

ORDINANCE NO. 2015- 06

**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
PROHIBIT "BRING YOUR OWN" ("BYO") AT BUSINESSES
OPERATING AS A PUBLIC ACCOMMODATION**

WHEREAS, the Illinois Liquor Control Act only regulates the sale of alcoholic liquors, thus creating a legal loophole whereby businesses or other public accommodations without a liquor license may allow patrons to bring in their own alcohol for consumption on the premises; and

WHEREAS, irrespective of the above, pursuant to Chapter 65 of the Illinois Compiled Statutes, Section 5/11-42-1 et seq., a municipality has powers over certain businesses within its jurisdiction; and

WHEREAS, Chapter 65 ILCS 5/11-42-10.1 specifically provides that corporate authorities of a given municipality may license or regulate businesses operating as a public accommodation that permit the consumption of alcoholic liquor on the business premises, and that are unlicensed under the Illinois Liquor Control Act of 1934, as amended; and

WHEREAS, the Village of Winnebago is a "dry" community, except for those specific areas now part of the Village that have been annexed into the Village from the unincorporated area of Winnebago County, which areas currently maintain the "wet" designation said areas had when part of the unincorporated area of Winnebago County; and

WHEREAS, certain businesses in the "wet" area of Winnebago each currently

hold a liquor license duly issued by the Village of Winnebago and the State of Illinois, and the sale, and any resulting consumption, of alcoholic liquor in those businesses is regulated both by the Village of Winnebago and State of Illinois, both of which have strict rules and regulations in reference to sale of the same, as well as employer certification requirements, staff training, hours of service, sanitation, etc; and

WHEREAS, it is believed by the corporate authorities that in protecting its citizenry, and in keeping with the character and history of the Village, it is in the best interest of their constituents that the sale and consumption of alcoholic liquor at any business operating as a public accommodation should be confined to those located in the area of the Village designated by annexation as a "wet" area, and restricted to those businesses in those areas that maintain a liquor license duly issued by, and in good standing with, the Village of Winnebago and the Illinois Liquor Control Commission.

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

PART I-ADDITION OF DEFINITION FOR PUBLIC ACCOMMODATION

Article I, Section 3 of the Village of Winnebago's liquor ordinance (No. 97-11, as amended), containing its Definitions, is amended to add the following definition for "public accommodation", to be inserted alphabetically with the other definitions listed:

Public accommodation, pursuant to 65 ILCS 5/11/42-10.1, means a refreshment, entertainment, or recreation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, or advantages, are extended, offered, sold, or otherwise made available to the public.

PART II-REGULATION OF "BRING YOUR OWN" ("BYO")

Article I of the Village of Winnebago's liquor ordinance (No. 97-11, as amended), containing its General Provisions, is amended to add a new section, namely, Section 15, to read as follows pertaining to the regulation of "Bring Your Own" alcoholic liquor onto the premises of a business operating as a public accommodation for consumption therein:

15. Notwithstanding any other provision of this ordinance, it shall be unlawful for any business, or any employee or agent thereof, within the Village of Winnebago operating as a public accommodation, which does not hold a duly issued, currently effective, and in good standing liquor license issued by the Village of Winnebago and State of Illinois, to permit or allow the consumption of any alcoholic liquor on the premises of that establishment.

PART III-FINES AND PENALTIES

Any business owner who allows the consumption of alcoholic liquor in a business establishment operating as a public accommodation that does not have duly issued and valid Village of Winnebago and State of Illinois liquor licenses shall be in violation of this ordinance, and shall be assessed a fine of no less than one hundred and 00/100 dollars (\$100.00) and no more than seven hundred fifty and 00/100 dollars (\$750.00) for each person the business owner allows to consume such alcoholic liquor, on each occasion, not just for each table or party. By way of example, if a table of eight (8) persons were in a business establishment operating as a public accommodation that did not possess duly issued and valid Village of Winnebago and State of Illinois liquor licenses allowing for consumption of alcoholic liquor on the premises, and all eight (8) individuals were consuming alcoholic liquor, the fine to the business owner shall be

according to the fine parameters reflected above for each person consuming alcoholic liquor. Each visit to the establishment by a given individual whereby such illegal consumption occurs shall be considered a separate violation. The burden shall be on the business owner to prevent such illegal consumption, and the fact that such activity occurs on the premises, or in the establishment the business owner operates as a public accommodation, shall be prima facie evidence of its occurrence.

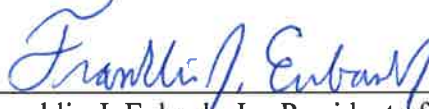
PART IV-REPEAL OF ANY PRIOR OR CONFLICTING ORDINANCES

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. 2015-06 are hereby repealed.

PART V-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:

5-11-15

APPROVED:

5-11-15

PUBLISHED

(in pamphlet form): _____