

**ORDINANCE NUMBER 11 - 53**

**ORDINANCE AMENDING  
TITLE XI, BUSINESS REGULATIONS, CHAPTER 116:  
ALCOHOLIC BEVERAGES, SECTION 116.05**

**WHEREAS**, the Village of East Dundee is a home rule unit of local government under and pursuant to Section 6 of Article VII of the Constitution of the State of Illinois, has the authority to exercise any power and perform any function pertaining to its government and affairs, including but not limited to the power to regulate for the protection of the public health, safety, morals, and welfare; and

**WHEREAS**, the United States Department of Transportation National Highway Traffic Safety Administration issued a research report under DOTHS809 878 in February of 2005 which concluded that the cost of alcohol related harm to society is enormous, both in human and economic terms, citing at least 85,000 Americans die each year from alcohol related causes, making alcohol related problems the third leading cause of death in the United States; and

**WHEREAS**, drinking and driving is a significant cause of injuries and fatalities in the United States; alcohol was involved in 40 percent of traffic crash fatalities and in seven percent of all crashes in 2003, resulting in 17,013 fatalities and injuring an estimated 275,000 people; and

**WHEREAS**, the U.S. Department of Transportation's report also concluded that previous research demonstrates that happy hours, drinking contests, all you can drink specials, and the like, encourage over consumption, a potent inducement to drinking large amounts of alcohol in short time periods; and

**WHEREAS**, in the summer of 2006, the Illinois Liquor Control Commission Executive Director, Michael Malone, issued a press release saying that bottle service does not allow the bar staff to properly supervise alcohol consumption by its patrons; the press release (ILCC Press Release, August 14, 2006, and

<http://www.illinois.gov/PressRelease/ShowPressRelease.cfm?RecNum=5177&subjectID=62>;

and

WHEREAS, the health, safety and welfare of the general public is at risk when licensees allow their patrons to be over served.

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 Title XI: Business Regulations, Chapter 116:Alcoholic Beverages, Section 116.05, is amended as follows:

§116.05

(A) *Classifications.* Licenses for retail sales of alcoholic liquors shall be of the following kinds and classifications and their annual fees shall be as provided in the village annual fee schedule:

(1) *Class A.* For the retail sale, on the premises specified of all kinds of legalized alcoholic liquors for consumption on the premises as well as other retail sales of the alcoholic liquors which include sales by original package **to be consumed off the premises where sold. Beer and wine, in the original package, however, may be sold for consumption on the premises where sold.**

(2) *Class A-1.* For retail sale, on the premises specified of all kinds of legalized alcoholic liquors for consumption on the premises as well as other retail sales of the alcoholic liquors which include sales **in the original package to be consumed off the premises where sold. Beer and wine, in the original package, may be sold for consumption on the premises where sold.** The retail sale and consumption shall be permitted both in the interior of a building having a valid occupancy permit as well as an adjoining contiguous exterior area, so long as the following conditions are maintained by the licensee:

(a) Beer garden must be on existing premises adjoining building occupied by licensee.

(b) The exterior area must be completely enclosed by a solid opaque eight-foot fence.

(c) The operation of any sound amplification equipment including, but not limited to loudspeaker systems, jukeboxes, amplified radio broadcasts and the like, operating on the exterior of the licensed premises, be limited to the time period between 12:00 noon and 10:30 p.m. local time Sunday through Thursday and 12:00 noon to 12:00 midnight local time Friday and Saturday.

(3) *Class B.*

(a) Package store license which shall allow licensee to sell and offer to sell at retail in the premises specified in the license alcoholic liquor solely in the original package not for consumption on the premises where sold.

(b) This license shall not be issued to any applicant whose principal business is the retail sale to the general public of products or services other than alcoholic liquors.

(4) *Class B-1.* Package store license which shall allow licensee to sell and offer to sell, at retail in the premises specified in the license, alcoholic liquor solely in the original package not for consumption on the premises where sold subject to the condition that the license will be issued only to an applicant whose retail alcoholic liquor sales business is an adjunct to one of the following enumerated primary businesses and whose total area of the licensed premises devoted to the retail sale of all products be a minimum of 5,000 square feet:

(a) Supermarket or grocery store; and/or

(b) Drug store.

