

VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL WORKSHOP
APRIL 27, 2009 AGENDA

SUBJECT:	TYPE:	SUBMITTED BY:
Ordinance Amendments: Liquor Provisions - Fees	Resolution ✓ Ordinance Motion Discussion Only	Enza I. Petrarca Village Attorney

SYNOPSIS

An ordinance has been prepared amending the annual liquor license fees and fines for violations of the liquor ordinance.

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 May 5, 2009 active agenda.

BACKGROUND

A cost center analysis was completed in 2009 which supports proposed increases for annual fees and fines throughout the attached draft ordinance. All liquor license administration cost centers have been reviewed and updated with current salary/benefit information. This document has been used as a reference to justify those fees charged for what it costs the Village to administer Alcohol Awareness Programs.

The last cost center analysis was completed in 2006. On average, salary figures have increased 11% over the course of three years, which justifies overall changes in annual fees. The Liquor Commission recommended additional monitoring of the entertainment and hotel licensees. Staff has discussed additional monitoring activities with the Police Department and has significantly increased fees in these license categories to cover additional monitoring costs.

The Liquor Commission is also recommending that the fines for selling alcohol to a minor when an Under 21 identification is shown be increased from \$250 to \$500. Currently the ordinance imposes a \$250 fine if alcohol is sold to a minor regardless of whether an Under 21 identification is shown. Staff concurs in this recommendation and recommends approval.

Finally, the Liquor Commission recommended the doubling of the annual liquor license fee in the event that a licensee is found guilty of a violation of the liquor ordinance within the twelve months prior to their renewal. Staff has some concern with this with this proposed amendment. The proposed amendment removes the discretion vested with the Liquor Commissioner by disguising fines as increased renewal fees and removes the Liquor Commissioner's ability to impose a penalty on a case-by-case basis.

The Liquor Commission discussed this matter at their meeting of April 16, 2009 and unanimously recommended that the ordinance be forwarded to the Council for their consideration and approval.

ATTACHMENTS

An Ordinance Amending Liquor License Fees

Liquor Commission Minutes

Liquor Fees

ORDINANCE NO. _____

AN ORDINANCE AMENDING LIQUOR LICENSE FEES

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 1.16 is hereby amended to read as follows:

1.16 Citation and settlement in lieu of prosecution for certain offenses.

(a) Whenever a person is observed violating certain provisions of this code as specified in this section, or there is reasonable suspicion to believe that such a violation has occurred and that a particular person is responsible, the Village may, in lieu of filing a complaint in court, issue to the alleged violator a citation which shall:

- (1) Advise said person that the same has violated a specified ordinance;
- (2) Direct said person to make payment in an amount applicable to said alleged violation as set forth in this section as settlement of said claim;
- (3) Advise said person, where applicable, to cease and/or abate said violation forthwith and to refrain from like violations in the future;
- (4) Inform said person that, upon failure to so settle the claim and to cease and/or abate said violations, a complaint will be filed in the Circuit Court of DuPage County.

(b) Except as provided below, citations as provided herein shall be personally served upon the person responsible for the violation, his agent, representative, independent contractor or employee. In the event the owner, occupant, contractor or other person responsible for the violation cannot be located the citation may be served by posting a copy at the property, structure or vehicle where the violation has occurred and sending a copy by United States mail to the last known address of such person.

(c) Any person served with a citation for violations of the following provisions of the Downers Grove Municipal Code and the Comprehensive Zoning Ordinance of the Village of Downers Grove may settle and compromise the matter in respect of such ordinance violation by ceasing and/or abating said violation and paying the sum of ten dollars (\$10.00) if paid within ten (10) days of service of the citation, or twenty-five (\$25.00) dollars if paid after such ten (10) day period but before filing of a complaint in the Circuit Court of DuPage County.

1. DOWNERS GROVE MUNICIPAL CODE

- (i) Section 5-12; Dog, Horse or Pony Running at Large.
- (ii) Section 5-12.1; Disposal of Dog Excrement.
- (iii) Section 13-43; Storage of Refuse.
- (iv) Section 13-49.1; Placing Garbage on the Parkway for Scavenger Removal.

2. COMPREHENSIVE ZONING ORDINANCE

- (i) Section 28-1404; Regulating Off-Street Parking.

(d) Any person served with a citation for violations of the following provisions of the Downers Grove Municipal Code, and such other Codes adopted therein, may settle and compromise the matter in respect of such ordinance violation by ceasing and/or abating said violation and paying the sum of twenty-five dollars (\$25.00) if paid within ten (10) days of service of the citation, or fifty dollars (\$50.00) if paid after such ten (10) day period but before filing of a complaint in the Circuit Court of DuPage County.

