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ORDINANCE NO. F-0638

AN ORDINANCE AMENDING THE WHEATON LIQUOR CONTROL
ORDINANCE, CHAPTER 6 - ALCOHOLIC BEVERAGES

WHEREAS, The City of Wheaton, Illinois ("City") is an Illinois home rule municipality pursuant to the provisions of Article VII, Section 6 of the Illinois Constitution, 1970, and as such the City may exercise any power or perform any function pertaining to its government and affairs; and

WHEREAS, the Liquor Control Commission considered these amendments at a meeting on August 9, 2001 and September 13, 2001; and

WHEREAS, the City has determined it to be in the best interests of the City and its residents to consider certain amendments to the Wheaton Liquor Control Ordinance; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its home rule powers, as follows:

Section 1: That Articles I through IV are hereby amended by deleting the words "local liquor control commissioner" and / or "liquor commissioner" wherever these words appear and replacing them with the words "local liquor commissioner".

Section 2: That Articles I through V are hereby amended by deleting the words "local liquor control commission" and / or "liquor commission" wherever these words appear and replacing them with the words "local liquor commission".

Section 3: That paragraph (2) of Sec. 6-57, "Scope of authority to promulgate and amend rules", is hereby deleted in its entirety and replaced with the following:

"(2) During the liquor license meetings conducted by the local liquor commission;"

Section 4: That paragraph (a) of Sec. 6-82, "Applications-Generally", is hereby deleted in its entirety and replaced with the following:

"(a) This section applies to all applications for all license categories under this chapter other than class F and Outdoor Special Event Liquor Licenses."

Section 5: That paragraph (d) of Sec. 6-82, "Applications-Generally", is hereby deleted in its

entirety and replaced with the following:

“(d) New applicants shall not be licensed until such new applicants and managers, if any, have been fingerprinted and photographed by the city police department. An investigation of the potential applicants and managers, if any, shall be conducted by the city police department and shall report their findings to the local liquor commissioner. A copy of the fingerprints and photographs shall be retained in the files of the chief of police.”

Section 6: That paragraph (c) of Sec. 6-83, “Same-Class F License”, is hereby deleted in its entirety and replaced with the following:

“Reserved” .

Section 7: That Section 6-83.5. “Sec. 6-83.5. Applications--Class L licenses”, is hereby deleted in its entirety and replaced with the following:

“Sec. 6-83.5. Applications--Outdoor Special Event Liquor License

(a) A Wheaton based nonprofit organization wishing to file an application for an Outdoor Special Event Liquor License may obtain an application form from the city as prescribed by the city manager for the purpose of providing reasonable information about the applicant. Such application shall be filed with the local liquor commissioner with a nonrefundable application fee of \$50.00. All Outdoor Special Event Liquor License applications shall be filed at least 90 days prior to the outdoor special event to be sponsored by the nonprofit organization. The application shall be signed by both the president and secretary or chair of the board of directors and secretary of the applicant.

(b) Applications for an Outdoor Special Event Liquor License shall be verified by oath or affidavit and shall contain the following statements and information:

- (1) The applicant's name, mailing address, and telephone number.
- (2) The president, or chair of the board of directors, and secretary's names, mailing and residence addresses, and telephone numbers.
- (3) The date that the nonprofit organization was formed.

- (4) A statement of the objects for which the nonprofit organization was organized, along with the full name, address, and telephone number of all the officers and directors.
- (5) The names, dates of birth, addresses, and telephone numbers of all persons who are members of the nonprofit organization and who will transfer, exchange, or barter alcoholic beverages for the nonprofit organization at the outdoor special event.
- (6) A site plan and detailed description of the location of the outdoor special event and a diagram or drawing, subject to approval of the city council, that illustrates entrances and exits for the outdoor special event, seating areas, food service areas, and alcohol sales area.
- (7) A statement as to whether the applicant has made similar applications for another similar license in Wheaton or other communities and the disposition of such applications.
- (8) A signed statement by the president or chair of the board of directors of the nonprofit organization that none of the individuals identified in subsection (b)(5) of this section has ever been convicted of a felony or a class A misdemeanor and none is disqualified to receive a license by reason of any matter or thing contained in the laws of the state or any other provision of this article.
- (9) Whether a previous license by any state or subdivision thereof, or by the federal government, has been issued to the nonprofit organization, and if so, where and when, or if any license has been revoked, stating the reasons therefore.
- (10) A statement signed by the president or the chair of the board of directors of the nonprofit organization that the applicant and all individuals identified in subsection (b)(5) of this section have not in the past and will not in the future violate any of the liquor laws of the state or the United States, or any ordinance of the city, controlling the retail sale of alcoholic liquor in the conduct of the exchange, transfer, or barter of the alcoholic liquor.
- (11) Whether the president or chair of the board of directors of the nonprofit organization is a public official, and if so, the particulars thereof.