(5) *Class B-2.*

(a) Package store license which shall allow license to sell and offer to sell, at retail in the premises specified in the license, beer and wine only solely in the original package not for consumption on the premises where sold.

(b) This license shall be issued to retail food stores, department stores and retail food stores also selling gasoline only if the following conditions are met at all times when the license is in force:

1. Only "beer" and "wine," as defined in the Illinois Liquor Control Act, may be sold.

2. The minimum enclosed floor area open to the public for retail sales for store products shall be 1,800 square feet, of which no more than 15% may be devoted to beer and wine.

3. The minimum inventory level shall be \$35,000 retail value, excluding beer, wine, fuel and automotive products.

4. The maximum percentage of beer and wine sales to total store sales, exclusive of gasoline sales, shall be 35% on a retail basis during any consecutive 12-month period.

5. No displays of beer and wine shall be located within five feet of the store's entrance.

6. Cold beer or cold wine shall only be sold from, or displayed in electrical refrigeration coolers.

7. Employees engaged in the sale of beer and wine must be at least 21 years of age.

8. No video or other electronic games shall be allowed on the premises.

(c) In addition, retail food stores selling gasoline shall meet the following conditions:

1. (Reserved).

2. No mechanical or repair work of any kind may be performed on automobiles on the licensed premises.

(6) *Class B-3.* Mail order liquor license which shall allow licensee to sell and offer to sell, at retail in the premises specified in the license, alcoholic liquor solely in the original package by mail order only. Sales are not permitted either for consumption on the licensed premises or for retail sale to the consumer on the licensed premises. It is the intent that this classification of license be issued only to mail order or similar businesses which ship alcoholic liquor products associated with other merchandise by U.S. postal carrier or commercial carrier.

(7) *Class B-4.*

(a) Package store license which shall allow licensee to sell and offer to sell, at retail in the premises specified in the license, beer, wine and **hard liquor spirits** only solely in the original package not for consumption on the premises where sold.

(b) This license shall be issued to retail food stores, department stores and retail food stores also selling gasoline only if the following conditions are met at all times when the license is in force:

1. Only "beer" and "wine," and "~~hard liquor~~" "**spirits**" as defined in the Illinois Liquor Control Act (ILCS Chapter 235, Act 5), may be sold.

2. The minimum enclosed floor area open to the public for retail sales for store products shall be 1,800 square feet, of which no more than 20% may be devoted to beer, wine and hard liquor.

3. The minimum inventory level shall be \$35,000 retail value, excluding beer, wine, ~~hard liquor~~, **spirits**, fuel and automotive products.

4. The maximum percentage of beer, wine, and hard liquor sales to total store sales, exclusive of gasoline sales, shall be 35% on a retail basis during any consecutive 12-month period.

5. No displays of beer, wine or ~~hard liquor~~ spirits shall be located within five feet of the store's entrance.

6. Cold beer, cold wine or cold ~~hard liquor~~ spirits shall only be sold from, or displayed in electrical refrigeration coolers.

7. Employees engaged in the sale of beer, wine or hard liquor must be at least 21 years of age.

8. No video or other electronic games shall be allowed on the premises.

(c) In addition, retail food stores selling gasoline shall meet the following conditions:

1. (Reserved).

2. No mechanical or repair work of any kind may be performed on automobiles on the licensed premises.

(8) *Class C.* For the retail sale, on the premises specified, of all kinds of legalized alcoholic liquors for consumption on the premises, **but not for the sale of spirits in the original package for consumption on the premises**, so long as the licensee is an incorporated not-for-profit organization, as defined in ILCS Chapter 805, Act 105, § 101.80(m) or a public purpose body duly formed pursuant to Illinois Statutes and having the power to levy taxes. The term "premises" when applied to a license granted to such an organization, may include, at the licensee's request, a premises to which the following conditions and restrictions shall apply. **However, beer and wine, in the original package, may be sold for consumption on the premises where sold.**

(a) Use of the premises shall be limited to no more than two separate three-day periods during the annual term of the license.

(b) The license, when granted, shall identify the street address of the premises and must on each separate use identify the dates of the use not less than 30 days prior to the intended use.

(c) The premises may include a building having a valid occupancy permit, an open structure not intended for occupancy or a field or park subject to reasonable restrictions as are necessary to protect the public health, safety and welfare.

