, warrant a change in liquor license fees from those established in the 1997 ordinance, namely, the increase in police and general administrative and legal services provided to or for the benefit of the liquor license holders due to the increased size of the Village of Winnebago since 1997, but that the same do not warrant a doubling of the liquor license fees from the 1997 rates; and

WHEREAS, the Village of Winnebago Board of Trustees, in light of advanced technological record-keeping systems currently available to liquor license holders, likewise believes it would be in the interest of the Village of Winnebago to allow point-of sale documentation to be submitted on a semi-annual basis by Class A and Class B liquor license holders to substantiate the percentage of alcoholic sales as compared to food and non-alcoholic sales to meet the minimum liquor ordinance requirement in lieu of the current requirement that such information be provided by a Certified Public Accountant (CPA); and

WHEREAS, the Village of Winnebago Board of Trustees, in an effort to resolve the practical problem faced by Class D and Class E package sale liquor license holders of some of their customers believing the liquor area of the store is closed when a physical barricade, such as roping, is always in place as required by the current liquor ordinance, believe it is in the best interest of the Village of Winnebago to relax such requirement while still mandating that the liquor area be in a designated area physically separated from the other retail portions of the premises; and

WHEREAS, the Village of Winnebago Board of Trustees believes it is necessary to modify the cessation of business requirements so it is clear to the licensee that upon the

cessation of business the liquor license must be immediately surrendered to the Village of Winnebago Liquor Commissioner; and

WHEREAS, there are certain technical corrections to be made to the 1997 Village of Winnebago liquor ordinance to reflect the correction of typographical and/or grammatical errors, and/or substance errors.

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

PART I--INCREASE IN LIQUOR LICENSE FEES

A) **The last sentence of Article 5, Section 1 (1)** of the Village of Winnebago's liquor ordinance (No. 97-11, as amended, specifically via Ordinance No. 09-03), pertaining to the annual fee for a Class A liquor license, which class of license authorizes the retail sale in restaurants only of alcoholic liquor for consumption on the restaurant premises, shall be amended as follows to decrease the amount of the annual license fee:

The annual fee for a Class A liquor license shall be two thousand two hundred fifty and 00/100 dollars (\$2,250.00).

B) **The last sentence of Article 5, Section 2** of the Village of Winnebago's liquor ordinance (No. 97-11, as amended, specifically via Ordinance No. 09-03), pertaining to the annual fee for a Class B liquor license, which class of license authorizes the retail sale in restaurants only of beer and wine for consumption on the premises, shall be amended as follows to decrease the amount of the annual license fee:

The annual fee for a Class B liquor license shall be one thousand five hundred and 00/100 dollars (\$1,500.00).

C) **The last sentence of Article 5, Section 3** of the Village of Winnebago's liquor ordinance (No. 97-11, as amended, specifically via Ordinance No. 09-03), pertaining to the annual fee for a Class C liquor license, authorizing the retail sale of alcoholic liquor for

consumption on the premises only in hotels and motels shall be amended as follows to decrease the amount of the annual license fee:

The annual fee for a Class C liquor license shall be two thousand two hundred fifty and 00/100 dollars (\$2,250.00).

D) **The last sentence of Article 5, Section 4** of the Village of Winnebago's liquor ordinance (No. 97-11, as amended, specifically via Ordinance No. 09-03), pertaining to the annual fee for a Class D liquor license, authorizing the retail sale, on the premises specified in the license, of alcoholic liquor in the original package and not for consumption on the premises (package sales) shall be amended as follows to decrease the amount of the annual license fee:

The annual fee for a Class D liquor license shall be two thousand two hundred fifty and 00/100 dollars (\$2,250.00).

E) **The last sentence of Article 5, Section E** of the Village of Winnebago's liquor ordinance (No. 97-11, as amended, specifically via Ordinance No. 09-03), pertaining to the annual fee for a Class E liquor license, authorizing liquor license retail sale, on the premises specified in the license, of beer and wine only in its original package and not for consumption on the premises (package sales) shall be amended as follows to decrease the amount of the annual license fee:

The annual fee for a Class E liquor license shall be one thousand five hundred and 00/100 dollars (\$1,500.00).

