

VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL WORKSHOP
FEBRUARY 24, 2009 AGENDA

SUBJECT:	TYPE:	SUBMITTED BY:
Ordinance Amendments: Theater Liquor License Classification	Resolution ✓ Ordinance Motion Discussion Only	Enza I. Petrarca Village Attorney

SYNOPSIS

An ordinance has been prepared amending the Theater liquor license classification.

STRATEGIC PLAN ALIGNMENT

The Downers Grove Vision for 2021 provides for *Businesses to Thrive* and a principle for that vision is *Unique, Quality Restaurants Serving Residents and Corporations*.

FISCAL IMPACT

N/A

RECOMMENDATION

Approval on the March 3, 2009 active agenda.

BACKGROUND

The Tivoli has held a theater liquor license from the Village since 2001. The license classification was created to offer full liquor service on a contractual basis with renters of the facility. Liquor service, however, is not available during regularly scheduled movies.

It was discovered that liquor service was being made available at certain events which were open to the general public and this was not in compliance with the original intent of the ordinance. The Tivoli Theater has since requested an amendment to the classification in order to both maintain compliance with the ordinance and expand the venues and events at which they may offer liquor service.

Attached is a draft ordinance making certain amendments to the theater license classification. The Liquor Commission discussed this matter at their meetings of June 5, 2008, January 8, 2009 and February 5, 2009 and recommended that an ordinance be forwarded to the Village Council for their consideration and approval.

ATTACHMENTS

Draft Ordinance
Liquor Commission Recommendation & Minutes

ORDINANCE NO. _____

**AN ORDINANCE AMENDING PROVISIONS OF THE CLASS "E-1"
THEATER LIQUOR LICENSE CLASSIFICATION**

BE IT ORDAINED by the Village Council of the Village of Downers Grove in DuPage County, Illinois, as follows: (Additions are indicated by shading/underline; deletions by ~~strikeout~~):

Section 1. That Section 3.3 is hereby amended to read as follows:

3.3 Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Act. The Illinois Liquor Control Act of 1934, as now or hereafter amended.

Alcoholic liquor. Any spirits, wine, beer, ale or other liquid containing more than one-half of one percent of alcohol by volume, which is fit for beverage purposes. Beverages sold as beer, ale or other designation commonly applied to malt beverages containing more than one-half of one percent of alcohol by volume shall be presumed to be alcoholic liquor for purposes of this Chapter.

Brew Pub. Any public place kept, used, maintained, advertised or held out to the public as a place where meals are regularly served and where beer is produced upon the premises.

Catering Business. A business which provides and serves alcoholic liquor at locations not owned or leased by the catering business for consumption at such location.

Catered event. A dinner, banquet, party or other similar event at which alcoholic liquor is provided for consumption on the premises by a Catering Business.

Club. A corporation organized under the laws of this State, not for pecuniary profit, solely for the promotion of some common objective other than the sale or consumption of alcoholic liquors, kept, used and maintained by its members through the payment of annual dues, and owning, hiring or leasing a building or space in a building, of such extent and character as may be suitable and adequate for the reasonable comfortable use and accommodation of its members and their bona fide guests and provided with suitable and adequate kitchen and dining room space and equipment and maintaining a sufficient number of employees for cooking, preparing and serving food and meals for its members and their bona fide guests. Provided, the sale or offer of alcoholic liquor for sale to the public by the club, except as provided in Section 3-32 of this Chapter is not permitted, and further provided, that the affairs and management of the club shall be conducted by a board of directors, executive committee or similar body chosen by the members at their annual meeting, and that no member or any officer, agent or employee of the club shall be paid, or directly or indirectly receive, in the form of salary or other compensation, any profits from the distribution or sale of alcoholic liquor to the club or the members of the club or its guests introduced by members beyond the amount of such salary as may be fixed and voted at any annual meeting by the members or by its board of directors or other governing body out of the general revenue of the club. The term club shall not include any "men's or women's club" as defined herein.

Comedy Club. A non-restaurant business with live performances by comedians during one or more performances conducted at set times per day.

Contracted theater rental. A prearranged function in which an entity enters into a rental agreement or contract for the use of a theater for events, private film viewing/critique, and/or theater production/box office events ~~theatrical, musical or live performances.~~

Convenience Store. A building in which the primary business is the sale of food, non-alcoholic beverages, household products, cosmetic items and reading materials.

Cultural/Performing Arts facility. A building in which the primary business is to provide a place in which

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theatrical, musical or live performances are performed and art design, instruction or exhibition occurs. However, no live nudity is allowed in any performance, design, instruction or exhibition. Such facilities shall include an area in which service of food prepared on premises is provided, including hot or cold sandwiches or other similar foods.

Entertainment facility. See *Comedy Club, Cultural/Performing Arts Facility, Recreational facility and Theater.*

Fashion show. The modeling, showing or other presentation of lingerie or other garments for the purpose of entertaining or for sale of the garment, where the person so modeling the garment appears in a nude or semi-nude state.

Hotel. A building or group of buildings used in conjunction with one another as a lodging facility providing sleeping accommodations for compensation to travelers and guests, whether transient, permanent or residential and in which one hundred or more rooms are provided for such purpose.

Liquor product identification sign. Any sign, including any placard, banner, poster, streamer, balloon or other attention getting device, which is designed or used to advertise, promote or identify a particular brand of liquor. This includes, but is not limited to, those signs commonly referred to as "beer signs" and may involve electronic or neon displays.

Men's or women's club. An establishment which offers entertainment where any person may appear in a nude or semi-nude state, or offers the customer a role playing interaction, including but not limited to servers, hosts, hostesses, dancers, singers, models or other performance artists, or an establishment which offers customers role playing interaction.

Nude or nudity or a state of nudity. The appearance of a human bare buttock, anus, male genitals, female genitals, or female breast; or, a state of dress which fails to opaquely cover a human buttock, anus, male genitals, female genitals, or areola of the female breast.

Semi-nude. A state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.

Original package. Any bottle, flask, jug, can, barrel, keg, or other receptacle or container whatsoever, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor.

Outdoor sales. The sale or consumption of alcoholic liquor in an area adjacent to an existing licensed business which is wholly or partially contained upon private or public property.

Private function. A prearranged private party, function, or event for a specific social or business occasion, either by invitation or reservation and not open to the general public, where the guests in attendance are served in an area designated and used exclusively for the private party, function or event and where the licensee is not the host of said function.

Regularly scheduled motion pictures or films. Motion pictures or films scheduled to be shown at previously arranged and advertised times and open to the general public. Regularly scheduled motion pictures or films shall not include any motion pictures or films shown as a result of a contracted theater rental, as defined in this section.

Recreational facility. A building or area in which the primary business is to provide, by membership or user fee or both, a place in which the public may participate in a sport or engage in activities, including but not limited to volleyball, tennis, racquetball or handball clubs; bowling alleys, pool halls; and health clubs. Provided, such facilities shall include an area in which service of food prepared on premises is provided, including hot or cold sandwiches or other similar foods.