1. DOWNERS GROVE MUNICIPAL CODE

- (i) Section 25-11; Use of Public Hydrants.
- (ii) Section 15-8; Drinking in Public.

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License.

- (iii) Section 8-99(a)(7); Requirements for Display of Massage Establishment
- (iv) Section 14-74; Pedestrian's Duties at Railroad Grade Crossings.
- (v) Section 15-5.1; Noise Regulations.
- (vi) Section 19-21.1; Depositing Snow on Paved Streets.
- (vii) Section 13-49.2; Discarding Refuse and Compostable Materials in Streets, etc., prohibited.

2. NATIONAL FIRE PROTECTION ASSOCIATION LIFE SAFETY CODE (As adopted in Section 7-29)

- (i) Section 1-3.13.1; Building Equipment Maintenance.
- (ii) Section 1-3.13.2; Building Fire Equipment and Systems Maintained in Proper Operating Condition.

3. BUILDING OFFICIALS & CODE ADMINISTRATOR NATIONAL FIRE PREVENTION CODE (As adopted in Section 17-43)

- (i) Section F-310.4; Multi-Plug Adaptors.
- (ii) Section F-310.5; Extension Cords.
- (iii) Section F-518; Portable Fire Extinguishers.

4. COMPREHENSIVE ZONING ORDINANCE

- (i) Section 28-1408; Parking of Recreational Vehicles and Recreation Equipment in Residence District.

(e) Any person served with a citation for violations of the following provisions of the Downers Grove Municipal Code, may settle and compromise the matter in respect of such ordinance violation by ceasing and/or abating said violation and paying the sum of fifty dollars (\$50.00) if paid within ten (10) days of service of the citation, or one hundred dollars (\$100.00) if paid after such ten (10) day period but before filing of a complaint in the Circuit Court of DuPage County.

1. DOWNERS GROVE MUNICIPAL CODE

- (i) Section 13-35; Open Burning Prohibited.
- (ii) Section 15.23; Truancy
- (iii) Section 15-28.3; Possession of Telecommunications Devices on Public School Property Prohibited.

- (iv) Section 17-45; Parking in Fire Lane.

- (v) Section 25-5; Regulations for Water Conservation.

2. DOWNERS GROVE PARK DISTRICT GENERAL USE ORDINANCE (pursuant to an intergovernmental agreement with the Downers Grove Park District)

(f) Any person served with a citation for violations of the following provisions of the Downers Grove Municipal Code, may settle and compromise the matter in respect of such ordinance violation by ceasing and/or abating said violation and paying the sum of seventy-five dollars (\$75.00) if paid within ten (10) days of service of the citation, or one hundred and fifty dollars (\$150.00) if paid after such ten (10) day period but before filing of a complaint in the Circuit Court of DuPage County.

1. DOWNERS GROVE MUNICIPAL CODE

- (i) Section 15-23.1; Possession of Tobacco Products by Minors.
- (ii) Any provision of Chapter 6, Bicycles.
- (iii) Section 19-15.1; Skateboarding, Roller Skating or In-Line Skating in a Business District.

- (iv) Section 28-1501.04(8) Real Estate Signs.

- (v) Section 28-1501.04(10) Garage/Rummage Sale Signs.

2. NATIONAL FIRE PROTECTION ASSOCIATION LIFE SAFETY CODE (As adopted in Section 7-29)

- (i) Section 2-4; Obstructing Building Exits.

(g) Any person served with a citation for violations of the following provisions of the Downers

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Grove Municipal Code, may settle and compromise the matter in respect of such ordinance violation by ceasing and/or abating said violation and paying the sum of one hundred dollars (\$100.00) if paid within ten (10) days of service of the citation, or two hundred fifty dollars (\$250.00) if paid after such ten (10) day period but before filing of a complaint in the Circuit Court of DuPage County.

1. DOWNERS GROVE MUNICIPAL CODE

(i) Section 13.38; A person who smokes in an area where smoking is prohibited under the Smoke Free Illinois Act.

(ii) Section 15-20(b); Sale of Tobacco to a Minor.

(h) Any person served with a citation for violations of the following provisions of the Downers Grove Municipal Code, may settle and compromise the matter in respect of such ordinance violation by ceasing and/or abating said violation and paying the sum of two hundred fifty dollars (\$250.00) if paid within ten (10) days of service of the citation, or five hundred dollars (\$500.00) if paid after such ten (10) day period but before filing of a complaint in the Circuit Court of DuPage County.