(d) At all other times the premises shall not be deemed to be a licensed premises within this chapter.

(9) *Class C-1.* For the retail sale on the premises specified of alcoholic beverages for consumption on the premises, **but not for the sale of spirits in the original package for consumption on the premises.** This license shall be applicable only to premises operating as a public golf course, including within the definition of the premises, both structures located thereon for or intended for use as restaurants, bars and clubhouses and the like, as well as the grounds of such public golf course. The license shall be further limited to public golf courses and related facilities owned or operated by a public body organized as a park district under the Park District Code, ILCS Chapter 70, Act 1205, §§ 1-1 *et seq.* **However, beer and wine, in the original package, may be sold for consumption on the premises where sold.**

(10) *Class D.* For the retail sale of alcoholic beverages for consumption on premises, **but not for the sale of spirits (as defined in 235 ILCS 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 Commission.

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)(10), 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 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 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 Commission prior to issuance of an Outdoor Dining/Sidewalk Café Permit.

9. Live entertainment shall be governed by the rules set forth in this chapter.

10. 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.

11. 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.

12. Seating for the outdoor dining area is to be restricted to the right-of-way approved by the village.

13. 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.

14. Persons issued a permit for an outdoor dining area/sidewalk café 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 café removing any food or drink residue.

15. 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.



16. 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.

**RESTAURANT.** Specifically limited to public places kept, used, maintained, advertised, and held out to the public as a place where meals are served, as such term is defined in the state Liquor Control Law, ILCS Chapter 235, Act 5, § 1-3.23, 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, diners, coffee shops, drive-ins, pizza parlors, and similar uses, does not satisfy the requirements of this definition.

(12) *Class E-1.* For the retail sale of all kinds of legalized alcoholic liquors for consumption on the premises and with all conditions and restrictions as imposed under the Classification Class E and including the following additional conditions:

(a) The service of alcoholic beverages shall only be permitted during such hours as complete meals are available from the licensed premises, including such reasonable time thereafter as may be incidental to the service of meals.

(b) Alcoholic beverages shall be served only at tables where complete meal service is available by employees of the licensed premises. Alcoholic beverage service shall not be permitted from a bar or similar facility.

(c) Premises licensed hereunder must have the legal capacity under local ordinance and state law to seat at least 50 patrons. 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.

**(d) This license does not permit the sale of spirits in its original package for consumption on the premises.**

(13) *Class E-2.*

(a) For the retail sale in the premises specified in the license, beer, wine and spirits of 40 proof or less only, for consumption on the premises where sold, **but not for the retail sale of spirits, in its original package, for consumption on the premises.**

(b) The issuance of this license is specifically limited to public places kept, used, maintained, advertised, and held out to the public as a place where meals are served, as such term is defined in the Illinois Liquor Control Act and which offers patrons complete, freshly prepared meals at which the service of alcoholic beverages is incidental and complimentary to the service of such meals.

Notwithstanding the conditions and restrictions as imposed under the Classifications Class E and Class E-1 above, pizza parlors are an allowable use under this section provided there is compliance with the conditions and restrictions set forth herein.

(c) This license shall be issued to restaurants only if the following conditions are met at all times when the license is in force:

1. Only "beer", "wine" and "spirits" of 40 proof or less, as defined in the Illinois Liquor Control Act, may be sold.

2. Meals are to be served at tables.

(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 Commission 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 licensees 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. More limited hours may be approved by the Liquor Commission in their discretion.

(d) Live entertainment may be permitted at the discretion and within parameters set by the Liquor Commission after evaluating factors including but not limited to the impact on the surrounding neighborhood of such live entertainment, the type of such live entertainment, the expected noise levels generated by the entertainers, the hours of operation, and any other factors the Commission finds relevant. In the event the Commission grants permission for live entertainment, the Chief of Police or his or her designated duty officer shall have the right to terminate such permission if in his or her sole judgment such entertainment is not operating within parameters as may be set by the Commission or is creating a public nuisance and unduly disturbing the peace of the immediately surrounding neighborhood.

(e) Applicant for a special events license would be required to give proof, satisfactory to the Liquor Commission, 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 Commission; 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.

(f) In the event a portion of public right-of-way is requested for such license, permission would be required from the Village Board.

(g) Fees would be established for each event as set forth in the annual fee schedule.