Restaurant. Any public place kept, used, maintained, advertised or held out to the public as a place where the service of food and drink is the primary business, and where meals are regularly served, without sleeping accommodations, and where adequate provision is made for sanitary kitchen and dining room equipment and capacity and a sufficient number of employees to prepare, cook and serve a reasonable variety of meals for its customers. The mere availability and service at any premises of cold sandwiches, hors d'oeuvres or other similar foods will not, standing alone, be deemed sufficient to constitute such premises a restaurant within the meaning of this paragraph, it being the intent of this paragraph that the

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primary business conducted on premises to be licensed as restaurants hereunder shall be the service of food and drink. A full menu, including entrees and appropriate side dishes, shall be available at all times liquor sales are being conducted until ten o'clock (10:00) p.m. Sunday through Thursday, and eleven o'clock (11:00) p.m. Friday and Saturday. After such times, in the event a full menu is not provided, a reduced menu, which must include appetizers, sandwiches, hors d'oeuvres or other similar foods shall be available. Such menu shall be on the table, presented to each patron as they are seated or be posted in such a manner to be easily readable by the patrons of the restaurant. Provided, the kitchen may not cease operating prior to one hour before closing.

Retail sale. The sale for use or consumption, and not for resale.

Retail sales square footage area. The area or space in a building devoted for the retail sale of goods or products offered for consumer purchase and shall not include storage freezers, storage coolers, warehouse, office areas or areas that are not open to the general public.

Role playing interaction. An arrangement, service or program where a server, host, hostess, dancer, singer, model or other performance artist, engages a customer in a meeting or conversation involving, depicting, participating in, or relating to any "specified sexual activities" as defined and set forth in Chapter 8 of the Municipal Code.

Sale. Any transfer, exchange or barter, in any manner or by any means whatsoever, for a consideration and not for resale, including all sales made by any person whether as principal, proprietor, agent, servant or employee, and including, but not limited to, all of the following acts when done for consideration:

(1) The selling of liquor.
(2) The delivery of liquor, without additional charge, with a meal or with entertainment or the providing of samples of liquor as part of a promotion or sales device of any kind.

(3) The dispensing of liquor.
(4) The providing of mix, ice, water or glasses for the purposes of mixing drinks containing alcoholic liquor for consumption on the same premises.

(5) The pouring of liquor.
(6) The providing of "set-ups" containing alcoholic liquor.

"Sale" shall not include:

(1) a person acting in the privacy of his/her home
(2) where liquor is provided as part of a religious ceremony; and
(3) to private functions as defined herein that are held by the host and where the guests are not charged for the liquor consumed.

Theater. A facility within the DB Downtown Business District allowed as a permitted use under the Downers Grove Zoning Ordinance, regularly used for showing motion pictures/films or conducting theatrical, musical or live performances or events with a seating capacity of 900 or more persons.

Theater production/box office events. Theatrical, musical, live performances or special events in which tickets are sold to the general public. These productions shall not include regularly scheduled motion pictures or films.

Wine Boutique. A facility in which the primary business is the retail sale of wine wherein wine tastings and wine education seminars/classes are conducted on a regular basis and on site consumption of wine and beer is allowed subject to provisions of the wine boutique license classification.

Wine Shop. A facility in which the primary business is the retail sale of wine for off-premise consumption wherein wine tastings and wine education seminars/classes are conducted on a regular basis. (Ord. No. 244, § 1; Ord. No. 1741, § 1; Ord. No. 1749, § 1; Ord. No. 2388, § 1; Ord. No. 2450, § 1; Ord. No. 2541, § 1; Ord. No. 2735, § 1; Ord. No. 2847, § 1; Ord. No. 3164, § 1.) NOTE: For state law as to definitions, see Ill. Comp. Stat., Ch. 235, § 5/1-3 et seq.

Section 2. That Section 3.13 is hereby amended to read as follows:

3.13 Classification of licenses.

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Such licenses shall be, and are hereby, divided into the following classes:

Class "B" Brew Pub Licenses

"B-1" Brew pub licenses shall authorize the retail sale of alcoholic liquor and beer produced on the premises for on-site consumption. The retail sale of beer in original packages, unopened only, produced on the licensed premises shall be allowed for off-premise consumption. Provided, the business shall operate as a restaurant and bar seating shall be limited to twenty percent (20%) of the entire seating for the establishment.

Class "C" Club (Private) Licenses

"C-1"- Private club licenses shall authorize the retail sale of alcoholic liquor for consumption on the premises where the business is that of a club as defined herein.

Class "E" Entertainment/Recreational Facility Licenses

"E-1" Entertainment/Recreational Facility licenses shall authorize the retail sale of alcoholic liquor for consumption on the licensed premises where the major and primary business is that of a Theater as defined herein, subject to the following conditions:

1. Sales of alcoholic beverages shall be limited to contracted theater rentals and theater production/box office events.
2. Alcoholic beverage sales shall not be allowed during regularly scheduled motion pictures or films or during events that are primarily oriented for children.
3. Sales shall be made from portable bars containing alcoholic liquor, mixes and related preparation materials. Such portable bars shall not have seats or stools for patrons at which to sit.
4. Portable bars shall be removed and/or stored out of view during all regularly scheduled motion pictures.
5. No alcoholic liquor shall be served at a single contracted theater rental for more than six (6) consecutive hours.
6. Alcoholic liquor may be served during theater production/box office events during one (1) hour prior to the event, during intermission not exceeding two (2) consecutive hours and for no more than one (1) hour after an event. However, an extension of liquor serving hours may be granted in accordance with the provisions of Section 3.31(a).
7. Food service must be available during contracted theater rentals and theater production/box office events in which alcoholic liquor service exceeds two (2) consecutive hours. However, should there be a suspension of liquor service for a main event or attraction (at a minimum duration of one (1) hour), such food service shall not be required.
8. The licensee shall submit a report to the Village within thirty days following each July 1 and January 1 setting forth each contracted theater rental/theater production/box office event and the number of hours for which liquor was served during the six months prior. In addition, such report shall describe any planned events currently scheduled by the licensee.

"E-2" Entertainment/Recreational Facility licenses shall authorize the retail sale of alcoholic liquor for consumption on the premises where the major and primary business is that of a Comedy Club as defined herein. Provided, the sale of alcoholic beverages shall be authorized only during or one (1) hour before the regularly scheduled performances. The performances shall consist of one or more comedians and shall be not less than one and a half (1.5) hours in length with patrons paying a separate admission charge for each performance. At the end of each performance, patrons shall be required to exit before the next group of patrons are admitted. Provided, performances shall be done by professional comedians except that

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amateur performances (open mike) shall be permitted not more than two (2) nights per week.

"E-3-A" Entertainment/Recreational Facility licenses shall authorize the retail sale of beer and wine for consumption on the licensed premises operated by the Downers Grove Park District. Sales shall be authorized in the clubhouse, an outdoor area and upon the golf course. Sales of beer and wine from a motorized food and beverage cart operating on the public golf course are authorized provided not more than fifty percent (50%) of the designated storage/display capacity shall be devoted to the display and sale of beer and wine. No more than one (1) such motorized food and beverage cart shall be on the course and in operation at any one time. Non-alcoholic beverages and food shall at all times be stocked and available for sale in such cart.

"E-3-B" Entertainment/Recreational Facility licenses shall authorize the retail sale of beer and wine for consumption on the licensed premises in a recreational facility, as defined herein, having a guest seating capacity, excluding outdoor areas, of not less than thirty-five (35).