1. DOWNERS GROVE MUNICIPAL CODE

(i) Section 3-25; Sale of Liquor to Certain Persons Prohibited.

(ii) Section 7-11.1 (a), (d), (e), (f) (g), (i), (k), (o), (p); Demolition/Construction Site Management.

(i) Any person served with a citation for violations of the following provisions of the Downers Grove Municipal Code, may settle and compromise the matter in respect of such ordinance violation by ceasing and/or abating said violation and paying the sum of five hundred dollars (\$500.00) if paid within ten (10) days of service of the citation, or five hundred dollars (\$1,000.00) if paid after such ten (10) day period but before filing of a complaint in the Circuit Court of DuPage County.

1. DOWNERS GROVE MUNICIPAL CODE

(i) Section 3-25; Sale of Liquor to Certain Persons Prohibited - if Red Under 21 Identification Shown.

(~~j~~) Payment of the citation shall be made at the window at Village Hall, or by depositing payment in the Village drop box or United States mail.

(~~k~~) In the event that payment is not made within the time prescribed and a complaint has been filed in the Circuit Court of DuPage County, any person convicted of violating any of the provisions of this code shall be punished by a fine as determined under Section 1-15(a).

(~~l~~) The issuance of a citation under this section shall not be deemed a waiver of the power of the Village of Downers Grove to suspend, revoke or refuse to renew any license or permit for cause.

(~~m~~) The following Village personnel shall have the authority to issue citations under this section: police officers, fire department inspectors, community development officers, and such other persons as designated by the Village Manager; provided that fire department inspectors shall only write citations for violations of the Life Safety or BOCA Fire Prevention Code, and that the Village Manager, by administrative regulation, may limit the jurisdictional powers of other persons he designates as authorized to issue citations. (Ord. No. 2261, § 4)

Section 2. That Section 3.9. is hereby amended to read as follows:

3.9. Application.

(a) *Letter of request.* Any person who wishes to apply for a license required by Section 3-8 shall submit to the Local Liquor Commissioner a letter of request containing information related to the identity, current and past business experience (including, but not limited to, handling of liquor) of the prospective applicant; the class of license desired; the location and nature of the business proposed; and any additional information relevant to his/her qualifications for a retail liquor dealer's license. Upon such written request, the prospective applicant shall be provided with information concerning the availability of licenses of the requested classification and the application procedure.

(b) *Availability of license.* If no license of the requested classification is available at the time a

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written request is received, the name of the person shall be placed on a list of persons interested in a license of such classification. Any person placed on such list shall be obligated to inform the Village Manager in writing on or before December 31 of each year of a desire to remain on such list for the next year. Failure to do so will result in removal of such person's name from the list. Persons whose names appear on such list at the time a license of the requested classification becomes available shall be so informed, and may then, at their option, proceed to apply for a liquor license.

(c) *Application for license.* Following the initial letter of request, and the Village's response to it, a person wishing to file an application for a license may obtain from the Village an application form as prescribed by the Village Manager for the purpose of providing reasonable information respecting the applicant. Such application shall be filed with the Local Liquor Commissioner and shall include:

(1) A manual outlining the applicant's program for training its employees to properly handle the sale of alcoholic liquor;

(2) A floor plan:

(a) for any premises to be licensed for sale of alcoholic liquor for off premise consumption drawn to scale, with sufficient detail to depict design features and depicting the total square footage of the establishment and the retail square footage area devoted to products sold from the premises.

(b) for any premises to be licensed for sale of alcoholic liquor for on-premise consumption, drawn to scale, with sufficient detail to depict the number and location of dining tables and booths, the location of any bar(s), if applicable, the establishment design features, including but not limited to, entrances/exits and hostess areas. This plan should also include the maximum occupancy of the establishment.

(3) A valid lease in the name of the licensee which authorizes the sale, service and/or delivery of alcoholic beverages in effect for the entire license period. Such lease shall include terms of the lease as well as a contact person as agent of the property.

(4) Menu depicting all types of food and beverage items available to its patrons. A full restaurant menu or a reduced restaurant menu shall also be required should licensees choose to remain open after 10:00 p.m. Sunday through Thursday or 11:00 p.m. on Friday or Saturday.