(12) A statement signed by the president or the chair of the board of directors of the nonprofit organization stating that no individual person in the nonprofit organization will stand to gain any pecuniary benefit from the transfer, exchange, or barter of alcoholic beverages transferred, exchanged, or bartered.

(13) A statement that the applicant and all individuals required to be identified in the application have not sold, delivered, or given away alcoholic liquor in violation of any state law or city ordinance to a person under the minimum age required to purchase or possess liquor.

(14) Such information or identification as the city council may deem necessary in order to establish the character of the applicant."

Section 8: That paragraph (a) of Sec. 6-86, "Processing of Applications", is hereby deleted in its entirety and replaced with the following:

"(a) Upon receipt of an application for any license authorized to be issued pursuant to this chapter, the local liquor commissioner shall forward such application to the local liquor commission for its review and recommendations. At the next regularly scheduled local liquor commission meeting, the commissioners may ask questions related to any and all information contained on the applicant's application as well as questions the liquor commission deems pertinent to the applicant and the effect that the granting of a license to the applicant would have on the health, safety, morals, and welfare of the residents of the city. The public shall also be given a reasonable opportunity to make its comments known to the commission. Recommendations from the liquor commission shall be submitted to the local liquor commissioner within 45 days after the close of the meeting on such application. Within 15 days of receipt of the recommendation from the liquor commission, the City Council at their regularly scheduled meeting shall vote to grant or deny such license."

Section 9: That paragraph (1) of Sec. 6-87, "Classifications of licenses", is hereby deleted in its entirety and replaced with the following:

"(1) Class A license shall authorize the retail sale in restaurants only of alcoholic liquor for consumption on the restaurant premises. No such license may be granted to, or retained by, any establishment in which the facilities for food preparation and

service are not primarily those of the restaurant which has a dining seating capacity of at least 25. Alcoholic liquor may be sold in a restaurant holding a class A license only during the period when patrons of the license are offered a complete meal. Service of alcoholic liquor shall be incidental to the service of meals and shall be at tables or in areas where patrons are waiting to be seated. Bars are not permitted. Written approval must be first obtained from the local liquor commission to permit the service of alcoholic liquors in areas where patrons are waiting to be seated."

Section 10: That paragraph (2) of Sec. 6-87, "Classifications of licenses", is hereby deleted in its entirety and replaced with the following:

"(2) Class B license shall authorize the retail sale in restaurants only of beer and wine for consumption on the restaurant premises. A class B license may be grant to, or retained by, any establishment in which the facilities for food preparation and service are primarily those of a restaurant which has a dining capacity of at least 25. Beer and wine may be served in a restaurant holding a class B license only during the period when patrons of the licensees are offered a complete meal. Service of beer and wine shall be incidental to the service of meals and shall be at tables or in areas where patrons are waiting to be seated. Bars are not permitted. Written approval must be first obtained from the local liquor commission to permit the service of alcoholic liquors in areas where patrons are waiting to be seated."

Section 11: That paragraph (5) of Sec. 6-87, "Classifications of licenses", is hereby deleted in its entirety and replaced with the following:

"(5) Class D license shall authorize the 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), provided that samples for tasting may be furnished. Package sales shall be limited to premises primarily devoted to the sale at retail of drugs and sundries, commonly known as drugstores, consisting of areas of not less than 5,000 gross above grade square feet. The following conditions and restrictions shall apply to class D licenses.:

(a) That portion of the premises devoted to the sale of beer and wine shall be confined to an area which is separated from the other retail portions of the premises by a suitable enclosure or partition, the design and construction of which shall be approved by the liquor commission.