"E-3-C" Entertainment/Recreational Facility licenses shall authorize the retail sale of alcoholic liquor for consumption on the licensed premises in a recreational facility as defined herein, of not less than sixteen thousand (16,000) square feet and having a guest seating capacity, excluding outdoor areas, of not less than one hundred twenty-five (125).

"E-4" Entertainment/Cultural/Performing Arts Facility licenses shall authorize the retail sale of beer and wine for consumption on the licensed premises where the major and primary business is that of a Cultural/Performing Arts Facility as defined herein, subject to the following conditions:

1. Sale of beer or wine shall be limited to regularly scheduled art shows, exhibits, theatrical, musical or live performances or during contracted rentals that are not open to the general public.
2. The facility may not be promoted as a drinking establishment. Sale of beer or wine shall not be allowed at any time a regularly scheduled performance or activity is not in actual operation.
3. Sale of beer or wine shall be made from a service bar only. Such service bar shall not have seats or stools for patron seating.
4. Lounge area or theater seating may be altered to accommodate performances, art exhibitions and/or classes, however the service bar area shall not be expanded in any manner.
5. No portable bars and/or stations shall be allowed at the facility.
6. Food service must be available during all hours of operation that beer and wine is served.
7. The Village may request the licensee to submit a report setting forth any planned events currently scheduled by the Licensee and the activities during the twelve months prior.

"E-5" Entertainment/Restaurant Facility licenses shall authorize the sale of alcoholic liquor for consumption on the licensed premises, where meals are regularly served and entertainment is provided. Bar/lounge seating shall be no more than twenty percent (20%) of the total seating provided for patrons of the establishment. The area devoted to dancing and/or entertainment shall be limited to twenty percent (20%) of the square footage of the establishment, excluding kitchen facilities, storage and office areas. Food service shall be available at all times.

Class "H" Hotel Licenses

"H-1" Hotel licenses shall authorize the retail sale of alcoholic liquor for consumption on the premises of a hotel as defined herein, and the retail packaged sale of beer and wine in original packages to hotel patrons. This shall include sales occurring at facilities, or as part of activities, normally operated as an integral part of the hotel, such as, but not necessarily limited to, restaurants, cocktail lounges, room

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service and banquets. Provided, the licensed premises shall have at least one restaurant with a seating capacity of not less than one hundred twenty-five (125) operated as an integral part of the hotel.

Class "K" Catering Licenses

"K-1" Catering licenses shall authorize the sale of alcoholic liquor in connection with the operation of an off-site catering business as defined herein that serves alcoholic liquor in connection with the catering of foods for private functions and for consumption only on the premises where the food is catered. The sale of alcoholic liquor shall be incidental to the food service and if the catered event does not qualify as a private function, a special event license shall also be required for the location of the catered event. No cash bar shall be permitted. No alcoholic liquor shall be served at a single location for more than eight (8) consecutive hours. A licensee shall submit a report to the Village within thirty days following each July 1 and January 1 setting forth the location of each event the licensee has catered within the Village and the number of hours for which liquor and food were served at such events during the six months prior. In addition, such report shall describe any planned events currently scheduled by the licensee.

"K-2" Catering licenses shall authorize the sale of beer and wine at the Downers Grove Park District Recreation Center located at 4500 Belmont Road. Provided, a catering license may be issued to a sub-contractor who solely provides beer and wine service on behalf of and in conjunction with an off-site food catering business under contract with the Downers Grove Park District. The sub-contractor may not utilize the Class K-2 catering liquor license in any other facility in the Village, operate independently at the Recreation Center or provide beer and wine without food service being available. Service of beer and wine shall be limited to service from a designated portable bar area. No table service of wine or beer shall be allowed. In all instances, the sale of alcoholic liquor shall be incidental to the food service. No cash bar shall be permitted. No alcoholic liquor shall be served at a facility rental for more than six (6) consecutive hours. The licensee shall submit a report to the Village within thirty days following each July 1 and January 1 setting forth the date, time and type of any planned events currently scheduled by the licensee in order for the Village to monitor compliance. In addition, the Village may request that the licensee include information on the dates, times and types of events at the Center during the six months prior.

Class "O" On Premise Consumption, Outdoor Licenses

"O-1" Outdoor licenses shall authorize the sale and consumption of alcoholic liquor in an enclosed outdoor seating area. This license may only be issued to establishments holding a valid Class B, C, E, R or W license and shall be limited to the conditions of the Class B, C, E, R or W license issued to the establishment. The main and principal operation of the outdoor area for Class B, E, R or W license holders shall be for dining purposes and food must be available in the outdoor dining area at all times and shall be subject to the provisions set forth in Section 3-30. Operation of the outdoor area for a Class C license is limited to private party rentals and shall be subject to the provisions set forth in Section 3.32.

Class "P" Off Premise Consumption Licenses

"P-1" Packaged liquor licenses shall authorize the retail sale on the premises specified, which shall not include premises of less than three thousand six hundred (3,600) square feet, of alcoholic liquor in packages with the seals unbroken, only, and not for consumption on the premises, except that tastings shall be permitted on such premises in accordance with State law. Such licenses shall be only authorized in locations where the sale of packaged liquor is the main or principal business and/or in locations where the principal business is that of a drug store, grocery store or convenience store as defined herein.

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"P-2" Packaged liquor licenses shall authorize the retail sale on the premises specified, of beer and wine in original packages, unopened only, and not for consumption on the premises. Such licenses shall be only authorized in locations where the main or principal business is that of a drug store, grocery store or convenience store as defined herein. No more than twenty-five percent (25%) of the retail sale square footage area shall be devoted to the sale of beer/wine and tobacco products.

"P-3" Packaged liquor licenses shall authorize the retail sale of beer and wine in original packages, unopened only, and not for consumption on the premises, except that wine tastings, classes or seminars shall be permitted on such premises in accordance with State law. Such licenses shall be only authorized in locations where the sale of wine is the main or principal business, commonly referred to as "wine shops", as defined herein.

Class "R" Restaurant, On Premise Consumption, Indoor Licenses

"R-1" restaurant licenses shall authorize the sale of alcoholic liquor for consumption on the licensed premises, where the major and primary business is that of a restaurant, as defined herein. In addition, bar seating shall be limited to twenty percent (20%) of the entire seating for the establishment.

"R-2" restaurant licenses shall authorize the retail sale of beer and wine for consumption on the licensed premises, where the major and primary business is that of a restaurant, as defined herein. In addition, bar seating shall be limited to twenty percent (20%) of the entire seating for the establishment.

Class "S" Special Event Licenses

"S" special event licenses shall be issued for the temporary sale of alcoholic liquor during special events.

(a) It shall be unlawful for any person who does not hold a valid liquor license pursuant to the provisions of this Chapter, to dispense or cause to be dispensed alcoholic beverages at a grand opening, wine tasting, open house or other special event open to the public, without first having obtained a special event license from the Local Liquor Commissioner. It shall be unlawful for any person holding a valid liquor license to conduct a special event which exceeds the limitations on liquor sales or otherwise fails to meet the requirements inherent in the applicable license classification without first having obtained a special event license from the Local Liquor Commissioner.

