

# VILLAGE OF WINNEBAGO

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ORDINANCE NO. 2025- 12

AN ORDINANCE AMENDING ORDINANCE NO. 97-11 ENTITLED “AN  
ORDINANCE ESTABLISHING A LIQUOR CONTROL COMMISSION  
AND PROVIDING FOR THE CONTROL AND REGULATION OF THE  
SALE AND CONSUMPTION OF ALCOHOLIC LIQUORS IN THE  
VILLAGE OF WINNEBAGO, ILLINOIS” TO ALLOW OPTION BY  
ISSUANCE OF PERMIT TO BUSINESS ONLY, OF “BRING YOUR OWN”  
 (“byo”) AT BUSINESSES OPERATING AS A PUBLIC  
ACCOMMODATION, AND REVOKING ORDINANCE NO. 2015-06  
PREVIOUSLY PASSED PROHIBITING THE SAME

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ADOPTED BY THE  
BOARD OF TRUSTEES

VILLAGE OF WINNEBAGO

THIS 5th DAY OF FEBRUARY, 2025

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Published in pamphlet form by authority of the Village  
Board of Trustees of the Village of Winnebago, Illinois, this 11<sup>th</sup>  
day of FEBRUARY, 2025.

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ORDINANCE NO. 2025-02

**AN ORDINANCE AMENDING ORDINANCE NO. 97-11 ENTITLED “AN  
ORDINANCE ESTABLISHING A LIQUOR CONTROL COMMISSION AND  
PROVIDING FOR THE CONTROL AND REGULATION OF THE SALE AND  
CONSUMPTION OF ALCOHOLIC LIQUORS IN THE VILLAGE OF  
WINNEBAGO, ILLINOIS”**

**TO**

**ALLOW OPTION, BY ISSUANCE OF PERMIT TO BUSINESS ONLY, OF  
“BRING YOUR OWN” (“BYO”) AT BUSINESSES OPERATING AS A PUBLIC  
ACCOMMODATION, AND REVOKING ORDINANCE NO. 2015-06  
PREVIOUSLY PASSED PROHIBITING THE SAME**

**WHEREAS**, the Illinois Liquor Control Act only regulates the sale of alcoholic liquors, thus creating a legal loophole whereby businesses or other public accommodations without a liquor license may allow patrons to bring in their own alcohol for consumption on the premises, but irrespective of the above, pursuant to Chapter 65 of the Illinois Compiled Statutes, Section 5/11-42-1 et seq, a municipality has powers over certain businesses within its jurisdiction; and

**WHEREAS**, Chapter 65 ILCS 5/11-42-10.1 specifically provides that corporate authorities of a given municipality may license or regulate businesses operating as a public accommodation that permit the consumption of alcoholic liquor on the business premises and that are unlicensed under the Illinois Liquor Control Act of 1934, as amended; and

**WHEREAS**, via Ordinance No. 2015-06, the Village of Winnebago Board of Trustees passed an ordinance on May 11, 2015, to amend the Village’s liquor ordinance No. 97-11 in order to prohibit “Bring Your Own” (“BYO”) at businesses operating as a public accommodation if such entity did not already hold a liquor license through the Village of Winnebago and State of Illinois, by adding a definition for “public accommodation”, and within said ordinance prohibiting a public accommodation, which does not hold a duly issued, currently effective, and in good standing liquor license issued by the Village of Winnebago and State of

Illinois, to permit or allow the consumption of any alcoholic liquor on the premises of that establishment; and

**WHEREAS**, via Ordinance No. 2024-11 passed on July 8, 2024, the Village of Winnebago Board of Trustees amended Ordinance No. 97-11 to add certain definitions and allow consumption of alcoholic liquor on a pedal bus under a BYOB (Bring Your Own Beverage) arrangement, with certain terms and conditions particular to a pedal bus, and the amendments to the Village's Liquor Ordinance effectuated by the passage of the instant ordinance are not intended to affect Ordinance No. 2024-11, which has its own particular set of rules and regulations based on the unique nature of a pedal bus; and