(b) That portion of the premises devoted to the sale of beer and wine shall be no

larger than twenty (20) percent of the gross above-grade square feet above grade of the entire store premises.

(c) That portion of the premises devoted to the sale of beer and wine shall have cash registers located in said portion of the premises which are capable of and used to register and account for all beer and wine sales separate from other non-alcoholic sales.

(d) Beer in containers of not more than sixteen (16) ounces shall not be sold in quantities of less than six (6) cans or bottles to any customer."

Section 12: That paragraph (14) of Sec. 6-87, "Classifications of licenses", is hereby deleted in its entirety and replaced with the following:

"Reserved"

Section 13: That paragraph (15) of Sec. 6-87, "Classifications of licenses", is hereby deleted in its entirety and replaced with the following:

"Reserved"

Section 14: That Sec. 6-87.5, "Outdoor Special Event Liquor License", is hereby added:

"Sec. 6-87.5. Outdoor Special Event Liquor License

- (a) The Outdoor Special Event Liquor License shall authorize the sale of only beer and wine on a specified premises for a maximum period of three consecutive days in conjunction with an outdoor special event as defined in section 10-241 of the Wheaton City Code. Issuance of an Outdoor Special Event Liquor License shall be limited to Wheaton based nonprofit organizations sponsoring the outdoor special event.
- (b) All applications for an Outdoor Special Event Liquor License shall be made pursuant to the provisions of section 6-83.5 of this chapter. Application for an Outdoor Special Event Liquor License shall be made at least 90 days prior to the scheduled date of the outdoor special event. The processing of all outdoor special event liquor license applications shall be according to the procedures in section 6-86 of this chapter.

- (c) All applicants shall submit a detailed description of the outdoor special event that explains how access to the alcohol sales and consumption areas will be controlled, the method of verifying the age of individuals attempting to purchase alcohol, the estimated number of persons attending the event, the manner in which alcohol will be dispensed and consumed, whether any entertainment will be provided in conjunction with the event, what food products will be sold, and how the applicant will protect against violations of the city's ordinances.
- (d) Upon final approval by the City Council, the Outdoor Special Event Liquor License shall be granted specifically for the dates specified in the application.
- (e) The applicant shall obtain a special event permit pursuant to section 10-241 of the Wheaton City Code prior to the city council approving any Outdoor Special Event Liquor License and issuance thereof by the local liquor commissioner.
- (f) All persons who transfer, exchange, or barter alcoholic beverages for an Outdoor Special Event Liquor Licensee shall attend and complete the Wheaton police department's alcohol sales training program. The police department shall conduct its alcohol training sales program for outdoor special event licensee bartenders no more than four times per year and will schedule the alcohol training sales program at approximately quarterly intervals. The police department shall not schedule individual training sessions for a special event licensee's outdoor event. It shall be the outdoor special event licensee's responsibility to ascertain the dates of those training sessions. Completion of the training session will qualify an outdoor special event bartender for three years.
- (g) The retail sale and consumption of wine and beer authorized by an Outdoor Special Event Liquor License shall be limited to the following premises:
 - (a) Public alley. That portion of the public alley located between the north and south entrances to the public parking garage may be used for an outdoor special event.
 - (b) Parking lot #2. The western most 49.06 feet of municipal parking lot #2 may be used for an outdoor special event.
 - (c) Parking lot #3. The southern half of the municipal parking lot at the northeast corner of Main Street and Liberty Drive provided that only that portion of the parking lot that is not within DuPage County's right-of-way for the Illinois

Prairie Path may be used for an outdoor special event.