(b) Applications for a license under the provisions of this section shall be filed on forms provided by the Village. The general application procedures set forth in Sections 3-9 and 3-12 shall not apply to licenses issued under this section except for the requirement under Section 3-9(c)(9) concerning dram shop insurance coverage. Provided, the Commissioner may refer any application under this section to the Commission for review and comment. The application shall include such information as the Commissioner determines is necessary to process such application and may include, but is not limited to, the estimated number of persons attending the event, the location and layout of liquor sales at the event and at the premises, the persons responsible for dispensing of alcoholic liquor, steps to be taken by applicant to protect against any violations of the Village's ordinances and information regarding the manner in which and what type of liquor shall be dispensed and consumed. Additional information and material may be required during the processing of such application related to applicant's qualifications and information provided in the original submittal, including attachments. In the event the applicant is made aware that any information or document submitted as part of this application process is inaccurate or incomplete, the applicant shall immediately notify the Village and provide appropriate corrections. Failure to accurately and completely provide, or as necessary update, required information may delay the processing of such application or result in its denial.

(c) A fee shall be paid along with the application submittal as follows:

(1) "S-1" Licenses shall be issued if a public hearing before the Downers Grove Liquor Commission is required:

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\$ 375.00

(2) "S-2" Licenses shall be issued if a public hearing is waived and the Downers Grove Liquor Commissioner issues the license administratively:

\$ 90.00

(d) Where the applicant is a governmental unit and/or charitable organization, the Liquor Commissioner may waive the fee otherwise required by this section.

(e) Upon submittal of a properly completed application and payment of fee, the Commissioner may issue a special events license subject to such reasonable restrictions as the Liquor Commissioner may require to protect the public health, safety and welfare, including, but not limited to the following:

(1) No more than three (3) such special event licenses shall be issued for the same location within any calendar year.

(2) The special event license holder shall take proper precautions and fully comply with the applicable provisions of this Chapter during the special event.

(3) The special event will last no longer than two (2) days, provided that three consecutive licenses can be utilized for an event which shall not exceed six (6) days.

(4) The provisions of Section 3-11(b) regarding proximity of the proposed special event shall not apply to licenses issued under this section.

(5) The following restrictions apply to community special events sponsored by a governmental entity:

(i) At least two persons over the age of twenty-one shall be present at all times in the liquor consumption area to monitor compliance with applicable regulations and laws of the Village and State of Illinois regarding the consumption of liquor.

(ii) The licensee shall incorporate such other measures as the Liquor Commissioner may direct to protect the public health safety and welfare, including measures to protect against violations of the regulations and laws of the Village and State of Illinois regarding the consumption of liquor.

(6) The provisions of Section 3-30 regarding outdoor sales shall not apply to special event licenses issued under this section and a special event may include outdoor sales, service and consumption as approved by the Liquor Commissioner.

(7) Except as otherwise provided in this section, the applicant shall comply with all applicable provisions of the Downers Grove Municipal Code, including but not limited to, zoning, building, health and safety regulations.

(f) The Commissioner may issue a special events license as provided under this section to permit the sale and consumption of alcoholic liquor on public property. Provided, except for Village sponsored or co-sponsored community-wide celebrations, special events and other similar activities or functions, a special commercial event license as provided in Chapter 19 of the Downers Grove Municipal Code shall be required for any special event conducted wholly or partially upon Village controlled property. An application shall be completed as provided in subsection (b) above and submitted to the Commissioner for decision. Provided, in addition to any other requirements which may be imposed, issuance of any special events license involving public property shall be contingent upon proof of dram shop insurance, up to the statutory limit, and such other liability insurance as the Village may from time to time direct, listing the Village, its officers and employees, as named insured.

(g) It is recommended that at least one (1) person on-site shall possess a certified training certificate pursuant to Section 3.33.3.

Class "W" Wine Boutique.

"W-1" Packaged liquor licenses shall authorize the retail sale of beer and wine in original packages and for consumption of wine or beer on the premises. Free wine tastings, classes or seminars shall be permitted on such premises in accordance with State law. Such licenses shall be only authorized in locations where the sale of wine is the main or principal business, commonly referred to as "wine

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boutiques", as defined herein.

The sale of wine and beer shall be permitted for consumption on the premises subject to the following conditions:

- a. The premises shall not exceed three thousand six hundred (3,600) square feet.
- b. The seating/serving area for customers ordering wine or beer within the premises shall be limited to forty percent (40%) of the gross retail square footage, but shall not exceed seven hundred fifty (750) square feet.
- c. Such facilities shall include an area in which preparation of food is provided and food is served on the premises, including hot or cold sandwiches, appetizers, tapas or other similar foods.
- d. It is intended that the service of wine or beer is merely an adjunct to the sale of beer and wine in original packages and that the wine shop shall not be advertised or otherwise held out to be a drinking establishment and/or a "wine bar". (Ord. No. 244, § 6; Ord. No. 279, § 1; Ord. No. 356, § 1; Ord. No. 634, § 1; Ord. No. 635, § 1; Ord. No. 1059, § 1; Ord. No. 1200, § 1; Ord. No. 1465, § 1; Ord. No. 1741, §§ 15 to 17; Ord. No. 2246, § 1; Ord. No. 2388, § 7; Ord. No. 2541, § 6; Ord. No. 2735, § 1; Ord. No. 2945, § 1; Ord. No. 2996, § 1; Ord. No. 3050, § 1; Ord. No. 3164, § 2.)

Section 3. That Section 3.14 is hereby amended to read as follows:

3.14 Term - fees.

- (a) The term of each license issued hereunder shall be from July 1 to June 30.
- (b) Licenses shall be issued to new applicants and/or renewal applicants with satisfactory performance in the most recent year in which they held a license. The fee for the various classes of licenses shall be as follows:

<u>License</u>	<u>Annual Fee</u>
"B-1" (Brew Pub)	\$2,925.00
"C-1" (Club, private)	\$ 670.00
"E-1" (Theater)	\$ 935.00 1,105.00
"E-2" (Comedy Club)	\$1,055.00
"E-3-A" (Golf Course)	\$1,725.00
"E-3-B" (Recreational Facility - beer/wine)	\$1,610.00
"E-3-C" (Recreational Facility - full)	\$2,985.00
"E-4" (Cultural/Performing Arts Facility - beer/wine)	\$1,610.00
"E-5" (Entertainment/Restaurant Facility - full)	\$2,985.00
"H-1" (Hotel)	\$2,985.00
"K-1" (Catering - full)	\$ 805.00
"K-2" (Catering - Park District - beer/wine)	\$ 955.00
"O-1" (Outdoor)	\$ 260.00
"P-1" (Packaged - full)	\$1,850.00
"P-2" (Packaged - beer/wine)	\$1,160.00
"P-3" (Packaged - wine shop)	\$1,160.00
"R-1" (Restaurant - full)	\$2,870.00
"R-2" (Restaurant - beer/wine)	\$1,550.00
"S-1" (Special Event)	\$ 375.00
"S-2" (Special Event)	\$ 90.00
"W-1" (Wine Boutique)	\$1,310.00

- (c) Except as provided herein, there shall be no refund or proration of the license fee for any portion of a year prior to issuance or during which licensee ceases to engage in the business of selling alcoholic liquor.

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For any license issued on or after the first day of January of any year, the license fee shall be prorated by dividing the fee set forth in subsection (b)(1) by twelve and multiplying the resulting sum by the number of months, or parts thereof, remaining in the license year.