(5) Restaurant Operation Plan describing the planned operations for the restaurant which shall include, but is not limited to, a description of the customer facilities such as seating areas, displays, service areas, access and egress and similar facilities.

(6) Hours of operation. A list of the hours of operation for the establishment.

(7) Certificate of Occupancy verifying that the applicant has met all Building, Fire, Zoning and Health Department requirements of the Village.

(8) The expected date of occupancy, which shall not exceed nine months from the date such application is filed;

(9) Certification that dram shop insurance is or will be in force covering the applicant and the premises which are to be operated under the license in an amount sufficient to satisfy statutory limits. The applicant shall attach to the application a copy of the policy for dram shop insurance coverage, which policy shall contain at a minimum the following information: insurer's name, agent's name, date of expiration of policy, type and amount of coverage, and a provision that the insurance company shall give the Village at least thirty (30) days notice prior to any cancellation or termination of the policy; and

(10) The name, home address, driver's license number, and past employment experience for the person to be designated as the Liquor Manager of the establishment. Also, certification that the Liquor Manager is employed on the premises of the establishment at least thirty-five (35) hours per week.

(11) Declaration page including the corporate name, business name and address along with information concerning the type of business activity or retail sales primarily engaged in.

(d) *Application for classification change.* A licensee wishing to file an application for a change of liquor license classification shall submit an application to the Village on forms as prescribed by the Village Manager. Such application shall be filed with the Local Liquor Commissioner and shall include those items

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listed in Section 3-9(c).

(e) *Application fee.* Except as otherwise provided herein, a non-refundable application fee of one thousand ~~two hundred fifty~~ four hundred dollars (~~\$1,250.00~~ \$1,400.00) shall be required with the filing of any application. Where the Local Liquor Commissioner in his/her sole discretion determines, based upon the nature and complexity of the application, that the administrative functions were de minimis, a full refund may be granted. Where the Local Liquor Commissioner determines that the administrative functions were not de minimis, a partial refund of one-half of the application fee may be granted. The application fee may be reduced or waived if the Local Liquor Commissioner:

(1) grants a liquor license without referring the application to the Local Liquor Commission or the Plan Commission; (2) grants a liquor license without requiring a full investigation; or, (3) grants a liquor license while referring the application to the Local Liquor Commission for change of liquor license classification.

In the event that the applicant is seeking a license for outdoor liquor sales, a non-refundable application fee shall be required with the filing of any application. The fee for such application shall be ~~five hundred sixty five~~ six hundred fifteen dollars (~~\$565.00~~ \$615.00). Provided, in the event the outdoor seating area application is filed and processed in conjunction with an application for issuance of a liquor license under this Section, the outdoor seating area application fee shall be ~~two hundred eighty five~~ three hundred ten dollars (~~\$285.00~~ \$310.00). (Ord. No. 244, § 3; Ord. No. 1741, § 10; Ord. No. 1749, § 2; Ord. No. 2388, § 5; Ord. No. 2450, § 3; Ord. No. 2541, § 4; Ord. No. 2735, § 1; Ord. No. 2847, § 2; Ord. No. 3064, § 1; Ord. No. 3182, § 2; Ord. No. 3343, § 1.)

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:

License	Annual Fee
"B-1" (Brew Pub)	\$2,925.00 <u>3,240.00</u>
"C-1" (Club, private)	\$ 670.00 <u>770.00</u>
"E-1" (Theater)	\$1,105.00 <u>1,700.00</u>
"E-2" (Comedy Club)	\$1,055.00 <u>1700.00</u>
"E-3-A" (Golf Course)	\$1,725.00 <u>1,860.00</u>
"E-3-B" (Recreational Facility - beer/wine)	\$1,610.00 <u>2,300.00</u>
"E-3-C" (Recreational Facility - full)	\$2,985.00 <u>3,670.00</u>
"E-4" (Cultural/Performing Arts Facility - beer/wine)	\$1,610.00 <u>1,930.00</u>
<u>"E-3-D" (Billiard Hall - full) PENDING</u>	<u>\$3,670.00</u>
"E-5" (Entertainment/Restaurant Facility - full)	\$2,985.00 <u>3,670.00</u>
"H-1" (Hotel)	\$2,985.00 <u>4,050.00</u>
"K-1" (Catering - full)	\$ 805.00 <u>950.00</u>
"K-2" (Catering - Park District - beer/wine)	\$ 955.00 <u>1,090.00</u>
"O-1" (Outdoor)	\$ 260.00 <u>270.00</u>
"P-1" (Packaged - full)	\$1,850.00 <u>2,070.00</u>
"P-2" (Packaged - beer/wine)	\$1,160.00 <u>1,300.00</u>
"P-3" (Packaged - wine shop)	\$1,160.00 <u>1,240.00</u>
"R-1" (Restaurant - full)	\$2,870.00 <u>3,100.00</u>
"R-2" (Restaurant - beer/wine)	\$1,550.00 <u>1,750.00</u>
"S-1" (Special Event)	\$ 375.00 <u>420.00</u>