- (d) Pedestrian walkway. That portion of the pedestrian walkway that is bordered by Hale Street on the east and the public alley on the west may be used for an outdoor special event.
- (e) Private alley. The northern most 22.5 feet of the property at 111 N. Hale Street may be used for an outdoor special event.
- (f) Public right-of-way. That portion of Wheaton Avenue, between Karlskoga and Wesley Street, may be used for an outdoor special event.
- (h) Prior to issuance of an Outdoor Special Event Liquor License, the applicant must submit a certificate of insurance as required by section 6-93 of the City Code. For any outdoor special event held wholly or in part on any city property, the required certificate of insurance shall name the city as an additional insured. This certificate shall cover the entire time for which the outdoor special event license is issued and shall include at a minimum a liability insurance policy in the amount of not less than \$2,000,000.00 for bodily injury and \$2,000,000.00 for property damage.
- (i) The licensee shall maintain the premises in a neat, orderly and safe condition, shall provide such traffic control and sanitation facilities as may be required by the city council to protect the public health, safety, and welfare of the residents of the city, and shall restore the premises after expiration of the license to its prior condition, including the removal of trash, rubbish, and garbage. No alcoholic liquor shall be brought onto the premises or consumed on the premises other than that provided by the licensee under the terms and conditions of the Outdoor Special Event Liquor License.
- (j) The applicant shall contract with the city police department for extraordinary services by having at least two off-duty officers present at the outdoor special event at all times during the hours of operation. At its discretion, the city council may require that the applicant contract for additional extraordinary services based on the size, location, and the anticipated number of persons attending the outdoor special event. Fifty percent of the estimated cost of these services shall be paid to the city prior to the issuance of an Outdoor Special Event License. The balance, reflecting the actual cost of extraordinary services provided, shall be due within 30 days of invoicing. The extraordinary services required under this provision shall not be subject to city assistance as described in sec. 10-241 of the City Code."

Section 15: That paragraph (b) of Sec. 6-88, "Term; fees.", is hereby deleted in its entirety and replaced with the following:

"(b) The fee for the various classes of licenses under this chapter shall be as follows:

A	\$2,000.00
B	\$1,000.00
C	\$3,500.00
D	\$2,000.00
E	\$3,000.00
F, per day	\$50.00
G	\$600.00
H	\$3,000.00
I	\$2,500.00
J-1	\$3,000.00
J-2	\$2,000.00
K	\$1,500.00
M	\$1,500.00
N	\$1,000.00
O	\$500.00
P, per month, not to exceed \$300.00 per six-month season	\$50.00
Outdoor Special Event Liquor License, per three consecutive days.	\$250.00"

Section 16: That paragraph (c) of Sec. 6-91, "Change in Personnel", is hereby deleted in its entirety and replaced with the following:

"(c) Within thirty days of any change of manager of agent conducting business for the licensee, the licensee shall report such change to the local liquor commissioner pursuant to section 6-123."

Section 17: That paragraph (b) of Sec. 6-98, "Fine, suspension, and revocation-generally", is hereby deleted in its entirety and replaced with the following:

"(b) The fine imposed for violations under this section shall not exceed \$5000.00 for each violation; and each day on which a violation continues shall constitute a

separate violation. Not more than \$15,000.00 in fines may be imposed against any licensee during the period of their annual license."

Section 18: That paragraph (a) of Sec. 6-123, "Notification of and application for new managers", is hereby deleted in its entirety and replaced with the following:

"(a) A person whose place of business is conducted by a manager or agent, and who acquires, hires, transfers in, promotes, or appoints a new manager, not listed as a manager in the original application for a retail liquor license, shall, within 30 days, including Sundays and holidays, of the date the new manager commences his duties submit a new manager's application to the local liquor commissioner, which shall contain the following information:

- (1) The new manager's full name, birth date, current address, telephone number, driver's license number, and social security number;
- (2) The new manager shall state in the application whether he has ever sold, delivered, or given away any alcoholic liquor in violation of any state law or city ordinance to a person under the minimum age required to purchase or possess liquor;
- (3) An affirmation by attachment of the new manager's signature and the licensee's signature that the new manager will not in the future violate any laws of the state or of the United States, or any ordinance of the city, controlling the retail sale of alcoholic liquor in the place of business;
- (4) Provide the U.S. residence status of the new manager;
- (5) The new manager shall state in the application whether he has ever been convicted of a felony or class A misdemeanor;
- (6) Arrange for fingerprinting of the proposed new manager at the city police department. Provide a money order or cashier's check, made payable to the city, at the time of fingerprinting for state and federal charges associated with processing the fingerprints;
- (7) Provide the proposed new manager's addresses for the ten-year period prior to the new manager's application, with clear indication of the specific number of years a manager resided at each address;

(8) Provide information regarding whether the new manager has ever been known at any time by any other name or names. If the new manager has been known by another name or names, a list of such names shall be submitted on the application form."