(d) For any change in classification issued on or before the first day of January of any year, the licensee shall be awarded a credit in the amount of the license fee previously paid by licensee in same license year for the same establishment.

(e) The annual renewal fee shall be due and payable June 30 in each year. Provided, any licensee submitting a late renewal filing shall, in addition to the license fee, pay a late filing fee of two hundred fifty dollars (\$250.00) pursuant to Section 3-16 (c) of this Code. No licensee shall continue to engage in the business of selling alcoholic liquor unless such fee has been paid.

(f) All required fees shall be paid at the time of issuance of the license after approval by the Local Liquor Commissioner pursuant to Section 3-12 of this Chapter. All such fees shall be forthwith deposited with the Village Treasurer.

(g) Application fees are provided for in Section 3-9(e)of this Code.

(h) It is the intention of the Village to review and, if justified, adjust license fees annually based upon the costs and expenses incurred by the Village to administer this section. Provided, however, nothing herein shall require such review nor impair or prohibit any adjustment in fees as may from time to time, be approved by the Council. (Ord. No. 244 §§ 5, 6; Ord. No. 279, § 1; Ord. No. 356, § 1; Ord. No. 634, § 1; Ord. No. 635, § 1; Ord. No. 1059, § 1; Ord. No. 1200, § 1; Ord. No. 1465, § 1; Ord. No. 1741, §§ 15 to 17; Ord. No. 2167, § 4; Ord. No. 2246, § 1; Ord. No. 2388, § 7; Ord. No. 2541, § 6; Ord. No. 2735, § 1; Ord. No. 3050, § 2; Ord. No. 3377, § 1.)

Section #4. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section #5. That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

Mayor

Passed:

Published:

Attest: _____
Village Clerk

~~VOTE: Aye: Mr. Barnett, Mr. Kubes, Ms. King, Ms. Strelau, Mr. Cawthorne, Mr. Adank, Chairman
McInerney~~

~~Nay: None~~

~~Abstain: None~~

~~MOTION CARRIED: 7:0:0~~

~~The motion carried.~~

VI. OLD BUSINESS

Chairman McInerney asked if there was any discussion, update from staff or comments from the Commission regarding any old business.

Ms. Kuchynka stated that she provided the Commission with a draft ordinance amendment regarding a change to the theater license classification, however, in speaking with Mr. Johnson, owner of the Tivoli Theater, discovered that the draft ordinance would not meet his needs. She stated that she would prefer to continue discussion at a later date, and, in the meantime, speak with the Mayor and Village Attorney about the matter. Ms. Kuchynka stated that she was hesitant to discuss the draft as Mr. Johnson wished to allow patrons to consume alcohol inside the theater, which was a specific prohibition that she discussed with the Village Attorney.

Mr. Johnson informed the Commission the Tivoli currently has a license which allows liquor sales at contracted theater rentals, however, in some instances members of the general public attend the events and he wanted to be in compliance with the terms of his license. Ms. Kuchynka noted that she believed the change was to also allow alcohol sales at larger venues such as live performances. She noted concern with alcohol being available inside the theater, especially if a venue could potentially attract 1,000+ patrons. She stated that there was some fear of alcohol being shared with minors and that there would be no supervision in the theater to prevent that from happening.

Mr. Johnson reported that the Tivoli hosted 28 events in 2007. He stated that 22 events were the After Hours Film Society, which are pre-arranged, booked events. He stated that of the 6 remaining events, 3 of them were private. He informed the Commission when the District 58 Foundation holds their event, tickets are pre-sold. He noted that on occasion, the box office is open and a few people from the general public may attend these events and wanted to be sure that he complies with the terms of his license. He stated that they do not advertise these events, and that the box office is manned by District 58. He stated that they are not attempting to expand what they currently offer, but better define what is happening at the facility. He informed the Commission that they have hosted two book signing events geared to an adult audience with Anderson Books where they served liquor.

Ms. Kuchynka noted that the activities at Tivoli have evolved and staff will need to discuss the matter and determine if, in fact, they are complying with terms of their license. Mr. Johnson advised that all sales occur in the lobby, however, patrons are allowed to consume in the theater. He felt that the amendment would not meet his needs as he did not want to limit consumption to the lobby area. He stated that they have not had any problems and they have been responsible in the serving of liquor.

Mr. Johnson stated that he did not want to expand events further, but was seeking clarification as in some instances where the public can get tickets to the events. Ms. Kuchynka asked Mr. Johnson if he wished to

serve alcohol at events such as ballets. Mr. Johnson stated that they would not plan on serving alcohol at the Midwest Ballet as the event is geared toward a younger audience. Ms. Kuchynka stated that she would discuss the matter with the Mayor and Village Attorney for further direction on this matter.

Ms. Kuchynka asked Mr. Johnson if the After Film Society events were contracted theater rentals. Mr. Johnson replied yes, however, the general public is able to purchase tickets at the box office. He stated that most attendees are members and/or guests. Chairman McNerney stated that Mr. Johnson seems to be trying to rectify compliance issues. He was pleased that Mr. Johnson took the initiative to bring the issue forward for resolution. He felt that Mr. Johnson and staff need further discussion to clarify the scope of the ordinance and to draft appropriate language. Mr. Johnson agreed.

Ms. Kuchynka informed the group that Westbook Market, Ultra Foods and Sam's Wine & Spirits were re-tested with a Control Buy and advised that all passed.

Ms. Kuchynka stated that she provided a memo to the group from Lt. Budds concerning policing issues that the Commission has discussed. She stated that staff has discussed particular policing activities that will take place. She stated that the next cost center analysis will take into consideration the additional policing activities planned.

Ms. Strelau felt that it was wrong that the Police Department memo specifically addressed Stardust. She stated that many members agreed that the monitoring of Class E licenses was not solely about Stardust. Ms. Kuchynka stated that during the Stardust application, the Commission made a recommendation to the Police Department to confirm that prior to the issuance of the first E-5 license, advise that they could adequately police the establishment. Chairman McNerney stated that they are not singling out Stardust in particular. Ms. Kuchynka agreed and noted that she has internal correspondence from the Police Department which details specific policing activities that they plan to incorporate. Ms. Strelau preferred that the Police Department generally consider all Class E licenses, and not limit the memo to Stardust.

Mr. Cawthorne confirmed that the Commission made two motions at the meeting and one was tied to the issuance of the first E-5 license. Ms. Kuchynka stated that she could ask the Police Department to address the Class E licenses in general. Ms. Perez noted that the Police Department may have addressed the memo to Stardust in particular as they had the opportunity to review the minutes and have some idea of activities they plan and are better aware of the scope of that license.

Chairman McNerney stated that within the scope of the motion made at the last meeting, the memo addressed the fact that the Police Department is comfortable with their enforcement of the E-5 license. Ms. Kuchynka stated that she will also have them address the "E" classifications generally as they differ the most from the restaurant licenses.

