

ORDINANCE NUMBER 04 - 11

ORDINANCE AMENDING THE EAST DUNDEE
CODE OF ORDINANCES, TITLE XI,
BUSINESS REGULATIONS, CHAPTER 116,
ALCOHOLIC BEVERAGES

WHEREAS, the Village of East Dundee as a non-home rule unit has been granted such statutory powers pursuant to the Illinois Constitution either expressly or as may be impliedly necessary to the accomplishment of the intent of the duties expressly conferred on it by law; and

WHEREAS, the President and Board of Trustees of the Village of East Dundee having determined that it is in the best interests of the health, safety and welfare of the residents of the Village of East Dundee that the East Dundee Code of Ordinances, Title XI, **Business Regulations**, Chapter 116, **Alcoholic Beverages**, be amended.

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 One. That the East Dundee Code of Ordinance, Title XI, **Business Regulations**, Chapter 116, **Alcoholic Beverages**, Section 116.03, **LICENSE REQUIRED**, be revised by amending the text of the first sentence to read as follows:

Section 116.03 **LICENSE REQUIRED**

No person shall sell, barter, 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 Commission of the Village.

Section Two. That the East Dundee Code of Ordinance, Title XI, **Business Regulations**, Chapter 116, **Alcoholic Beverages**, Section 116.05, **LICENSES**, subparagraph (A), **Classifications**, paragraph (9), **Class D(b)2.** shall be revised by amending the text as follows:

Section 116.05 **LICENSES**

(9)(b)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.

Section Three. That the East Dundee Code of Ordinance, Title XI, **Business Regulations**, Chapter 116, **Alcoholic Beverages**, Section 116.05, **LICENSES**, subparagraph (A), **Classifications**, paragraph (10), **Class E** shall be revised by amending the text as follows:

Section 116.05 **LICENSES**

(10) **Class E.** For the retail sale in restaurants as defined below of all kinds of legalized alcoholic liquors for consumption on the premises subject to the following conditions and restrictions:

- a. The term “**RESTAURANT**” shall be specifically limited to public places kept, used, maintained, advertised, and held out to the public as a place where meals are served, as such terms is defined in Section 1-3.23 of the Illinois Liquor Control Law (235 ILCS 5/1-2.23), and in addition, which offers patrons complete

meals, including at least dinner and optionally luncheon at which the service of alcoholic beverages is incidental and complementary to the service of such meals. Limited food service, such as provided by lounges, luncheonettes, diner, coffee shops, drive-ins, pizza pallors, and similar uses does not satisfy the requirements of this definition.

- b. Premises licensed hereunder must have the legal capacity under local ordinance and state law to seat at least 100 patrons. Such seating capacity must be regularly and ordinarily present on the premises and may not include temporary or folding tables or chairs not customarily used in the ordinary course of licensee's business, nor may it include "bar chairs" or bar "stools" with seating heights in excess of the usual and customary chair height.
- c. The term "premises" may include, upon approval of the Liquor Commission, a contiguous adjoining exterior area, subject to the additional conditions set forth below:
 1. The outside dining area shall be enclosed by a minimum of 4 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 8 feet.
 2. The outside dining area shall have ingress and egress from an adjoining public street for emergency purposes and for handicap accessibility, but shall not be open for general use.
 3. 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.
 4. A service bar or service window for the service of alcoholic beverages may be permitted in the outside dining area.
 5. Live entertainment shall be governed by the rules set forth in this Alcoholic Beverages Ordinances.

6. Outside meal seating will be permitted, however, no customers shall be seated after 10:00 p.m. Patrons must leave the outside seating area no later than 11:00 p.m., and this area must be closed except for restaurant staff.
7. An outside dining area seating shall not be used in Section (b) above for calculating the required number of seats for this liquor license classification.
8. 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 Ordinance with regard to restroom facilities.
9. Such other requirements as may reasonably be imposed by the Liquor Commission taking into account the unique circumstances of the licensee's premises and location.

(Amended by Ordinance 84-10, 06/18/84; Ordinance 87-26, 12/07/87; Ordinance 94-25, 10/17/94; Ordinance 97-10, 05/19/97)

Section Four. That the East Dundee Code of Ordinance, Title XI, **Business Regulations**, Chapter 116, **Alcoholic Beverages**, Section 116.99, **PENALTY**, shall be deleted in its entirety and the following text shall be substituted in its place:

Section 116.99 PENALTY.

Any person violating any provision of this chapter shall be fined not less than \$25 nor more than \$750 exclusive of court costs and administrative fees established by statute and the costs of prosecution; and for a second offense, not less than \$50 nor more than \$750; and for a third offense shall be fined not less than \$100 nor more than \$750. The levy and/or payment of any penalty therein provided shall not be deemed a waiver of the power of the Local Commission to revoke or suspend any license.

(Amended by Ordinance 94-02, 02/22/94; Ordinance 96-03, 01/16/96)

Section Five. Severability. If any section, paragraph or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity

or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance.

Section Six. Repeal. All ordinances, resolutions, motions or parts thereof in conflict herewith shall be and the same are hereby repealed.

Section Seven. Publication. This ordinance shall be in full force and effect forthwith upon its adoption, approval and publication in pamphlet form as provided by law.

Adopted this 19th day of April, 2004, pursuant to a roll call vote as follows:

AYES: Zaeste, Ruffalo, Bartels, Schock, Van Ostenbridge, Scarpelli

NAYES: None

ABSENT: None

Approved by me this 19th day of April, 2004.

Roger Ahrens
ROGER AHRENS, President

Published in pamphlet form this 20th day of April, 2004, under the authority of the President and Board of Trustees.

ATTEST:

Jane E. Theis
JANE THEIS, Village Clerk

Recorded in the Village Records on April 20th, 2004.