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"S-2" (Special Event)	\$ 90.00 <u>95.00</u>
"W-1" (Wine Boutique)	\$1,310.00 <u>1,555.00</u>

(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. 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 Section 3.31. is hereby amended to read as follows:

3.31. Hours of business.

(a) It shall be unlawful for any on-premise liquor license holder to deliver, sell or offer for sale, any alcoholic liquor in the Village between the hours of 1:00 A.M. and 8:00 A.M. or between the hours of 2:00 A.M. and 12:00 Noon on any Sunday.

(b) It shall be unlawful for any off-premise liquor license holder to sell or offer for sale, at retail, any alcoholic liquor in the Village between the hours of 1:00 A.M. and 8:00 A.M. or between the hours of 2:00 A.M. and 9:00 A.M. on any Sunday.

(c) Hours during which sale is lawful may be extended by written order of the Local Liquor Commissioner for periods not to exceed three hours upon written application by the licensee stating the reasons for the requested extension and the date or dates for which the extension is sought. The request shall be forwarded to the Village in writing no later than two (2) weeks prior to the date the extension is requested or the request shall automatically be denied. No licensee shall be granted such extension for more than eight dates in any one calendar year, provided a fee in the amount of ~~fifty-five dollars \$50.00~~(\$55.00) shall be submitted for each day of requested extension.

(d) It shall be unlawful to keep open for business or to admit prospective customers to any premises having a Class "P" packaged liquor license during the hours within which the sale of alcoholic liquor is prohibited; provided, that in the case of:

(1) A Class "P" packaged liquor license for premises from which less than half of the gross revenues are derived from the sale of alcoholic liquor not for consumption on the premises, such premises may be kept open during such hours, but no alcoholic liquor may be sold to any person in such premises during such hours.

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(e) It shall be unlawful for any licensee to suffer or permit any person to consume alcoholic liquor on premises licensed under this Chapter later than one hour after the applicable closing time determined under paragraph (a) of this Section 3-31.

(f) It shall be unlawful for any licensee holding a license for on premise consumption, to sell or offer for sale any alcoholic liquor at any time when the regular food service in such licensed premises is not in actual operation, except that such sales may be made during a one-hour period immediately following the close of regular food service operations in such premises, subject to the provisions of paragraph (a) of this Section 3-31. (Ord. No. 2450, § 2; Ord. No. 2735, § 1; Ord. No. 3050, § 6; Ord. No. 3075, § 1.)

Section 5. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 6. 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

An Ordinance Amending Liquor License Fees

Ms. Kuchynka stated that the next order of business was to discuss proposed amendments to liquor fines and fees. She stated that she provided the Commission with the 2009 Cost Center Analysis. She hoped to get the item to the Village Council for their workshop of April 27th and adopted in time to send out with 2009/2010 license renewals. She asked the Commission for their comments and questions.

Ms. King had no questions.

Mr. Clary stated that the proposed changes looked good.

Ms. Fregeau stated that she sent a note to staff and received a reply. She referred to the fee and fine schedule and noticed how some fee increases varied greatly from 4% to 54% and noted they were a bit diverse. She understood that licensing is not a money maker for the Village and that the Cost Center was developed to covering staff costs and recoup fixed expenses associated with administering licenses. She noticed that the entertainment class increased by 23%, yet the hotel class was only increasing by 12%. She wondered why the two varied.

Ms. Kuchynka replied that each entertainment classification was increased because additional monitoring will be done on these license holders. She referred to the section of the Cost Center Analysis where Special Monitoring Operations fees were added. She stated that the Liquor Commission had numerous discussions about additional monitoring for over service, checking menu service, monitoring hour restrictions, etc. She stated the new fee was incorporated to those licensees in this class. She stated that the E class license holders are unique in their own way and it has been determined that these licensees have generated more police activity and staff has noticed more potential for violations. She wanted to be sure there was enough money and staff time set aside to do extra monitoring at these facilities. Ms. Strelau agreed.