Mr. Barnett felt that the memo addresses what Stardust is doing and does not touch on what is happening at North Beach. He noted that North Beach uses spotters and scantron devices but has a myriad of problems. He wondered how issues are going to be addressed, especially if control buys are done only at 4 in the afternoon and not at 10 pm when over service also becomes an issue. Ms. Kuchynka noted that concern was addressed in an interdepartmental correspondence along with other policing activities. Ms. Kuchynka noted that the Police Department, not the Liquor Commission is charged with setting police activities at licensed establishments. Mr. Barnett stated the Commission had discussed policing activity, but wondered why the actual activities are not disclosed. He noted that the Police Department is not going to announce when they are coming, but licensees should be aware of what is being done. He felt that it was ridiculous that policing activities are being kept secret.

NOTE:

Aye: Ms. Strelau, Ms. King, Mr. Adank, Mr. Clary, Mr. Krusenoski, Ms. Fregeau, Chairman McInerney

Nay: None

Abstain: None

MOTION CARRIED: 7:0:0

The motion carried.

Attorney Petrarca asked Chairman McInerney to provide Mr. Sweeney an opportunity to respond and provide additional comment.

Chairman McInerney asked North Beach representatives if they had any additional comments for the record.

Mr. Sweeney stated that he would provide the Commission with additional information as requested.

Ms. Strelau believed that they have good intentions, but good intentions are not enough. She would like further assurance that follow policy and are stringent with liquor service. She recommended additional training and programs because she wanted to be sure that they will follow through with their intentions.

Mr. Sweeney stated that if he knew about the situation, he would understand why the Commission recommended the suspension and penalty. He wondered what more could he do, especially as he was unaware of the situation and he had all the checks and balances in place. He thought that the incident was between Chris and the Village and that it would not have come this far.

Chairman McInerney noted that the Commissioner can revoke a license if a violation warrants it. He stated that the hearing was being conducted to understand what happened and make a determination about the incident. He noted that liquor service is a privilege, not a right. He reminded Mr. Sweeney, that whether he, or an employee working on behalf of the establishment has violated the ordinance, the licensee is still responsible for any violation of the Code.

Mr. Sweeney had nothing further.

Chairman McInerney concluded the disciplinary hearing portion of the evening's meeting.

VI. NEW BUSINESS

Chairman McInerney asked if there was any discussion, update from staff or comments from the Commission regarding any new business.

Ms. Kuchynka stated that Tivoli Enterprises d/b/a Tivoli Theatre was present to discuss a change in their theater license classification. She stated that Mr. Johnson had approached the Commission in the past requesting a change to their classification which would allow service of alcohol during events at the

theater that were open to the public. She asked that any representative(s) step forward, state their name and indicate their affiliation with the establishment for the record. Ms. Linda Smith introduced herself as the general manager for the Tivoli Theater. Mr. Willis Johnson introduced as the president and owner of Tivoli Theater. Shirley Johnson introduced herself as part owner of the Tivoli Theater.

Mr. Johnson distributed background information and materials to the Commission for their review. He stated that new opportunities have presented themselves at the theater. He stated that they installed digital projection and have alternative programming available, such as concerts and operas.

Mr. Johnson originally contacted Ms. Kuchynka for clarification if certain events were allowed under the theater license classification. He noted, with the exception of a few times, they had been in compliance with the theater license classification. He was notified by the Village that they were not in compliance and could not have liquor at certain events. He stated that the license is still in place, however, they have ceased liquor sales since July, 2008 when notified of non-compliance.

Mr. Johnson stated that they are trying to make the Tivoli Theatre more than a movie theater. He stated that there has been some talk of Downers Grove having a performing arts center and noted that the closest thing to a performing arts center is the Tivoli Theatre. He stated that they have been good corporate stewards. He stated that they are trying to add amenities to improve the facility, which is what they are trying to do with the liquor service in conjunction with events.

Mr. Johnson did not expect an immediate decision. He provided the binder of materials for the Commission to read over and review. He stated that the binder contained a recap of the company; their proposed changes to the license classification; information on the life-long resident principles of the company; information on certified management; and a current copy of the liquor handling manual.

Mr. Johnson stated that they hold two liquor licenses from the Village, which include the Tivoli Theater and Tivoli Bowl. He stated that they also held a packaged liquor license for Fairview Liquors. He admitted that their record was not perfect and there were a few violations on record. He stated that they take liquor service very seriously.

Mr. Johnson stated that they are required to submit a report which contains all events and indicate at which events liquor was served. He stated that Shirley books all events and is responsible for contracts. He provided reports since 2002 and noted that events where liquor was served was indicated in bold-face type.

Mr. Johnson stated that the binder also contained information on what is available renters of the facility.

Mr. Johnson stated that Linda Smith is responsible for the operation of events and liquor serving at the theater.

Mr. Johnson stated that when the license was granted, it was primarily for the After Hours Film Society events. He stated that the After Hours serves mostly members but noted the event is open to non-members as well. He stated on the night of each event, everyone buys a ticket at the theater. He noted that 90% of the events held at the Tivoli are After Hours.

Mr. Johnson referred to the recap sheet for After Hours which lists the films played, the number of members, students and non-members in attendance, box office, concession and liquor sales. He stated

that liquor sales are an important amenity, but a relatively minor part (25%) of their overall concession sales. Mr. Johnson stated that most are regulars and only get one drink through the night.

Mr. Johnson stated that the only true private events are the Amy Granado's Sabre Hockey program, Anderson's Book signing, the Abercrombie & Kent travel group Christmas party and the Baird & Warner Customer Appreciation Night.

Mr. Johnson stated that District #58 holds an annual event where tickets are sold through the box office.

Mr. Johnson asked if any members have gone to an After Hours or attended any other events. He wondered if they had any issues with regard to the handling of liquor at the Tivoli.

Mr. Johnson stated that the last proposed change presented to the Commission was not acceptable to them. He would like to be able to allow patrons to go to the bar, get a drink and sit down in the auditorium. He stated that people do not come to the Tivoli to drink, they come for the event.

Mr. Johnson stated that most staff is under 19, but these employees have nothing to do with handling or serving liquor. He stated that they act as ushers and monitor the theater during shows.

Mr. Johnson requested that the phrase "private" be taken out of the Contracted Theater Rental definition in Section 3.3 of the draft ordinance. He stated that he would like liquor service where people come not only by invitation, but can purchase box office tickets. He noted that the West Town Chorus and the Grove Foundation are examples of box office events where the public can attend. He stated that there will be some private events.

Mr. Johnson stated that the proposed changes overall were not a particularly problematic, with the exception that all liquor service and consumption was to take place in the lobby. He noted that he would not want to limit consumption to the lobby area.

Mr. Johnson stated that the theater seats up to 1,000. He stated that the portable bars and restrooms are located in the lobby and there is no practical way that they can limit consumption within the lobby area. He stated that patrons do not come to the Tivoli to stand in the lobby to drink, they consume their beverages while shows occur.

Mr. Johnson advised that his manager, Linda Smith, is available to answer any question Commission members may have regarding day-to-day operations and he would also be happy to answer any further questions.

Chairman McInerney asked Ms. Kuchynka to comment. Ms. Kuchynka provided background information for new members. She stated that at the time the license was created it was implied that the theater rentals were going to be private functions. She recalled that Mr. Johnson mentioned renting the facility out for weddings, banquets, After Hours Film Society film viewing and reunions. She stated there is limited food service, consisting of popcorn and like snacks and noted that food service is required when liquor service exceeds two consecutive hours. She stated that theater activities have evolved over the years and, in some instances, have become open to the general public where box office tickets are sold. She stated that the events were meant to be private, which gave rise to the fact that box office sales were not in compliance with the terms of the license. She noted that Mr. Johnson is proposing to add events, also public in nature, which would require an ordinance change.