**WHEREAS**, the current Village Board of Trustees, with the recommendation of the Village's Liquor Commission, now believes it would be desirable to allow a BYO permit to be allowed to be issued by businesses operating as a public accommodation that does not otherwise have a duly issued liquor license from the Village of Winnebago and State of Illinois, provided there is compliance with certain terms and conditions, and with the term "permit" being used instead of "license" to more clearly distinguish this arrangement from another traditional brick and mortar establishment situation where a license is issued to sell and/or serve alcohol, since this "Bring Your Own" (BYO) arrangement clearly shall not allow the sale, service, or giving away of alcoholic liquor by the business operating as a public accommodation, but rather only allows the BYO activity by the customer to occur if the business has a BYO permit from the Village to engage in the same.

**NOW THEREFORE, BE IT ORDAINED** by the President and Board of Trustees of the Village of Winnebago, Illinois as follows:

## **PART I—DEFINITIONS**

The definition of “Bring Your Own (BYO)” shall be added to Ordinance No. 97-11, and also the definition of “public accommodation” as defined in Article I, Section 3 of the Village’s liquor ordinance (Ord. No. 97-11, as amended), contained in Ordinance No. 2015-06 that is being revoked by the instant ordinance shall be added back to Ordinance No. 97-11 in alphabetical order to the list of definitions contained in the above-mentioned Article I, Section 3 of the Village’s liquor ordinance (Ord. No. 97-11, as amended) and shall read as follows:

**Bring Your Own (BYO)** means the practice of allow a business owner, who does not hold a duly issued and valid liquor license issued by the Village of Winnebago and State of Illinois, but who holds a duly issued, currently effective, and in good standing Bring Your Own (BYO) permit from the Village of Winnebago to permit patrons twenty-one (21) years of age or older to bring into, and consume, certain alcoholic beverages in the public accommodation premises under the rules and regulations contained in this ordinance.

**Public accommodation**, pursuant to 65 ILCS 5/11/42-10.1, means a refreshment, entertainment, or recreation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, or advantages, are extended, offered, sold, or otherwise made available to the public.

## **PART II—REGULATION OF “BRING YOUR OWN” (“BYO”)**

The following Article IX.5 shall be added to the Village’s liquor current liquor ordinance with the following provisions:

## **Section 1: Allowance of “Bring Your Own” (“BYO”)**

A. Any business, or any employee or agent thereof, within the Village of Winnebago operating as a public accommodation, which does not hold a duly issued, currently effective, and in good standing liquor license issued by the Village of Winnebago and State of Illinois, shall, only after applying for, and being granted, a BYO permit by the Village Liquor Commissioner, be allowed to permit or allow patrons twenty-one (21) years of age or older to bring into the establishment and consume their own beer, wine, and seltzers, or a commercially premixed and prepackaged alcoholic drink containing hard liquor (e.g. margarita, etc.) no greater than sixteen (16) ounces that is in a commercially sealed bottle or aluminum can at the time of entry on the premises of that establishment, provided the following rules, regulations, terms, and conditions are met and followed:

1. A BYO permit shall entitle a business operating as a public accommodation to permit consumption of only beer, wine, and seltzers, or a commercially premixed and prepackaged alcoholic drink containing hard liquor (e.g. margarita, etc.) no greater than sixteen (16) ounces that is in a commercially sealed bottle or aluminum can at the time of entry into the business, brought onto the premises by a customer that is twenty-one (21) years of age or older for personal consumption, including consumption by said customer’s guests who are twenty-one (21) years of age or older, subject to the conditions in this section, and any other laws, rules, or regulations that may be established by the State of Illinois, or the Village.