Ms. Kuchynka noted that there have been more issues with the entertainment classifications than what has been typically experienced with restaurant facilities. She stated that the increases in other classifications were due to an increase in staff costs over the course of three years. She noted that staff costs have gone up, on average, 11 percent. Ms. Fregeau stated that the staff cost increases made sense.

Ms. Fregeau recalled that issues of monitoring on these facilities is often difficult because of the functions and activities taking place on the premises. She felt that hotels should also be subject to this extra monitoring charge. Ms. Kuchynka noted that hotels are also charged for two controlled buys, one for packaged sales (in-room or at the gift shop) and on-site consumption in the restaurant/bar. She asked if the Commission would also prefer to add special monitoring operations. The Commission agreed. Ms. Strelau noted that it may be difficult to monitor certain activities on such premises such as weddings and private functions, but did feel that the hotels should pay for additional monitoring. She felt that hotels have not been adequately monitored.

Ms. Kuchynka stated that she added Special Monitoring Operation fees only to the entertainment class as these license holders were the source of much of the Commission's discussion. She did agree that hotels should also be subject to additional monitoring. Chairman McNerney noted that there is no other monitoring other than controlled buys which do not cover private functions or the many other activities taking place at hotels.

Ms. Strelau noted that there are a lot of private event type functions by licensees that are not monitored. She wondered how the Park District was doing with their events at the Recreation Facility. Ms. Kuchynka replied that the license was forfeited as the caterer discontinued their arrangement with the Park District as it was not active enough.

Ms. Fregeau felt that it would be beneficial for extra monitoring at hotels. She felt it sends a message that the Village will be reinforcing responsible behavior and accountability. She felt the increase was reasonable. Ms. Strelau agreed and compared the hotel fee of Westmont which is upward of \$10,000.

Ms. Kuchynka stated that she would amend the hotel fee structure to add the cost of special monitoring operations.

Ms. Kuchynka stated that a \$20 Tactical Operation Fund was added for all license classifications. She stated that this money will be readily available in order to send out the Police in response to complaints at a licensed establishment. Chairman McNerney and Ms. Strelau were pleased with the inception of the fund.

Ms. Fregeau noted that special event fees went up about 5%, but noted no hearing in some cases is required.

Ms. Fregeau noted that the Theater license increase by about 54% which seemed to be a large increase. She asked if that increase was due to monitoring issues. Ms. Kuchynka replied yes. She stated that when the Commission discussed creating and amending the theater license, the scope of the activities have changed dramatically. She stated that the original license was created so that alcohol could be served at private functions. She noted that events are now open to the general public, control buy fees have been incorporated and special monitoring fees will apply as it is an entertainment license classification. She stated that alcohol can be sold and brought into the theater, which warrants additional monitoring activities on the premises. Ms. Strelau noted that the Commission made it perfectly clear to the Tivoli that there was concern with monitoring and these costs are seemingly appropriate. Ms. Kuchynka anticipated contact from the licensee about the increase. Ms. Strelau felt that the fee increase was justified.

Ms. Kuchynka stated that the Police Department provided her with those costs they expect to incur for conducting special monitoring operations. Ms. Fregeau noted that even with the increase, the theater license is still one of the least costly in the entertainment license category. Ms. Kuchynka noted that the theater will not be selling alcohol as regularly as the other entertainment license categories, so there is less staff time devoted to its administration and less potential for contact with them as compared to those in operation on a daily basis.

Ms. Fregeau wondered why certain other fines and fees were not increased. She believed that fines to servers in other areas were more than \$250. She had no problem increasing fines to the servers involved in a violation. She felt it would send a clear message for accountability. She felt the higher the fine is the more seriously servers and establishments will take a control buy violation. She did not have a specific dollar amount in mind. Ms. Kuchynka noted that the control buy violation hearing fee to the establishment is limited to \$1,000 per State law. She stated that fines may be charged up to \$15,000, which is also limited by State law. Ms. Fregeau wondered if the fine to servers could be increased.

Ms. Kuchynka stated that the server fine increased a few years ago. She stated that there had been a noticeable decrease in violations since the fines were instituted. Chairman McNerney confirmed that the Commission heard many violation hearings in the past.