Ms. Kuchynka noted staff's concern with the original draft. She stated that there was concern about opening events up to the general public. She noted that the facility has a capacity of 1,012 and their ability to monitor and control a crowd of that size was questionable. She also noted staff's concern with the ability of adults sharing drinks with minors in a darkened theater.

Ms. Kuchynka stated that truly private events are governed differently than events open to the general public under State law. She added that it is assumed that the individual renting the facility personally knows the guests invited to the event.

Ms. Kuchynka stated staff recommended that liquor service and consumption in the lobby for events open to the general public, with consumption allowed in the theater only during private contracted theater rentals. She asked that the Commission discuss the matter.

Ms. Kuchynka noted the history and concerns the Commission has had with monitoring issues. She would like the Commission to address any issues they have with monitoring. She stated that the group could get general information this evening and return next month with revisions to the ordinance as they see fit.

Mr. Johnson stated that the events held have been contracted theater rentals with written contracts. He stated that the After Hours Film Society is run by Debbie Benizi who hosts the event. He believed that issues arose when he proposed having service at operas and other box office events where tickets can be purchased by the public.

Chairman McNerney noted that it would be good for the Commission members to ask questions and have discussion and take the matter up again as a future agenda item.

Chairman McNerney stated that he has been to a few of the Tivoli events and had not seen anything disturbing. He wanted to make sure that the conduct of the Tivoli is in compliance with the ordinance. He was certain that the group could come up with a reasonable proposal that will suit everyone's needs and address Village concerns for responsible liquor service.

Ms. Strelau stated that she also has been to the Tivoli and also did not see anything inappropriate. She felt there was a way for this to work out to everyone's satisfaction, but it may take some time to discuss. She stated that she is concerned with under 21 guests sharing liquor in the theater and monitoring. She felt that it is good for businesses wanting to expand, but the Village is challenged to find means to monitor new activities.

Ms. Strelau asked how much tickets are for the After Hours Film Society. Ms. Smith replied \$5 for members and \$9 for non-members. Ms. Strelau reviewed the recap provided by the Tivoli on these event. She questioned why "students" are listed. Ms. Smith replied that C.O.D. has an arts program, where college students come to the theater as part of their curriculum.

Mr. Johnson noted that most performances are not live, but come to them on a compact disk or hard drive. Ms. Strelau asked if the charge is \$20. Mr. Johnson replied yes. She was comfortable with the opera, when the ticket is \$20 and was confident that the crowd will not be under 21. She was concerned about the After Hours where they would be more likely to run into a large group that is under 21. She noted concern with their ability to monitor them.

Ms. Strelau asked about the liquor service. She understood that patrons could get a drink and then be seated in the theater. She wondered if patrons have the ability to get up after the production is started in order to get another drink. Mr. Johnson replied that once the performance starts, the bar closes. He noted that they do not sell multiple drinks at one time.

Ms. Smith stated that there are not many liquor sales during the After Hours event. She noted that they open the bar 1 hour before the movie starts. She notices if someone returns more than one time and she pays attention to how much they are consuming.

Ms. Strelau reviewed the recap and noted that one event had 600 attendees. She imagined when the crowds are smaller, it is easier for them to pay attention to the number of times a person comes up. She was concerned if they had the same ability to monitor patrons if the crowd is larger. Mr. Johnson agreed that it is not going to be as easy to monitor 1,000 people as it is to monitor 400.

Mr. Johnson advised that the average price for beer and mixed cocktails is \$5.00. He stated that in the course of an hour, it can be seen that there are not a lot of sales.

Ms. Smith added that two managers are present during After Hours. She stated that she manned the bar and another manager monitors by walking the floor.

Ms. Strelau asked, according to their documents, they have had a low of 100 people and a high of 607. She wondered how they would staff events that fluctuate. Ms. Smith stated that the After Hours are manageable. She added that ushers make a presence in the theater. She stated that during larger events, a permanent usher is in the theater. Mr. Johnson replied that they staff heavy and if the crowd is not as large, they let the employees go home. He stated that they have 3 managers on duty for very heavy crowds. He noted that they can also bring in employees from the bowling alley. He noted that they have a pretty good idea about event attendance and can usually anticipate the size of the crowd.

Ms. Strelau felt that the Village could accommodate the Tivoli's request.

Mr. Krusenoski stated that he has personal experience at Tivoli events. He agreed with Ms. Smith's statement about After Hours events and never has seen any issues. He had been at other Chicagoland venues where he was not restricted the lobby area to drink. He could see from the records that liquor consumption was not a big revenue generator. He noted that the District 58 fundraiser is very crowded. He was not opposed to allowing consumption in the theater area.

Ms. Fregeau stated that she has had personal experience at the Tivoli Theater and noted that the events have been handled well. She stated that she would like to have more time to review the items and background materials provided.

Ms. Fregeau asked how many BASSETT certified employees they have. Mr. Johnson replied three. She had some concern that when the events draw larger crowds, trained staff will need to be increased and must be available to monitor the theater. She wondered how they would adjust to accommodate the need. Mr. Johnson replied that the District 58 event was a full house. He stated that they brought in people from the bowling alley and noted that 6 or 8 of them are BASSETT trained. He noted that there could be up to 15 employees circulating before and during the shows. He noted that they will use 21 year old servers.

Mr. Johnson informed the Commission that they hold regular staff meetings monthly and they are reminded to be diligent regarding liquor service.

Ms. Fregeau asked how long they plan liquor service or if they plan to limit it to prior, during intermission or after events. Mr. Johnson replied that some events have a short intermission. He stated that for After Hours, there is a break between the movie and discussion where the bar is open. He stated that it would also depend on the discretion of the renter and they would try to accommodate individual requests.

Ms. Fregeau asked how alcohol service is provided at the Oak Brook Theater. Ms. Kuchynka replied that Oak Brook and Woodridge theaters have full dining where patrons are served food and alcohol by servers. She presumed that there would not be any food available at the Tivoli with the exception of snacks and popcorn. Mr. Johnson stated they would not have servers take food in, but noted that they do have a concession stand. He noted that it is open at all times and snacks are always available.

Ms. Petrarca asked if the bar closes during the movie at After Hours. Mr. Johnson replied yes. Ms. Smith confirmed that patrons cannot get another drink once the movie starts, the bar is then closed, then re-opened just before discussion starts.

Ms. Fregeau hoped that the Village can accommodate the Tivoli request. She felt that the ratio of concessions to liquor sales are in common elsewhere when comparing liquor to food service.

Ms. Kuchynka asked Tivoli representatives if they objected to liquor service being available for a limited amount of time or if they wanted the bar open during an entire production. Mr. Johnson replied that the only event where the bar is open during the entire function is the District 58 fundraiser and did not believe that there was ever an occasion where the bar was open for more than 2 continuous hours.

Chairman McInerney felt limiting the service times may be a solution to some issues. He felt that they have been responsible, but including time elements into the ordinance would address concerns the Commission has about service.