2. The consumption of beer, wine, and seltzers, or a commercially premixed and prepackaged alcoholic drink containing hard liquor (e.g. margarita, etc.) no greater than sixteen (16) ounces that is in a commercially sealed bottle or aluminum can at the time of entry on the premises of that establishment, brought in by the customer is restricted to the premises location for which the permit is issued.
3. Beer, wine, or seltzers, or a commercially premixed and prepackaged alcoholic drink containing hard liquor (e.g. margarita, etc.) no greater than sixteen (16) ounces that is in a commercially sealed bottle or aluminum can at the time of entry on the premises of that establishment may only be consumed in factory pre-sealed bottles or aluminum cans, with the ability, once in the establishment, for the customer who is age twenty-one (21) years of age or older, to pour the drink into a cup or glass, if desired. The referenced bottles or cans shall each be no more than sixteen (16) ounces, except that up to one bottle of wine may be brought in in a bottle containing up to 750 milliliters, and each customer twenty-one (21) years of age or older shall have no more than a combination of six (6) bottles or aluminum cans. However, the customer may bring in the one bottle of wine containing no more than 750 milliliters referenced above into the establishment in lieu of the combination of 6 small bottles or aluminum cans of that same type of beverage. No hard alcoholic liquor by itself (e.g. whiskey, vodka, etc.,) shall be allowed regardless of the type of container, except, as provided herein, a commercially premixed and prepackaged alcoholic drink containing hard liquor (e.g.

margarita, etc.) no greater than sixteen (16) ounces that is in a commercially sealed bottle or aluminum can at the time of entry into the business.

4. The business may charge a corkage fee to the customer for the privilege of opening within the establishment beer, wine, and seltzer beverages, or a commercially premixed and prepackaged alcoholic drink containing hard liquor (e.g. margarita, etc.) no greater than sixteen (16) ounces that is in a commercially sealed bottle or aluminum can at the time of entry on the premises of that establishment, provided that such specific fee is prominently displayed at the establishment. The permittee may not charge any additional fees for permitting beer, wine, and seltzer beverages, and limited commercially packaged alcoholic beverages as described above, to be consumed, other than a corkage fee. A corkage fee is the fee a business may charge to a customer for bringing in the customer's own wine, beer, or other allowed alcoholic beverage. This fee may not exceed \$40.00 per patron bringing in the beer, wine, seltzer, or a commercially premixed and prepackaged alcoholic drink containing hard liquor (e.g. margarita, etc.) no greater than sixteen (16) ounces that is in a commercially sealed bottle or aluminum can at the time of entry into the public accommodation. The business operator or any employee or agent of the business may provide a cup or glass to the patron, but may not serve, dispense, or pour the beverage.
5. No business that is primarily focused on providing services or activities for children (e.g. gymnastics classes, martial arts studios, etc.) shall be allowed to obtain a BYO permit. This type of business is to be distinguished from certain

other businesses (e.g. restaurants, bowling alleys, golf simulator establishments,, axe-throwing venues, hair and/or nail salons, barbers shops , etc.) that may have children as patrons, but are not specifically targeted toward children. The interpretation of whether a given business falls into this category shall be reserved to the Village Liquor Commissioner, with the advice and consent of the Village Board, in determining whether or not it would be appropriate to issue a BYO permit to such business operating as a public accommodation.

6. The business operator, owner, and all employees shall monitor the consumption by customers of beer, wine, seltzer, and limited commercially prepackaged alcoholic beverages allowed as described herein, and in accordance with required BASSETT training, based on observed problematic physical condition or behavior of the patron evidencing impairment from alcohol consumption, inform the patron that such patron may not consume any additional liquor during the remainder of the stay at the business.
7. The business operator, owner, and all employees shall be responsible for checking driver's license or state issued identification of all patrons of the establishment who bring in beer, wine, or seltzers, or, as limited herein, a commercially prepackaged alcoholic beverage allowed under this ordinance to confirm anyone who may be consuming such beverages is at least twenty-one (21) years of age.