Section 19: That paragraph (d) of Sec. 6-123, "Notification of and application for new managers", is hereby deleted in its entirety and replaced with the following:

"(d) Upon review of any new manager by the local liquor commissioner for failure to comply with any of the requirements of this section, the licensee shall, immediately upon written notification by the local liquor commissioner, terminate the new manager's duties with respect to the sale of alcoholic liquors. If the licensee immediately relieves the new manager of his duties pursuant to the order of the local liquor commissioner and is able to provide for continued management of the licensed premises by reason of a prior application, the licensee may continue to sell alcoholic liquor.

(e) If the licensee is unable to provide another person previously qualified to manage the licensed premises pursuant to a prior application, the licensee shall terminate the sale of alcoholic beverages until such time as the local liquor commissioner has approved a subsequent application for a new manager complying with all the requirements of this section."

(f) This section shall in no way be interpreted to preclude the liquor commission or the local liquor commissioner from proceeding to hearing for violations of any sections of this chapter, including this section, and the licensee shall further be subject to any and all other penalties that may be imposed pursuant to sections 6-98 and 6-99 as a result of the licensee's failure to comply with this section.

Section 20: That paragraph (a) of Sec. 6-129, "Hours of Business - Generally", is hereby deleted in its entirety and replaced with the following:

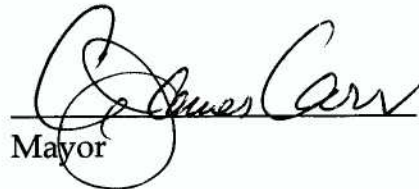
(a) The sale of alcoholic liquor shall be permitted by licensees only during the hours specified below for their respective classes, as follows:

Class	Hours
(1) A, B	Monday--Saturday 11:00 a.m.--11:00 p.m.
	Sunday 12:00 noon--11:00 p.m.

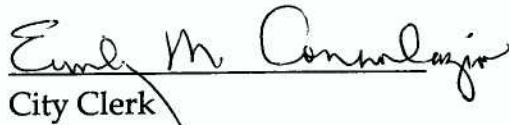
(2) C, F, G, and N	Monday--Thursday Friday and Saturday Sunday	11:00 a.m.--11:00 p.m. 11:00 a.m.--12:00 midnight 12:00 noon--11:00 p.m.
(3) D, E, and M	Monday--Saturday Sunday	9:00 a.m.--10:00 p.m. 12:00 noon--9:00 p.m.
(4) H	Monday--Thursday Friday and Saturday Sunday	8:00 a.m.--1:00 a.m. 8:00 a.m.--2:00 a.m. 12:00 noon--1:00 a.m.
(5) I	Monday--Saturday Sunday	11:00 a.m.--1:00 a.m. 12:00 noon--12:00 midnight
(6) J-1 and J-2	Monday--Saturday Sunday	11:00 a.m.--1:00 a.m. 12:00 noon--12:00 midnight
(7) K	Monday--Saturday Sunday	11:00 a.m.--12:00 midnight 12:00 noon--12:00 midnight
(8) P	Permitted hours of operation are limited to the normal operating hours of the outdoor seasonal market.	
(9) Outdoor Special Event Liquor License	Monday--Saturday Sunday	11:00 a.m.--9:00 p.m. 12:00 noon--9:00 p.m.

Section 21: All ordinances, or parts of ordinances, in conflict with these provisions are hereby repealed.

Section 22: This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.


Mayor

Attest:


City Clerk

Roll Call Vote:

Ayes: Councilman Mork
Councilman Mouhelis
Councilman Eckoff
Councilman Gresk
Councilman Johnson
Mayor Carr
Councilwomen Johnson

Nays: None

Motion Carried Unanimously

Passed: October 15, 2001

Published: October 16, 2001