F) **The last sentence in Article 5, Section 6 (D)** of the Village of Winnebago's liquor ordinance (No. 97-11, as amended, specifically via Ordinance No. 09-03), pertaining to the annual fee for a Class Ctr liquor license, authorizing the holder of such license to serve alcoholic liquors on-site or off-site as an incidental part of a food service that serves prepared

meals, which excludes the service of snacks as the primary meal, shall be amended as follows to decrease the amount of the annual license fee:

The annual fee for a Class Ctr liquor license shall be six hundred and 00/100 dollars (\$600.00).

G) **The last sentence in Article 5, Section 7** (in the section pertaining to the fee for a Class F (bowling alley) license) of the Village of Winnebago's liquor ordinance (No. 97-11, as amended, specifically via Ordinance No. 09-03), pertaining to the annual fee for a Class F liquor license, authorizing the holder of such license to serve alcoholic liquors on the premises provided the gross revenues from the sale of alcoholic liquor does not exceed fifty five percent (55%) of the total gross revenues on the bowling alley premises, shall be amended as follows to decrease the amount of the annual license fee:

The annual fee for a Class F liquor license shall be two thousand two hundred fifty and 00/100 dollars (\$2,250.00).

**PART II--CLASS A AND CLASS B
ACCOUNTING REQUIREMENTS**

A) The following sentence shall be added to the last paragraph of Article 5, Section 6 of the Village of Winnebago's liquor ordinance (No. 97-11, as amended), pertaining to the statement to be provided semi-annually to the Liquor Control Commissioner reflecting the gross revenue in dollars and percentages collected by the licensee for non-alcoholic beverages and food consumed on the premises, and the total gross revenue in dollars and percentages collected by the licensee:

However, if the Class A or Class B license holder has a point-of-sale cash register system such that the liquor, food and non-liquor beverage sales are separately calculated at the time of each individual sale, the license holder may submit a point-of-sale report for the time period listed showing the totals for each on a

monthly basis in lieu of the above requirement that the information be provided by a Certified Public Accountant (CPA).

PART III--PHYSICAL SEPARATION

A) **Article V, Section 4 (A)** of the Village of Winnebago's liquor ordinance (No. 97-11, as amended), pertaining to the physical separation required of the portion of the premises devoted to the sale of alcoholic liquor from the rest of the merchandise shall be deleted in its entirety, and the following substituted in place thereof:

That portion of the premises devoted to the sale of alcoholic liquor shall be confined to a designated area, as approved by the Liquor Control Commissioner which is separated from the other retail portions of the supermarket, convenience store, and/or drugstore premises, or other premises selling packaged alcoholic liquor, but shall not require roping or other physical barrier to designate such separate area.

B) **Article V, Section 5 (A)** of the Village of Winnebago's liquor ordinance (No. 97-11, as amended), pertaining to the physical separation required of the portion of the premises devoted to the sale of beer or wine shall be deleted in its entirety, and the following substituted in place thereof:

That portion of the premises devoted to the sale of beer or wine shall be confined to designated area, as approved by the Liquor Control Commissioner which is separated from the other retail portions of the supermarket, convenience store, and/or drugstore premises, or other premises selling packaged alcohol liquor, but shall not require roping or other physical barrier to designate such separate area.

PART IV--SURRENDER OF LICENSE UPON CESSATION OF BUSINESS

Article VI Section 2 of the Village of Winnebago's liquor ordinance (No. 97-11, as amended) pertaining to the cessation of business by a liquor license holder shall be amended to add the following sentence at the end of the paragraph:

Any liquor license holder who ceases to do business for the reasoning described above, or permanently closes down his or her business, shall surrender the liquor license to the Liquor Commissioner within 24 hours of the last day the business is open to the public.

PART V--TECHNICAL CORRECTIONS

A) **The last sentence of Article I, Section 4** of the Village of Winnebago's liquor ordinance shall be amended for the purpose of typographical correction such that the words "Not withstanding" shall be replaced with the word "Notwithstanding".