**(h) This license does not include the retail sale of spirits in its original package.**

(15) *Class G.* Banquet license for the retail sales of alcoholic liquor on the specified premises for consumption on said premises only by patrons of the banquet hall facilities and does not allow the sale of alcoholic liquor to the general public. **This license does not authorize the sale of spirits, as defined in 235 ILCS 5/1-3.02, in its original package for consumption on the premises. This license does not authorize the sale of alcoholic liquor in its original package for consumption off the premises.**

(B) *Number of licenses to be permitted.* The number of licenses issued in all preceding classes shall be as follows, except as modified from time to time by ordinance:

<i>Classification</i>	Number Permitted
A	3
A-1	3
B	1
B-1	2
B-2	4
B-3	2

B-4	4
C	1
C-1	1
D	1
E	4
E-1	6
E-2	1
G	1

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

(D) *Contents of application.* All applications shall be on forms approved by the Local Liquor Commission 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 Commission. 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 judgements 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 finger printing, 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 Commission 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 Commission 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.

(F) *Qualified persons.* No license shall be granted to any person or for any premises not qualified for such license under the laws of the state.

(G) *Restrictions.*

(1) No Class A or Class A-1 license shall be issued to any person or entity whose principal business on the licensed premises is the retail sale to the general public or products other than alcoholic liquor for consumption of the licensed premises.

(2) It shall not be permitted for any owner, manager, supervisor, or other employee or agent of any commercial establishment, to permit or allow any other person to bring any form of alcoholic beverage onto the premises for consumption, otherwise known as "brown bagging, bring your own, or BYOB".

(H) *Fees.*

(1) Liquor licenses issued on July 1 of each year and the fees for licenses issued shall be prorated based for issue date, determined as follows:

- (a) July 1 through September 30: fee to be prorated 100%;
- (b) October 1 through December 31: fee to be prorated 75%;
- (c) January 1 through March 31: fee to be prorated 50%; and
- (d) April 1 through June 30: fee to be prorated 25%.

(2) Licenses, regardless of issue date, will expire June 30 of each year.

~~(1981 Code, § 36.05) (Am. Ord. 00-04, passed 1-18-2000; Am. Ord. 01-01, passed 3-5-2001; Am. Ord. 01-07, passed 7-2-2001; Am. Ord. 03-20, passed 10-20-2003; Am. Ord. 04-11, passed 4-19-2004; Am. Ord. 04-28, passed 8-2-2004; Am. Ord. 04-31, passed 9-7-2004; Am. Ord. 04-37, passed 11-1-2004; Am. Ord. 05-25, passed 10-17-2005; Am. Ord. 06-18, passed 6-5-2006; Am. Ord. 06-25, passed 7-17-2006; Am. Ord. 06-34, passed 8-21-2006; Am. Ord. 08-10, passed 3-17-2008; Am. Ord. 08-12, passed 4-7-2008; Am. Ord. 08-55, passed 9-22-2008; Am. Ord. 09-01, passed 1-5-2009; Am. Ord. 09-23, passed 8-17-2009; Am. Ord. 09-19, passed 8-3-2009; Am. Ord. 09-36, passed 11-16-2009; Am. Ord. 09-39, passed 12-7-2009; Am. Ord. 10-39, passed 9-9-2010)~~

**Section Two. Severability.** If any section, paragraph or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the validity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance.

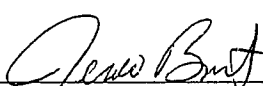
**Section Three. Repeal.** All ordinances, resolutions, motions or parts thereof in conflict herewith shall be and the same are hereby repealed.

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

AYES: \_\_\_\_\_  
6 - Justices Ruffalo, Lynam, Miller, VanOstenbidge, Skillicorn  
NAYES: \_\_\_\_\_  
0 & President Bartels

ABSENT: \_\_\_\_\_  
1 - Justice Gorman

Approved by me this 5<sup>th</sup> day of December, 2011.

  
\_\_\_\_\_  
Jerald Bartels, President

Published in pamphlet form this 7<sup>th</sup> day of December 2011, under the authority of the President and Board of Trustees.

ATTEST:

Jennifer Rehberg  
Jennifer Rehberg, Village Clerk

Recorded in the Village Records on December 7<sup>th</sup>, 2011.

