

VILLAGE OF LOMBARD  
REQUEST FOR BOARD OF TRUSTEES ACTION  
For Inclusion on Board Agenda

  X   Resolution or Ordinance (Blue)   X   *Waiver of First Requested*  
\_\_\_\_ Recommendations of Boards, Commissions & Committees (Green)  
\_\_\_\_ Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott Niehaus, Village Manager

DATE: October 7, 2014 (B of T) Date: October 16, 2014

TITLE: Title 11, Chapter 112 – Alcoholic Beverages  
DRYtini – 8 S. Park Avenue

SUBMITTED BY: Keith T. Giagnorio  
Local Liquor Control Commissioner  
Village President

BACKGROUND/POLICY IMPLICATIONS:

Attached for your consideration is an ordinance amending Village Code in regard to establishing a new Class "V" liquor license category as well as amending other sections of Code affected by the creation of the "Class V" liquor classification and the issuance of a Class "V" liquor license to DRYtini located at 8 S. Park Avenue.

The applicant is requesting a waiver of first reading in order to expedite the State Liquor license process.

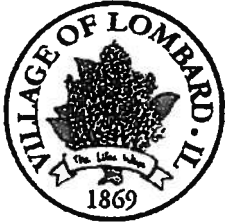
Please place this item on the October 16, 2014 Board of Trustees agenda.

Fiscal Impact/Funding Source:

Review (as necessary):

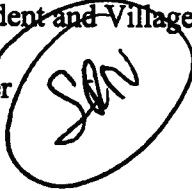
Village Attorney X \_\_\_\_\_ Date \_\_\_\_\_  
Finance Director X \_\_\_\_\_ Date \_\_\_\_\_  
Village Manager X \_\_\_\_\_ Date \_\_\_\_\_

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.



## MEMORANDUM

**TO:** Keith T. Giagnorio, Village President and Village Board of Trustees

**FROM:** Scott R. Niehaus, Village Manager 

**DATE:** September 18, 2014

**SUBJECT:** **DRYtini – 8 South Park Avenue – Request for a Liquor License**

This memorandum provides background information relative to the business known as DRYtini located at 8 South Park Avenue and their request for a liquor license.

Carrie Novakowski is President and CEO of Appease, Inc d/b/a DRYtini . Her business is based on a new concept known as a “Blow-Dry and Updo Bar”, which primarily focuses on hair styling. Traditional services such as haircuts and chemical treatments (color and perms) are not available. Other services also offered include: makeup, hair extensions and eyelash extensions. In addition, their intent is to offer their space for rental, before and after public hours, for private events catering to bachelorette and wedding day bridal parties, bridal and baby showers, birthdays, Lilac Princesses and girl’s night out.

Ms. Novakowski completed an Application for a Certificate of Occupancy/Zoning Certificate describing her business as a salon. A Certificate of Occupancy/Zoning Certificate was issued by the Village on July 29, 2014 for usage as a Beauty Shop under the B5 zoning classification and has been open for business as a salon.

### **Request for a Liquor License**

Prior to filing an Application for Certificate of Occupancy and opening DRYtini, she approached Village staff seeking information on how to obtain a liquor license. Her desire was to provide liquor on site in order to offer clients a complimentary beverage while a beauty service was being provided and/or to allow clients to bring their own liquor (i.e., BYOB) for consumption on the premises. At that time, staff explained that the Village did not have a liquor license classification for either concept and proceeded to explain the process of requesting one.

In June, 2014 she made a formal written request for a liquor license which included the ability to:

1. Serve a single complimentary non-alcoholic beverage or glass of champagne/wine to a customer with a beauty service;
2. Charge a corking fee as part of their service offering when parties bring in their own food and beverage; and

3. Provide catered packages including food and drink partnered with nearby local establishments.

Due to the nature of the request and possible implications of creating a liquor classification to accommodate all or part of her request, staff surveyed neighboring communities to find out whether or not they allow BYOB or have a liquor classification for a beauty/nail salon. The attached spreadsheet provides the results of this research. Also, for informational purposes, staff has provided a map of Downtown Lombard showing existing businesses that offer hair/nail services that could potentially be eligible for the same type of liquor license if one was to be created.

#### **Legal Issues**

Village Counsel has reviewed this request and has provided input regarding legal issues involved with the regulation of BYOB and the concept of giving away “free” drinks. The Illinois Liquor Control Commission (the “ILCC”) does not explicitly allow customers to bring their own alcohol to establishments, but municipalities have the limited authority to license and regulate BYOB. In this regard, municipalities may limit such BYOB activities in regard to only those establishments that provide refreshment, entertainment or recreation facility of any kind, whose goods, services, facilities, privileges or advantages are extended, offered, sold or otherwise made available to the public.

