

AN ORDINANCE OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS AMENDING THE LICENSING AND OPERATIONAL REGULATIONS FOR LIQUOR LICENSES

WHEREAS, the Village of East Dundee (the “*Village*”) is a duly organized and validly existing home-rule municipality created in accordance with the Constitution of the State of Illinois of 1970 and the laws of the State; and,

WHEREAS, section 5/4-4 of the Liquor Control Act of 1934, as amended, (235 ILCS 5/4-4) describes the powers, functions and duties of the local liquor control commissioner and this ordinance clarifies those powers in the Code of the Village of East Dundee.

NOW, THEREFORE, BE IT ORDAINED, by the President and Board of Trustees of the Village of East Dundee, Cook and Kane Counties, Illinois, as follows:

Section 1: That Section 116.02(B) of the Code of the Village of East Dundee, as amended, be and is hereby amended to read as follows:

“(B) The Village President shall appoint two Trustees to serve as Assistant Liquor Control Commissioners to assist in the exercise of the duties of office and shall, with the Village President, comprise the membership of the Local Liquor Control Commission.”

Section 2: That Section 116.03 of the Code of the Village of East Dundee, as amended, be and is hereby amended to read as follows:

“116.03 LICENSE REQUIRED.

No person shall sell, batter, transport, deliver, solicit, or receive orders for, keep, or expose for sale, keep with intent to sell or furnish any alcoholic liquor for beverage purposes for sale at retail without being first licensed to do so by the Local Liquor Control Commissioner of the village.”

Section 3: That Section 116.04(A)(8) of the Code of the Village of East Dundee, as amended, be and is hereby amended to read as follows:

“(8) The Liquor Commissioner reserves the right to require BASSET or TIPS training for all employees of any establishment when deemed necessary. A ruling of this kind shall remain binding until repealed by the Liquor Commissioner.”

Section 4: That Section 116.05(A)(10) and (11) of the Code of the Village of East Dundee, as amended, be and is hereby amended to read as follows:

“(10) *Class D.* For the retail sale of alcoholic beverages for consumption on premises, but not for the sale of spirits (as defined in ILCS Chapter 235, Act 5, § 1-302) in its original package for

consumption on the premises, within or adjacent to food service locations solely within outdoor amusement park recreational facilities, a single primary liquor license may be issued for a structure which serves as a restaurant facility and auxiliary licenses may be issued for additional beer and wine dispensing locations, also referred to herein as "points of distribution," subject to the following conditions and restrictions:

(a) At least one primary food service location must be maintained within outdoor amusement park and a primary license may be issued to the location with the following requirements:

1. Legal seating capacity under local ordinance and state law must be maintained to seat 100 patrons with seating facilities regularly and ordinarily present on the licensed premises.
2. Licensed location must be within structure approved for occupancy pursuant to the village building codes.
3. Under the primary license, one outdoor picnic area within the amusement park may be used for the sale for consumption on premises of beer and wine only.

(b) Alcoholic beverage service from points of distribution, other than the structure bearing the primary license, shall be limited to beer and wine. A license shall be required for each location referred to herein as a "point of distribution license," subject to the following requirements:

1. The points of distribution may provide walk-up counter dispensing of beer and wine only for consumption within the subject amusement park, so long as food service is available from the locations.
2. Each point of distribution shall be from a fixed structure complying with the Building Code of the village and shall not be from a temporary or portable structure, cart, or the like.
3. Each point of distribution license shall be separately approved for a fixed location and shall be prominently displayed therein. The licenses shall not be relocated without express action by the Liquor Control Commissioner.
4. Each point of distribution license shall be under the same ownership as the primary license and shall be issued only in conjunction with and subject to the conditions and restrictions of the primary license.
5. At all times when a facility holding a point of distribution license is in operation, at least one person registered pursuant to the provisions hereof shall be on the licensed premises at all times that alcoholic beverages are served.
6. Each point of distribution license may be open for business for not more than 120 days per calendar year.