B) **The last sentence of Article 1 Section 6** of the Village of Winnebago's liquor ordinance shall be amended for the purpose of substance correction such that the phrase at the end of the last sentence reading "as defined in Article V, Section 6 (A)" shall be deleted, as the same was incorrectly so phrased and placed when Ordinance No. 97-11 was originally written, because there is no Article V, Section 6 (A) in the Village's liquor ordinance, and the period to indicate the end of the sentence should be placed after the word "sales" at the end of the paragraph.

C) **Article 1, Section 9** of the Village of Winnebago's liquor ordinance (No. 97-11, as amended) shall be amended for the purpose of grammatical correction such that the phrase "(twenty-one) 21 years" shall be deleted and replaced with the grammatically correct phrase "twenty-one (21) years".

D) **The first sentence of Article 1 Section 11(A)** of the Village of Winnebago's liquor ordinance (No. 97-11, as amended) shall be amended for the purpose

of grammatical and substance corrections such that the phrase "any licensee, their employer or agent" shall be deleted and replaced with the phrase " any licensee, his or her employees or agents".

E) **Article 1, Section 11 (A)(5)** of the Village of Winnebago's liquor ordinance (No. 97-11, as amended) shall be deleted in its entirety for the purpose of substance correction and replaced with the following:

5) Deliver to any person of legal drinking age not accompanied by another person of the legal drinking age a pitcher or carafe of drink.

F) **The second to the last sentence of Article II--Penalties** of the Village of Winnebago's liquor ordinance (No. 97-11 as amended), shall be deleted in its entirety and replaced with the following sentence:

The costs of any proceeding before the local liquor control commission shall be paid forthwith by the licensee upon a finding by the commission of a violation of any provisions of this ordinance, and the costs shall include any attorney fees and expenses, and clerical or court stenographic fees and costs which the Village must pay, as well as the costs of any Subpoenas and wage, salary, and commission expenses directly or indirectly related to the hearing.

G) **Article III, Section 1 (B)(4)** of the Village of Winnebago's liquor ordinance shall be deleted in its entirety for the purpose of substance correction and replaced with the following:

4) To examine or cause to be examined, under oath, any applicant for a local license or for a renewal thereof, or any licensee upon whom notice of revocation has been served, or any licensee against whom a citation proceeding has been instituted by the state liquor control commission; to examine, or cause to be examined, the books and financial records or other

business documents of any kind of the licensee in furtherance of the commissioner's duties and for the information of the commissioner, and to issue Subpoenas which shall be effective in any part of the State of Illinois. Other persons may be designated by the commissioner to take action for the purpose of obtaining any of the information desired by the commissioner under this section;

H) **The first sentence of Article IV Section 3(D)** of the Village of Winnebago's liquor ordinance shall be amended for the purpose of correction such that the word "applications" on the second line of the sentence shall be deleted and replaced with the grammatically correct word "applicant(s)".

I) **Article IV Section 12 (17)** of the Village of Winnebago's liquor ordinance shall be amended for the purpose of substance correction by deleting the phrase "replaced by" and substituting in place thereof the phrase "replaced by or replacing".

J) **The first sentence of Article V Section 1** of the Village of Winnebago's liquor ordinance shall be amended for the purpose of grammatical correction by deleting the word "provision", and replacing the same with the word "provisions".

K) **The second sentence of Article V Section 1(4)** of the Village of Winnebago's liquor ordinance shall be amended for the purpose of substance clarification to delete the phrase "commonly know as supermarkets" and replace the same with the phrase "commonly known as supermarkets or convenience stores".

L) **Article V Section 1 (4)(A)** of the Village of Winnebago's liquor ordinance shall be amended for the purpose of substance clarification to delete the phrase "other retail portions of the supermarket and/or drugstore premises " and replace the same with the phrase "other retail portions of the supermarket and/or convenience store and/or drugstore premises".

PART VI--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. 09-___ are hereby repealed.

PART VII--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:

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

ATTEST:

Sally Jo Huggins, Village Clerk

PASSED:

10/12/09

APPROVED:

10/12/09

PUBLISHED

(in pamphlet form): _____