

ORDINANCE NO. 2015-2163

**AN ORDINANCE AMENDING CHAPTER 5.36, ENTITLED “LIQUOR SALE,”
OF TITLE 5, ENTITLED “BUSINESS LICENSES AND REGULATIONS,”
OF THE WESTCHESTER MUNICIPAL CODE**

WHEREAS, the corporate authorities of the Village of Westchester (“Village”) are expressly authorized by Section 4-1 of the Illinois Liquor Control Act of 1934 (235 ILCS 5/4-1) to regulate, by general ordinance, the number, kind and classification of liquor licenses for the retail sale of alcohol within the Village; and

WHEREAS, the corporate authorities of the Village are further authorized to regulate the fees charged for each such license classification for the retail sale of alcoholic liquor within the Village and to establish such further regulations and restrictions for the issuance of such licenses; and

WHEREAS, Chapter 5.36, entitled “Liquor Sale,” of Title 5, entitled “Business Licenses and Regulations,” of the Westchester Municipal Code provides for the licensing and regulation of the sale of alcoholic liquor in the Village of Westchester; and

WHEREAS, the corporate authorities of the Village of Westchester have determined that it is advisable, necessary and in the public interest to amend Sections 5.36.080, 5.36.130 and 5.36.250 of Chapter 5.36, entitled “Liquor Sales,” of Title 5, entitled “Business Licenses and Regulations,” of the Westchester Municipal Code as hereinafter provided.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Westchester, Cook County, Illinois:

Section 1: The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

Section 2: Paragraph (11) of Subsection (a) of Section 5.36.080, entitled “Classification and fees,” of Chapter 5.36, entitled “Liquor Sale,” of Title 5, entitled “Business Licenses and Regulations,” of the Westchester Municipal Code is hereby amended as follows:

5.36.080 - Classification and fees.

(a) Permit fees shall be charged in accordance with the following schedule:

- (11) Class H: Retail sale of packaged alcoholic liquors for consumption off the premises and the sale of beer, wine and spirits for consumption on the premises, as an incidental part of a grocery store that has a minimum gross floor area of 50,000 square feet. The annual fee for a Class H license shall be five thousand five hundred dollars (\$5,500).

Class H licenses shall be subject to the following conditions and limitations for the sale of packaged alcoholic liquors for consumption off the premises:

1. Not more than ten percent of the gross floor area shall be devoted to the sale of alcoholic liquor products.
2. Alcoholic liquor sold in original packages for off-premises consumption shall not be opened or consumed on the premises or in any designated seating/serving area.
3. Promotional samplings of wine, beer or spirits shall be permitted on such premises in accordance Section 6-31 of the Illinois Liquor Control Act of 1934 (235 ILCS 5/6-31).
4. Hours for the sale of packaged alcoholic liquors, for consumption off the premises, shall be in accordance with section 5.36.250(e) of this Chapter.

Class H licenses shall permit the sale of beer, wine and spirits for consumption on the premises, subject the following conditions:

1. The sale of beer, wine and spirits, for consumption on the premises, shall be limited to individual servings, which shall be dispensed in accordance with section 5.36.210 of this Chapter.
2. The sale of beer, wine and spirits, for consumption on the premises, shall be served only in a designated seating/serving area, which includes an area where food is prepared and regularly served on the premises. Such food shall include hot or cold sandwiches, appetizers, tapas, sushi, baked goods or other similar foods.
3. The consumption of beer, wine and spirits, on the premises, shall be permitted in the designated seating/serving as well as the shopping areas throughout the premises;

however the licensee shall mark, with conspicuous signage, the area past which consumption of beer, wine and spirits is no longer permitted.

4. The designated seating/serving area for customers consuming beer, wine and spirits on the premises shall be limited to five percent of the gross floor area.
5. It is intended that the service of beer, wine and spirits, for consumption on the premises, is merely adjunct to the operation of a grocery store, which shall not be advertised or otherwise held out to be a drinking establishment.
5. Hours for the sale of beer, wine and spirits, for consumption on the premise, shall be in accordance with section 5.36.250(e) of this Chapter.

Section 3: Section 5.36.080, entitled “Classification and fees,” of Chapter 5.36, entitled “Liquor Sale,” of Title 5, entitled “Business Licenses and Regulations,” of the Westchester Municipal Code is hereby amended by adding thereto subsections (a)(12) and (a)(13) as follows:

(12) Class I-1: Retail sale of alcoholic liquors for consumption on the premises when the premises is authorized and licensed by the Village of Westchester under the Illinois Video Gaming Act to provide video gaming, and the sale of any food and beverages, including alcohol, shall account for forty-nine percent (49%) or less of the licensed establishment’s annual gross sales revenue from all sources. The annual fee for such a license shall be five thousand dollars (\$5,000.00).

