

## ORDINANCE NO. F-0693

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 February 14, 2002; 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 in Sec. 6-3, "Definitions.", the definition of a Courtyard is hereby deleted in its entirety and replaced with the following:

*Courtyard* means a seasonal open-air area used for the service of food and alcohol. A courtyard shall be a permanent part of the improvement constructed with at least a three-foot high solid barrier such as a wall or fence. Additional screening or solid barrier up to six feet in height may be required by the liquor control commission, depending upon the nature and use of the surrounding properties. Primary access to the courtyard shall be through the dining area of the licensed facility. Fire exits shall be provided as required by the city building code. Courtyard seating may not be counted towards any minimum seating standard required by this chapter.

**Section 2:** That in Sec. 6-3, "Definitions.", the definition of a Eating Counter is hereby deleted in its entirety and replaced with the following:

*Eating counter* means any counter, accommodating a maximum of eight seats, at which patrons may consume alcohol and food in the same manner as patrons at a table.

**Section 3:** That in Sec. 6-3, "Definitions.", the definition of a Restaurant is hereby deleted in its entirety and replaced with the following:

*Restaurant* means any public place kept, used, maintained, advertised or held out to the public as a place where the primary business is the service of meals, and where meals are actually and regularly served, without sleeping accommodations, and where adequate provision is made for sanitary kitchen and dining room equipment and capacity and a sufficient number of employees to prepare, cook and serve a reasonable variety of meals for its customers. The mere availability and service at any premises of cold sandwiches, hors d'oeuvres or other similar foods will not, standing alone, be deemed sufficient to constitute such premises as a restaurant within the meaning of this definition, it being the intent of this definition that the primary business conducted on premises to be licensed as restaurants under this chapter shall be the service of meals. Restaurants which are specifically not contemplated as qualifying for a restaurant license include, but are not limited to, fast food and carry-out establishments.

**Section 4:** That paragraph (5) of Sec. 6-87, "Classification 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 no larger than twenty (20) percent of the gross above-grade square feet above grade of the entire store premises.
- b. 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 5:** That paragraph (6) of Sec. 6-87, "Classification of Licenses", is hereby deleted in its entirety and replaced with the following:

(6) Class E license shall authorize the retail sale, on the premises specified in the license of alcoholic liquor 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 grocery food, commonly known as supermarket, and drugs and sundries, commonly known as drugstores, if the drugstore is operated in conjunction, and shares a common entrance with, a supermarket, both totally consisting of areas of not less than 18,000 gross above grade square feet, subject to the following conditions and restrictions:

- a. That portion of the premises devoted to the sale of alcoholic liquor shall be no larger than 20 percent of the gross above grade square footage of the entire premises which is the subject of the application and license.
- b. Beer in containers of not more than 16 ounces shall not be sold in quantities of less than six cans or bottles to any customer.
- c. A class E license may not be issued to both the supermarket and drugstore within the premises; rather, the license may be issued to either the supermarket or the drugstore, but not both.
- d. That portion of the premises devoted to the sale of alcoholic liquor shall not have ingress and egress separate from the ingress and egress of the nonalcoholic portions of the premises.

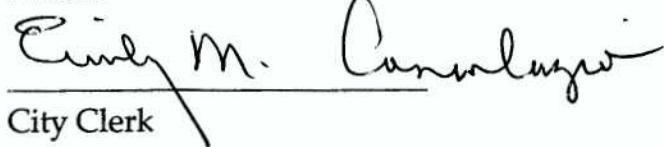
**Section 6:** All ordinances, or parts of ordinances, in conflict with these provisions are hereby repealed.

**Section 7:** This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.



James Carr  
Mayor

Attest:



Cindy M. Connelly  
City Clerk

Roll Call Vote:

Ayes:      Councilwoman Johnson  
                  Councilman Mork  
                  Councilman Mouhelis  
                  Councilman Eckhoff  
                  Councilman Gresk

Nays:      Mayor Carr

Absent:      Councilman Johnson

Motion Carried

Passed:      April 1, 2002

Published:      April 2, 2002