(11) *Class E.* For the retail sale in premises, as defined below, of all kinds of legalized alcoholic liquors for consumption on the premises, subject to the following conditions and restrictions. For the purpose of this division (A)(11), the following definitions shall apply unless the context clearly indicates or requires a different meaning. This license does not permit the sale of spirits in the original package for consumption on the premises.

PREMISES. Upon approval of the Liquor Commissioner, a contiguous adjoining exterior area, subject to the additional conditions set forth below:

1. The outside dining area shall be enclosed by a minimum three-foot high wall, fence, or structure designed to be decorative and to prevent unauthorized entry. The maximum height of such fence or wall shall be eight feet.
2. At least five feet of public right-of-way must be provided and maintained at all times for pedestrian traffic.
3. At least ten feet of public right-of-way traffic must be provided between the outdoor dining area and vehicular traffic.
4. The outside dining area shall have ingress and egress for emergency purposes and for handicap accessibility.
5. The outside dining area shall not have a covered roof, although umbrellas, awnings, screening, and the like may be allowed, and a limited roof structure may be permitted over any service bar.
6. No signs shall be attached to any furniture, umbrellas, awnings, or other structure related to the operation of the outdoor dining area.
7. No permanent fixtures are to be installed and only those fixtures authorized by the permit and shown in the diagram may be stored in the public right-of-way when the outdoor dining area is not in operation. Should the licensee not utilize the sidewalk as authorized for a period of 48 hours or more, all the tables and materials must be removed.
8. A service bar or service window for the service of alcoholic beverages may be permitted in the outside dining area. Permission for the sale of alcoholic beverages must be secured from the Liquor Commissioner prior to issuance of an Outdoor Dining/Sidewalk Cafe Permit.
9. Outside meal seating will be permitted; however, no alcohol shall be served or consumed in the outside seating area no later than 12:00 a.m. Sunday through Thursday, and 1:00 a.m. Friday and Saturday.
10. The outside dining area seating shall not be used in subdivision (b) above for calculating the required number of seats for this liquor license classification.
11. Seating for the outdoor dining area is to be restricted to the right-of-way approved by the village.
12. The outside dining area seating capacity when combined with the indoor seating capacity shall meet the requirements of the State Plumbing Code and village plumbing ordinances with regard to restroom facilities.
13. Persons issued a permit for an outdoor dining area/sidewalk cafe shall maintain the sidewalk area in a clean and safe condition. The permit holder shall clean said area at the end of each business day, so as not to have any food or drink leftovers remaining. The permit holder

shall wash daily the sidewalk area approved by the village for the outdoor dining area/sidewalk cafe removing any food or drink residue.

14. If the outdoor dining area interferes with a public event planned on the public right-of-way, the public event shall take precedence. The village will endeavor to notify the licensee 30 days in advance of the scheduled event.

15. Such other requirements as may reasonably be imposed by the Liquor Commissioner taking into account the unique circumstances of the licensee's premises and location.”

Section 5: That Section 116.05(A)(14)(a), (b), (c) and (d) of the Code of the Village of East Dundee, as amended, be and is hereby amended to read as follows:

“(14) *Class F.* Special events license for the retail sale of all kinds of legal alcoholic liquors for consumption on the premises as defined below. This license is not a right of any current license holder and shall be granted at the sole discretion of the Liquor Commissioner and upon a finding that the applicant has adequately met or provided for the following conditions and restrictions:

(a) The applicant must submit a site map depicting the premises to be licensed upon which the special event will occur including depicting all structures and rights-of-way within 100 feet of the licensed premises perimeter and proof of a legal right to occupy such premises during the duration of the special event.

(b) The license would be issued only to licensees holding a valid class of license permitting the consumption of alcoholic beverages on premises.

(c) Each licensee would be limited to hours of operation for alcoholic liquor sales of no greater than between the hours of 11:00 a.m. to 8:00 p.m. However, more expansive or limited hours may be approved by the Liquor Commissioner in their discretion.