Ms. Fregeau was sensitive to over service issues. She felt the last line of defense is the servers. She felt that if it has made a difference increasing the fine, then it is good to increase further. She would prefer not to see DUI Notifications or hear issues of over service. Ms. Kuchynka clarified that this fine to the servers is

strictly for control buy violations. She stated that servers/sellers are issued a ticket at the time of the violation. Ms. Fregeau thanked to group for clarification. Ms. Strelau agreed to increase the fine to servers for a control buy violation. She felt these fees should be as high as they can and felt it may be a further deterrent. She felt that if a business is run properly, a culture will be created not to over serve anyone, serve minors and monitor the floor better. Ms. Strelau agreed that the server is the last line of defense. She felt perhaps the servers do not understand the violation clearly enough. She stated that the monthly DUI Notifications are getting worse. She stated that blood alcohol levels are unbelievable and noted in some cases double or triple the legal the limit. She realized that the fines to servers does not directly affect over service, but fines should go up to get server's attention.

Ms. Fregeau felt that increasing fines is another way to let applicants and licensees know that it is their responsibility to be sure that employees know that the Village is serious about serving minors and over serving patrons.

Chairman McNerney felt that it is important to hold the server accountable along with the licensee. He felt if there was pressure from the licensee to generate income versus being responsible sets a threshold. He would like to see that licensees who have a violation within the past twelve months before renewal be charged double their annual license fee as an additional form of penalty. He felt if a licensee is a trouble maker that consumes more Village resources, they should have additional penalty factors. He felt that would encourage an environment and create incentive for them to do the right thing. He noticed that most licensees do the right thing. Ms. Strelau agreed with the idea.

Ms. Strelau stated that the entertainment class licensee have to ante up because of their reputation. She felt that certain licensees should not continue to fund those expenses resulting from out of control licensees. She felt it was not right that some licensees are getting away with not following the rules. She felt it was appropriate to have a pool that all licensees contribute to, but if a licensee has a violation, the following year, they should pay an additional share to cover their own monitoring. She felt it would be difficult for a licensee to argue paying a fine when they violated the law.

Ms. Fregeau felt as if those who comply are being penalized for those who do not comply. She felt it should cost those more who are not in compliance. Ms. Strelau noted the Village has issue with only about 4% of the license holders.

Ms. Kuchynka agreed with increasing the fine to servers. She felt that not one licensee would object to making the server themselves accountable for the violation. Chairman McNerney asked what the Commission would recommend to increase the fine to. Ms. King felt that the fine is high and wondered how many hours the server would have to work to pay off the fine. Ms. Fregeau felt that a week's salary is not a high fine to pay for this type of violation. She felt that even a \$400 fine would be appropriate. Ms. Strelau felt that a fine \$100 higher would be appropriate. She felt that increase would send a significant message. Chairman McNerney agreed that \$350 would be appropriate and would cause a significant impact. He mentioned that the number of control buy failures had gone down since its implementation. He noted that business operators have been involved in the violation. Ms. King asked what the fee for a red light violation is. Ms. Kuchynka believed it was upwards of \$300. Ms. Kuchynka stated that the group must consider the severity of violation in determining an appropriate penalty. She felt that if an under 21 license is shown, the fine should be doubled. Chairman McNerney and Ms. Strelau agreed. He felt if the server carded someone with an under 21 identification, a double fine would be appropriate.

Ms. Kuchynka noted that she would need to amend the draft ordinance and add Code Section 1-16 which relates to fines charged to servers where the Village can issue a "P" ticket. She would have to notify the officers of the double charge if a license is shown. Ms. Strelau recalled recent violations where Westbrook staff and Sam's Wine & Spirits took the under 21 identification.

Ms. King stated there was an instance while in line that someone in their 50s before her was carded but would not provide a driver's license. Ms. Kuchynka replied that the clerk has no obligation to sell if identification is not provided. Ms. Strelau asked if the customer was sold the alcohol. Ms. King replied yes, but not until a manager came over. Ms. Kuchynka recalled that the Jewel in the Village of Woodridge posted signage on their registers that they could not sell alcohol unless an identification was produced because they had failed a few tests.

Ms. Strelau stated that Sam's Wine & Spirits has a sign on their registers that they card everyone, but she has never been carded. Mr. McInerney and Ms. King had not been carded either. Ms. Janicki-Clark recalled that they were required to install the identification system as a part of their violation order. Ms. Kuchynka stated that she saw the system in operation. She stated that she would follow up with the licensee to be certain they are requesting identification.

Ms. Fregeau asked how often the Liquor Newsletter comes out. Ms. Kuchynka replied that she attempts to get it out quarterly, depending on how much content there is. She stated that they are expensive to produce. Ms. Fregeau commented that the newsletter was well done and was a helpful review of recent ordinance changes.