8. A business operator, owner, and all employees responsible for checking identification must be appropriately trained through BASSET (Beverage Alcohol Sellers and Servers Education Training).
9. Upon application for a BYO permit where it is anticipated that patrons twenty-one (21) years of age or older will be allowed to bring their own beer, wine, seltzer beverages into the business, or a commercially premixed and prepackaged alcoholic drink containing hard liquor (e.g. margarita, etc.) no greater than sixteen (16) ounces that is in a commercially sealed bottle or aluminum can at the time of entry, the owner of the business shall provide to the Village a certificate of insurance reflecting coverage for dram shop or equivalent liability at the state mandated amounts for providing the service of allowing BYO. These requirements shall be in addition to any other insurance requirements that may be required of the business by the Village.
10. The annual fee for a BYO permit shall be \$250.00, with the annual permit term being May 1st through April 30<sup>th</sup> of a given calendar year, and there being no pro-rations for permits issued any time within that given calendar year, except if an initial permit issued in February, March, or April of a given year the annual fee for that year only shall be \$150.00. The annual renewal fee shall be \$200.00 annually, with no pro-rations or refunds whatsoever, including, but not limited to, a situation where the business should choose to no longer allow BYO, or the business has its permit revoked, changes ownership, or ceases operation as a business.

11. The applicant shall complete an application provided by the Village that meets the requirements of this ordinance, and provides all information required in the application, as may be revised from time to time by the Village Administrator in consultation with the Village Attorney. The application, once, staff believes the same is in final form, shall forward a copy of the same to the Village Attorney who will then inform the Village Liquor Commissioner in writing if the application meets the requirements of the ordinance for issuance of a permit. The Village Liquor Commissioner shall then decide whether or not it is appropriate to issue the BYO permit, and state his or her findings associated with granting or denial of the same. .
12. For every granted BYO application, a BYO permit shall be issued by the Village signed by the Village Liquor Commissioner and Village Clerk. The permit shall be prominently displayed by the business owner at the business establishment so it is clear to patrons whether or not BYO is allowed. A \$10.00 administrative fee shall be charged for a lost, badly torn, or otherwise destroyed BYO permit.

### **PART III—FINES AND PENALTIES AND DUE PROCESS**

Any violation of the instant ordinance, upon passage shall carry a fine of not less than \$200.00 nor more than \$750.00 for any violation. This fine shall be assessed against the business owner for each person the business owner allows to violate the terms of this ordinance, not just for each table or party. By way of example, if a table of eight (8) persons were in a business establishment operating as a public accommodation and all eight (8) were consuming alcohol other than the type or quantity allowed herein, the fine to the business owner shall be

according to the fine parameters reflected above for each person consuming the alcohol. Each visit to the establishment by a given individual whereby such illegal consumption occurs shall be considered a separate violation. The burden shall be on the business owner to prevent such illegal consumption, and the fact that such activity occurs on the premises, or in the establishment the business owner operates as a public accommodation, shall be prima facie evidence of its occurrence, which means it shall be accepted as correct until proven otherwise.

As close as reasonably practical, taking into consideration the differing characteristics of this BYO permit as compared to a liquor license issued, the same due process hearing provisions contained in Ordinance No. 97-11 pertaining to the suspension or revocation of a liquor license shall apply when there is consideration of the suspension or revocation of a BYO permit.

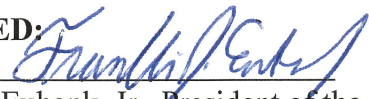
#### **PART IV—EFFECT ON PRIOR ORDINANCES**

Ordinance No. 2015-06 is hereby revoked immediately upon the passage of the instant ordinance. All other provisions of Ordinance No. 97-11, as amended, not in conflict with the provisions herein shall remain in full force and effect.

#### **PART V—EFFECTIVE DATE OF ORDINANCE**

This ordinance shall be in full force and effect from and after the date of its passage, approval, and pamphlet publication, as provided by law.

**APPROVED:**

  
Franklin J. Eubank, Jr., President of the Board of  
Trustees of the Village of Winnebago, Illinois

**ATTEST:**

  
Sally Jo Huggins, Village Clerk

**PASSED:** 2-5-2025

**APPROVED:** 2-5-2025

**PUBLISHED (in pamphlet form):** 2-11-2025  
**(in pamphlet form):** \_\_\_\_\_

Prepared by: Attorney Mary J. Gaziano, Village Attorney