Ms. Fregeau appreciated the fact that the Tivoli only serves one drink per person. Ms. Kuchynka clarified that the one drink rule is a State law. She noted that it is the most violated liquor law. She noted this was implemented to avoid bars allowing a happy hour and prevents adults sharing drinks with a minor. She noted that the server must see who they deliver drinks to.

Mr. Adank felt that this is a terrific business and the Village should try to make this work. Mr. Clary agreed.

Ms. King thanked the Tivoli for bringing the materials. She felt that the items were clear and concise. She thought liquor service made sense for the business and felt the Village could accommodate.

Chairman McInerney asked if the ordinance would still be in line if hours were adjusted and they were able to sell during certain times of a performance. Mr. Johnson replied yes. Chairman McInerney felt that they could work appropriate regulations for service as well. He realized that liquor service is minimal. He understood physical parameters if liquor was limited to the lobby area. He hoped that staff could draft alternative language and include time elements.

Mr. Johnson asked if they can have exceptions from time limitations in certain instances. Ms. Petrarca noted that the ordinance provides for an extension of liquor serving hours up to eight times per year and an extension could be requested. Mr. Johnson was fine with that.

Ms. Kuchynka felt that staff could eliminate some concerns if time parameters were added and felt that they could draft an acceptable ordinance for all parties involved. She stated that she would amend the ordinance and forward it to Mr. Johnson to be certain it will meet his needs.

Chairman McInerney asked that the item be placed on a future meeting agenda for discussion and vote. He asked Mr. Johnson if there was a time frame he needed for resolution of the matter. Mr. Johnson noted that they would love to see the liquor service available soon. He stated that the Grove Foundation event which is coming up in March. Mr. Johnson was aware that they have the ability to apply for a special event liquor license, but would prefer the ordinance amended by that time.

The Commission took a 5-minute break.

Ms. Kuchynka included a request in the Commission packet for an amendment to Sunday liquor sales for off-premise consumption license holders. She stated that Jewel-Osco has made a request for liquor serving hours to commence at 10 AM in lieu of 12 noon. She provided a chart of Sunday selling hours of surrounding communities. She left an updated list of those communities who have since changed their ordinance to accommodate Jewel-Osco's request. She stated that licensees have advised that neighboring communities are selling alcohol before noon on Sundays and it has affected their business and has decreased Downers Grove sales tax revenue. She stated that the 12 noon selling hours have been on the books for years and are commonly referred to as "blue laws". She stated that religious institutions did not want to allow liquor sales on Sunday and she believed that these hour restrictions are now considered obsolete. She noted that Darien, Woodridge and Lisle have all amended their hours within the past few months. She stated that Naperville's change is pending. She asked that the Commission provide their comments in support or non-support of the change.

Ms. Petrarca stated that, although the request was to change the hours to 10 AM, she would recommend that the Village consider changing Sunday hours to 9 AM in order to remain competitive with surrounding communities.

Ms. Kuchynka noted that licensees may request an extension in liquor serving hours up to eight times per year. She stated that Osco and Trader Joe's frequently request extensions for Mother's Day, Father's Day and during the month of December to accommodate holiday shoppers. She stated that this will alleviate extension request paperwork and keep Downers Grove competitive with surrounding communities that offer packaged sales earlier on Sundays.

Chairman McInerney recalled this topic being discussed in the past and it made sense to revisit the topic. He supported the change for off-premise licensees to keep competitive with neighboring communities and to generate additional sales tax revenue. He did not believe there was an issue with these licensees or negative impacts on the community for early sales.

Ms. King felt that it was an antiquated law. She had no problem with changing selling hours to 9AM and felt it would help businesses keep competitive.

Ms. Strelau cautioned Mr. Johnson to monitor drinking in the theater. She hoped that the amendment would help the business, but cautioned them to be sure to follow the ordinance guidelines. She thanked Mr. Johnson for his patience.

Ms. King asked for clarification about theater/box office events and asked for an explanation. Ms. Kuchynka replied that box office events are events open to the general public where patrons can purchase ticket from the box office, but are not for regularly scheduled movies. Mr. Johnson noted that After Hours Film Society would fall into this category. He noted that the weekly movies published in the paper are not included. He also mentioned the Grove Foundation fundraiser where the box office will be open so patrons could buy a ticket on the night of the event. He stated that the ordinance change would put them in compliance with the terms of the license.

There being no further questions, Chairman McInerney asked for a motion from the Commission concerning the ordinance amendment.

MS. KING MOVED TO FORWARD THE THEATER LICENSE CLASSIFICATION AMENDMENT TO THE VILLAGE COUNCIL FOR CONSIDERATION. MS. FREGEAU SECONDED.

VOTE: **Aye:** Ms. King, Ms. Fregeau, Mr. Adank, Mr. Krusenoski, Mr. Clary, Ms. Strelau, Chairman McInerney

Nay: None

Abstain: None

MOTION CARRIED: 7:0:0

The Motion carried.

Ms. Kuchynka hoped to get the item to the Village Council for their workshop agenda of February 24 and would provide the Commission with documentation.

patrons to share drinks. He cautioned them and hoped that they understood that having the license is a privilege and not a right.

Hearing the testimony given in this case, Chairman McInerney asked for a recommendation from the Commission concerning its finding of "qualified" or "not qualified" with respect to the applicant with regard to their Class "O", full alcohol, on-premise outdoor liquor license application.

MS. KING MOVED TO FIND ALEXANDER BRADLEY BURNS POST #80 D/B/A AMERICAN LEGION POST #80 LOCATED AT 4000 SARATOGA, QUALIFIED FOR A CLASS "O" OUTDOOR, ON-PREMISE CONSUMPTION LIQUOR LICENSE. MR. ADANK SECONDED.

VOTE: **Aye:** Ms. King, Mr. Adank, Mr. Krusenoski, Mr. Clary, Ms. Fregeau, Ms. Strelau, Chairman McInerney

Nay: None

Abstain: None

MOTION CARRIED: 7:0:0

The Motion carried.

~~Chairman McInerney concluded the application hearing portion of the evening's meeting.~~

VI. OLD BUSINESS

Chairman McInerney asked if there was any discussion, update from staff or comments from the Commission regarding any old business.

Ms. Kuchynka stated that representatives from Tivoli Enterprises d/b/a Tivoli Theatre were present concerning an amendment to the theater liquor license classification. She stated that the draft ordinance was further amended to meet the Tivoli Theatre needs based upon last month's discussion. She stated that liquor service will not be allowed at regularly scheduled movies. She added that liquor service will be allowed at special functions which are open to the general public. She stated that liquor may be taken throughout the facility. She asked the Commission to provide any further comments.

Ms. Strelau asked Mr. Johnson if the draft ordinance meets his needs. Mr. Johnson replied yes. Ms. Strelau asked if they anticipate having any trouble being in compliance with the ordinance. Mr. Johnson replied no and noted that the ordinance changes address all of their concerns.

Ms. Strelau confirmed with staff that patrons will be allowed to bring drinks into the theater. Ms. Kuchynka replied yes. She stated that liquor service will be limited to one hour prior to an event, during intermission (not exceeding two hours) and one hour after an event. She noted that these provisions are in accordance with what Mr. Johnson had done in the past with events. She stated that the Tivoli may request an extension of liquor serving hours for the Grove Foundation and District 58 fundraisers.