

ORDINANCE NO. 2010- 09

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
AMEND DISTANCE REQUIRED BETWEEN LIQUOR
ESTABLISHMENTS AND CERTAIN ENTITIES TO MIRROR
STATE STATUTORY REQUIREMENTS

WHEREAS, Article IV, Section 13(A) of the Village of Winnebago's current liquor ordinance currently provides that no liquor license shall be issued for the sale at retail of any alcoholic liquor within two hundred (200) feet of any church, school, hospital, home for the aged or indigent persons, veterans, their wives or children, or any military or naval station, with the distance of two hundred (200) feet measured between the nearest part of any such building and the building which is the subject of any application for a liquor license; and

WHEREAS, the Village's ordinance is stricter than State law requirement, which provide the required distance must be at least one hundred (100) feet; and

WHEREAS, State law also provides, via 235 Illinois Compiled Statutes (ILCS) 5/6-11(a), for an exception to the requirement that no license shall be issued for the sale at retail of any alcoholic liquor within one hundred (100) feet of any church, school other than an institution of higher learning, hospital, home for aged or indigent persons or for veterans, their spouses or children or any military or naval station, with the exception applying to hotels offering restaurant service, regularly organized clubs, or to restaurants, food shops or other places where sale of alcoholic liquors is not the principal business carried on if the place of business so exempted is

not located in a municipality of more than 500,000 persons, unless required by local ordinance, and such exception also applies to the renewal of a license for the sale at retail of alcoholic liquor on premises within one hundred (100) feet of any church or school where the church or school has been established within one hundred (100) feet since the issuance of the original license, with the distance of one hundred (100) feet, in the case of a church, to be measured to the nearest part of any building used for worship services or educational programs and not to property boundaries; and

WHEREAS, updated oral information obtained by the Village Attorney from Attorney Ivan M. Fernandez of the Illinois Liquor Control Commission has confirmed that although the Village of Winnebago has the aforesaid two hundred (200) feet distance requirement, this requirement could be waived, in compliance with State statutory exceptions allowed, if the Liquor Commission should choose to recommend an amendment to the Village's liquor ordinance, and if the Village Board should choose to amend its liquor ordinance to provide that its two hundred (200) feet requirement would be waived under the circumstances stated above recited in state law; and

WHEREAS, interest has been expressed by the owner of property located at 506 N. Elida Street, Winnebago, Illinois, of opening a restaurant, where the service of food rather than alcohol would be its primary business at such location, provided there would be an opportunity to obtain a liquor license for such restaurant; and

WHEREAS, the 506 N. Elida Street premises is located within one hundred (100) feet of a school, namely the Ombudsman facility; and

WHEREAS, the Board of Trustees feels there would not be a compromise to public safety, and would be in the best interests of the citizenry of the Village of Winnebago to waive the two hundred (200) feet distance requirement in accordance with the exception provisions recited in the Illinois State statutes as referenced above.

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

PART I-RESTRICTION TO LICENSE ISSUANCE

Article IV, Section 13(A) of the Village of Winnebago's liquor ordinance (No. 97-11, as amended), pertaining to the restrictions to license issuance shall be deleted in its entirety, and the following substituted in place thereof:

A) No license shall be issued for the sale at retail of any alcoholic liquor within one hundred (100) feet of any church, school other than an institution of higher learning, hospital, home for aged or indigent persons or for veterans, their spouses or children or any military or naval station. However there shall be an exception to this rule for hotels offering restaurant service, regularly organized clubs, or to restaurants, food shops or other places where sale of alcoholic liquor is not the principal business carried on, since the population of the Village of Winnebago is less than 500,000 persons. There shall also be an exception to this one hundred (100) feet requirement when there is the renewal of a license for the sale at retail of alcoholic liquor on premises within one hundred (100) feet of any church or school where the church or school has been established within one hundred (100) feet since the issuance of the original license. The distance of one hundred (100) feet in the

case of a church, shall be measured to the nearest part of any building used for worship services or educational programs and not to property boundaries.

PART II-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. 2010-29 are hereby repealed.

PART III-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:

7-12-10

APPROVED:

7-12-10

PUBLISHED

(in pamphlet form): _____