Ms. Fregeau referred to the DUI Notification Chart and wondered if it would be possible to get the monthly chart that contains the yearly history in addition to the monthly information provided in the month end report packet. She felt it would give a better understanding of the cumulative DUI Notifications set to licensees. Ms. Kuchynka agreed.

Ms. Strelau liked all suggestions made to the license fines and fee increases. She felt it was important for staff to emphasize to Council that staff costs have gone up and the Village must recoup them. She noted that real increases have come with violations and those in need of extra monitoring. She felt those who have trouble will have more surveillance than those that do not.

Ms. Strelau wanted to be sure that all of the Commission's changes will be incorporated. She asked if staff could provide the Commission with a run down of the items that Council will receive with their packet. Ms. Kuchynka stated that the Council will be provided the draft ordinance with the amendment to the hotel license fee, the addition of the \$250/\$500 fine to servers and the double annual licensee fee for violators. She stated that a Manager's Memo is prepared which is an overview of the changes, along with the Commission minutes.

Ms. Kuchynka felt that when a licensee violates the ordinance, the double license fee provision should be included in the Order. Ms. Janicki-Clark stated that this could be considered a "probationary fee". She stated that the licensee would need to be found guilty of a violation and would be charged an additional license fee for the upcoming year. Ms. Kuchynka hoped that the current software system could be overwritten to include the double fee in the renewal form. Ms. Janicki-Clark stated that it may be necessary to research the issue more, as staff needed to get the revised licensee fee changes in prior to renewal.

Chairman McInerney believed that a new license category could be created with a new code "P" for probationary. He felt that might get licensees back on a good track record. Ms. Kuchynka clarified that the double annual license fee will be effective July 1, 2009 and would not be retroactive. The group agreed. Mr. Clary stated that they will pay a fine for the violation at first, but then at renewal the double annual fee will kick in which will be part of the violation fine. Ms. Kuchynka stated that she can amend the violation section or annual fee section with language stating that "any licensee found guilty of a violation of Chapter 3 may be subject to double the annual license fee at license renewal". The group agreed that language should be placed in the annual fee section after subsection (e) in Section 3-14.

Chairman McInerney felt that if some burden were taken off good liquor license holders fees may go down in the next cost center analysis.

Ms. Strelau asked what would happen if the licensee violated twice. Ms. Janicki-Clark felt it would be twice the fee. She stated after the first year, if the licensee is violation free, they would revert back to paying the regular annual fee. Ms. Kuchynka stated that she would contact Community Development on how they handle multiple red tag violations. Ms. Janicki-Clark noted that the double fee could also be contained in the Order. Ms. Kuchynka agreed.

Chairman McInerney felt that if staff could incorporate the hotel class fee adjustment, increase the fine to servers for aggravating circumstances and double the renewal fee for violations, the Commission could vote on the matter. Ms. Kuchynka agreed. He requested a motion from the Commission concerning a revised ordinance.

MS. FREGEAU MOVED TO FORWARD A REVISED DRAFT ORDINANCE AMENDING LIQUOR LICENSE FEES TO THE VILLAGE COUNCIL FOR CONSIDERATION. MS. STRELAU SECONDED.

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

Nay: None

Abstain: None

MOTION CARRIED: 6:0:0

The Motion carried.

Chairman McInerney asked when the item would be presented to Council. Ms. Kuchynka hoped to get the item to the Village Council on April 27th. Ms. Kuchynka noted that there has not been an increase in fees and three years and the main increases were due to the additional monitoring of the entertainment license classification and did not anticipate any issues with the matter. Chairman McInerney felt the Cost Center Analysis detail was very thorough.

Ms. Fregeau also did not believe Council would have issue with the fee increases. Ms. Kuchynka replied that Village fees are comparable to surrounding communities and noted that the Village conducts many programs that other communities do not. She stated that she tried to compare those fees of surrounding communities that have a license structure similar to those of Downers Grove.

Ms. Fregeau asked if Ms. Kuchynka could forward a note to the Commission about any meetings when a Liquor Commission item comes before the Council so they can go online to check the item. Ms. Kuchynka agreed.

Ms. King asked if the license fees go into one account. Ms. Kuchynka replied that there is an Alcohol Awareness budget and that some fees also go into the general fund.

Ms. Fregeau asked about the Comedy Club license and wondered why the fee was raised even though there was not one in operation. Ms. Kuchynka replied that the Cost Center Analysis is an across the board increase due to an increase in staff salary and it is an entertainment class license holder. She