(d) Applicant for a special events license would be required to give proof, satisfactory to the Liquor Commissioner, of adequate provision for the following:

1. Public sanitary facilities;
2. Refuse and waste disposal arrangements;
3. General security and crowd control;
4. Liability and property damage insurance with carriers and in amounts satisfactory to the Commissioner; and
5. Means of securing the physical perimeter of the premises from entry by minors and adequate security arrangements to insure that minors are not served alcoholic beverages.”

Section 6: That Section 116.05(C), (D) and (E) of the Code of the Village of East Dundee, as amended, be and is hereby amended to read as follows:

“(C) *Applications; where filed.* Applications shall be directed to and filed with the Local Liquor Control Commissioner and shall be accompanied by a certified or cashier's check of a

local bank, postal money order or cash in the full amount of the annual license fee required to be paid for the kind of license applied for by the applicant. If any applicant is denied, the deposit required shall be returned to applicant by the Local Commissioner.

(D) *Contents of application.* All applications shall be on forms approved by the Local Liquor Commissioner and provided by the village; shall be executed by the applicant seeking license; and shall be under oath stating all material information required in ILCS Chapter 235, Act 5, § 7-1. The application shall be accompanied with form of bond showing names and qualifications of sureties, but the bond need not be executed by sureties prior to approval of application by the Local Commissioner. The bond shall be a joint and several bond executed by applicant with or licensed to do business in the state in the sum of \$5,000, conditioned upon true and faithful compliance with this chapter and the laws of the state relating to alcoholic liquors and conditioned further for the payment of fines, penalties, and judgments levied against licensee for the offenses and liabilities arising out of the unlawful sale of alcoholic liquors. Any license application which is not the renewal of an existing license by the same licensee shall be charged an application fee to cover the village's costs for fingerprinting, background checks, and processing.

(E) *Manner of payment, renewals, terms.*

(1) All license fees shall be payable in one installment. All licenses shall expire on June 30 next after the date of issue.

(2) (a) All license applications shall be stamped as to date of filing and shall be given a filing number and shall be considered by the Local Commissioner in numerical order. Applications for renewal shall be considered in the same numerical order as determined by the original application filing number. Failure to make application for renewal 30 days or more before expiration date of license shall be deemed a waiver of priority listing and subsequent application provided for the application.

(b) In addition, the failure to make application at least 30 days prior to the expiration date shall entitle the Local Liquor Commissioner to close the applicant one day for every date late in filing. Application for renewal shall be made in same manner as for new applications, except that the application shall state thereon the fact. Forfeited application listings shall be stricken from the application list and shall not again be used.

(c) There shall be no property right in any such license, but priority shall receive proper consideration whenever all requirements of this chapter have been complied with. The Village President and the Board of Trustees shall have the power at any time to decrease the number of licenses to be issued within its jurisdiction.”

Section 7: That Section 116.06(D) of the Code of the Village of East Dundee, as amended, be and is hereby amended to read as follows:

“(D) There shall be no proration of license fee irrespective of when the application for license is received by the Local Control Commissioner. Any licensee may renew his or her license at the expiration thereof; provided, he or she is then qualified to receive a license and the premises for which the renewal license is sought are suitable for such purpose; and provided that, he or she has made application for renewal; and provided further, that the renewal privilege herein

provided for shall not be construed as a vested right which shall, in any case, prevent the President and Board of Trustees from decreasing the number of licenses to be issued within its jurisdiction.”

Section 8: This Ordinance shall be in full force and effect upon its passage, approval, and publication as provided by law.

Passed this 21 day of October, 2013.

AYES: Trustees Gorman, Lynam, Skillicorn, Selep and Wood

NAYS: Ø

ABSENT: Trustee Ruffalo

Approved this 21 day of October, 2013.

[Signature]
Village President

Attest:
[Signature]
Village Clerk

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