Section 100.280 of the ILCC’s administrative regulations also offers the following:

#### *Giving Away of Alcoholic Liquors*

- a) *No licensee, individual, partnership or corporation shall give away any alcoholic liquor for commercial purposes or in connection with the sale of non-alcoholic products or to promote the sale of non-alcoholic products.*
- b) *No licensee, individual, partnership, or corporation shall advertise or promote in any way, whether on or off licensed premises, any of the practices prohibited under subsection (a) of this Section. This includes, but is not limited to, advertisements using the words "free" or "complimentary" with alcoholic liquor.*

As the ILCC regulations prohibit the “giving away” of any alcoholic liquor for commercial purposes, to promote the sale of non-alcoholic products, the serving of alcohol would have to be done in the context of the overall business activity. Since the hair salon business does not meet the criteria for BYOB in the State provisions, the Village could only consider their request in the context of requiring the establishment to apply for an receive a liquor license from the Village. This would also be consistent with the Village’s BYOB current requirement of a valid liquor license.

The Village does have ancillary regulations pertaining to alcohol, including:

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- Section 112.31(A)(1) states that a liquor licensee shall not offer a person or group a price less than those charged the general public on that entire day, except at private functions not open to the public.
- Section 112.10(C) states that it is unlawful for any business or club to allow the consumption of alcoholic beverages on their premises unless they have a validly issued liquor license or the consumption involves no fee and is done once on a special occasion basis only (open house, Christmas party, etc).
- Section 112.21 states a retail liquor dealer's license shall permit the sale of alcoholic liquor only in the premises described in the application and license. Consequently, a liquor licensee would be prohibited from providing liquor as part of a catered event.

Staff met with Ms. Novakowski and presented the attached draft ordinance outlining the proposed language for a new Class "V" liquor classification and fee, which was crafted by Village Counsel. This proposed language does not allow for the BYOB concept, but rather creates a new classification that addresses the State administrative regulations as well as concerns raised through the review of the request. Ms. Novakowski stated she was agreeable to the proposed language as well and understood the Village's concerns.

Staff instructed Ms. Novakowski to contact DuPage County to ensure she would meet all requirements associated with the handling and storing of liquor, as well as sanitation in regard to any glassware or utensils. Staff also noted that liquor may not leave the premises. If a group of clients were to be served a bottle of champagne or wine and did not finish it, they could not take it home.

**ACTION REQUESTED**

This applicant and staff would like to bring the matter before the Village Board for final consideration. Staff is providing the background information in advance of the placing it on the Village Board agenda so that if any of the elected officials have concerns regarding the concept and approach, there will be an opportunity to further vet the matter.

If you have questions, please contact me.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING TITLE 11, CHAPTER 112 OF THE LOMBARD VILLAGE CODE IN REGARD TO ALCOHOLIC BEVERAGES AND A NEW CLASS "V" LIQUOR LICENSE CATEGORY**

**BE IT ORDAINED** by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

**SECTION 1:** That Title 11, Chapter 112, Section 112.12(A) of the Lombard Village Code is amended by adding language thereto, relative to a new Class "V" liquor license category, to read in its entirety as follows:

"Class "V" – Beer, wine and champagne only, served as an adjunct to the providing of beauty salon services. No package sales shall be allowed. Beer, wine and champagne may only be served to a patron of the licensed premises, that is receiving a beauty salon service at the licensed premises. There shall be no consumption of alcoholic beverages, on the licensed premises, other than those supplied by the licensee. Patrons may bring food to the licensed premises, and the licensee may have food brought to the licensed premises from local restaurants, for consumption on the licensed premises, but no food shall be prepared on the licensed premises."

**SECTION 2:** That Title 11, Chapter 112, Section 112.13(A) of the Lombard Village Code is amended by adding language relative to a new Class "V" liquor license thereto, which shall read in its entirety as follows:

"Class "V" – 1"

This increase in the number of Class "V" liquor licenses reflects the issuance of a new Class "V" liquor license to Appease, Inc. d/b/a DRYtini, located at 8 S. Park, Lombard, Illinois.

**SECTION 3:** That Title 11, Chapter 112, Section 112.14(A) of the Lombard Village Code is amended by adding language thereto, relative to a new Class "V" liquor license category, to read in its entirety as follows:

“Class “V” – \$500.00”

**SECTION 4:** That Title 11, Chapter 112, Section 112.40(A) of the Lombard Village Code is amended by revising the reference therein to “all Class A/B-I, A/B-II, A/B-III, A/B-IV, C, D, E, I, K, L-I, L-II, M, O, R, S, T-I, T-II, T-III, U, X and Z liquor license holders,” to read, “all Class A/B-I, A/B-II, A/B-III, A/B-IV, C, D, E, I, K, L-I, L-II, M, O, R, S, T-I, T-II, T-III, U, V, X and Z liquor license holders.”

**SECTION 5:** That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form, as provided by law.

Passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

First reading waived by action of the Board of Trustees this \_\_\_ day of \_\_\_\_\_, 2014.

Passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

**APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Keith Giagnorio, Village President

**ATTEST:**

\_\_\_\_\_  
Sharon Kuderna, Deputy Village Clerk

Published by me in pamphlet form this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Sharon Kuderna, Deputy Village Clerk