(13) Class I-2: Retail sale of beer and wine only for consumption on the premises when the premises is authorized and licensed by the Village of Westchester under the Illinois Video Gaming Act to provide video gaming, and the sale of any food and beverages, including alcohol, shall account for forty-nine percent (49%) or less of the licensed establishment’s annual gross sales revenue from all sources. The annual fee for such a license shall be five thousand dollars (\$5,000.00).

Section 4: Section 5.36.130, entitled “Number of licenses,” of Chapter 5.36, entitled “Liquor Sale,” of Title 5, entitled “Business Licenses and Regulations,” of the Westchester Municipal Code is hereby amended as follows:

5.36.130 – Number of licenses.

- (a) The total number and classification of liquor licenses to be issued by the Village shall be, unless otherwise changed by action of the corporate authorities of the Village of Westchester:
- (1) Five class A licenses.
 - (2) Three class B licenses.
 - (3) As many Class C licenses as are required for persons or entities meeting the requirements of section 5.36.080(a)(3) of this Code.
 - (4) Two class D-1 licenses.
 - (5) One class D-2 license.
 - (6) One class D-3 license.
 - (7) One class D-4 license.
 - (8) Two class D-5 (BYOB) licenses issued at this time.
 - (9) No class E license issued at this time.
 - (10) One class F license.
 - (11) One class G license.
 - (12) One class H license.
 - (13) Two class I-1 licenses.
 - (14) Two class I-2 licenses.
- (b) If any license of any class is not renewed or the license is surrendered, canceled, revoked, suspended, or otherwise terminated, such license shall be rescinded and not be restored, and the total number of liquor licenses of that class to be issued by the Village shall be automatically reduced accordingly.

Section 5: Paragraph (e) of Section 5.36.250, entitled, "Hours of operation," of Chapter 5.36, entitled, “Liquor Sale,” of Title 5, entitled, “Business Licenses and Regulations,” of the Westchester Municipal Code is hereby amended as follows:

5.36.250– Hours of operation.

- (a) It is unlawful to sell or offer for sale any alcoholic liquor at retail in the village any day between the hours of 1:00 a.m. and 5:00 a.m.

- (b) Retail sale in original packages of alcoholic liquor is authorized during authorized business hours on Sunday for holders of class A, B and C licenses, as limited by paragraph (a) hereinabove.
- (c) Sale of alcoholic liquor for consumption on the premises is authorized during the hours of 10:00 a.m. to 12:00 a.m. (midnight) on Sunday for holders of class D, E, I-1 and I-2 licenses.
- (d) Sale of alcoholic liquor for consumption on the premises is prohibited between the hours of 1:00 a.m. and 5:00 a.m. on any day of the week for holders of class F licenses.
- (e) Retail sale in original packages of alcoholic liquor for consumption off the premises is authorized between the hours of 6:00 a.m. to 10:00 p.m. daily for holders of class H licenses. Sale of beer, wine and spirits for consumption on the premises is authorized between the hours of 8:00 a.m. to 10:00 p.m. on Monday through Saturday, and from 10:00 a.m. to 10:00 p.m. on Sundays, for holders of class H licenses.

Section 6: Any ordinance or portion of any ordinance in conflict with any provisions of this Ordinance is hereby repealed solely to the extent of such conflict.

Section 7: This Ordinance shall be in full force and effect upon its passage and approval as provided by law.

ADOPTED this 15th day of December, 2015, pursuant to a roll call vote as follows:

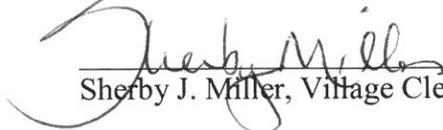
Angelo A. Calcagno	<u>Aye</u>	Celestine Reda	<u>Abstain</u>
Carl C. Celestino	<u>Aye</u>	Nick Steker	<u>Aye</u>
Frank Perry	<u>Aye</u>	Tom Yurkovich	<u>Aye</u>
	President Pulia	<u>Aye</u>	

APPROVED this 15th day of December, 2015.



 Sam D. Pulia, Village President

ATTEST:



 Sherby J. Miller, Village Clerk