

**VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL WORKSHOP
JUNE 9, 2009 AGENDA**

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

SYNOPSIS

An ordinance has been prepared amending the Liquor Code which would allow off-premise sales and on-premise consumption of alcoholic liquor at the same location.

STRATEGIC PLAN ALIGNMENT

The Downers Grove Vision for 2022 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 June 16, 2009 active agenda.

BACKGROUND

At their meeting of May 7, 2009, the Downers Grove Liquor Commission discussed creating a new liquor license classification which would allow the consumption of beer and wine only on-premise and allow full alcohol off-premise sales at an establishment where the primary business is a grocery store in the Downtown Business District. Currently, the Village does not allow on-site consumption of beer and wine in grocery stores. The proposed operators of a grocery store in the downtown area have requested that a license be created in order to allow beer and wine only in a dining area and in an outdoor seating area. The areas will be operated in conjunction with a deli and food service will be available at all times. There will be no physical bar on-site.

The Liquor Commission unanimously recommended that the draft ordinance creating a Class "P-O-2" beer and wine on-premise consumption and full alcohol off-premise consumption liquor license classification be forwarded to the Council for their consideration and approval.

ATTACHMENTS

Draft Ordinance

Liquor Commission Recommendation & Minutes – May 7, 2009

ORDINANCE NO. _____

AN ORDINANCE CREATING AN ON & OFF PREMISE CONSUMPTION LIQUOR LICENSE

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 3.13 is hereby amended to read as follows:

3.13 Classification of licenses.

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.

On-&Off-Premise Beer&Wine Alcohol License

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 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-3-D" Entertainment/Recreational Facility licenses shall authorize the sale of alcoholic liquor for consumption on the licensed premises where the major and primary business is that of a billiard hall recreational facility of not less than six thousand (6,000) square feet and having a guest seating capacity, excluding outdoor areas, of not less than one hundred (100). Bar/lounge seating shall be no more than twenty percent (20%) of the total seating provided for patrons of the establishment. Such facility shall have an area where food is prepared on the premises and food service shall be available during operation. Such facility shall be limited to patrons 21 years of age and older.

"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

On-&Off-Premise Beer&Wine Alcohol License

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 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.

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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, P-O-2, R or W license and shall be limited to the conditions of the Class B,C, E, P-O-2, R or W license issued to the establishment. The main and principal operation of the outdoor area for Class B, E, P-O-2, 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.

"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 "P-O" On Premise and Off Premise Consumption Licenses

"P-O-2" Packaged liquor licenses shall authorize the retail sale of alcoholic liquor. Such licenses shall be only authorized in locations where a grocery store is the main or principal business.

(1) The sale of alcohol, in original packages, unopened only, shall be permitted subject to the following conditions:

a. No more than ten percent (10%) of the retail sale square footage area shall be devoted to the sale of tobacco products.

b. Free tastings, classes or seminars shall be permitted on such premises in accordance with State law.

c. Alcohol sold in original packages and intended for off-premise consumption shall not be opened or consumed on the premises or in any designated seating/serving area.

d. Hours for the sale of alcohol, in original packages, unopened only, shall be in accordance with Section 3-31(b).

(2) The sale of beer and wine only shall be permitted for consumption on the premises subject to the

On-&Off-Premise Beer&Wine Alcohol License

following conditions:

- a. The premises shall exceed five thousand five hundred (5,500) square feet and be located within the Downtown Business District.
- b. The seating/serving area for customers consuming beer and wine on the premises shall be limited to ten percent (10%) of the gross retail square footage, but shall not exceed five hundred fifty (550) square feet.
- c. Consumption of beer and wine on the premises shall be limited to the designated seating/serving area and signage shall be posted that patrons may not leave the area with open alcohol.
- d. Such facilities shall include an area where food is prepared and regularly served on the premises, including hot or cold sandwiches, appetizers, tapas, baked goods or other similar foods.
- e. It is intended that the service of alcoholic liquor is merely an adjunct to the operation of a grocery store and that the facility shall not be advertised or otherwise held out to be a drinking establishment.
- f. Hours for the sale of beer and wine only, for on-premise consumption, shall be in accordance with Section 3-31(a).

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

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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:

\$ 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.

On-&Off-Premise Beer&Wine Alcohol License

"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 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 2. 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)	\$3,240.00
"C-1" (Club, private)	\$ 770.00
"E-1" (Theater)	\$1,700.00
"E-2" (Comedy Club)	\$1,700.00
"E-3-A" (Golf Course)	\$1,860.00
"E-3-B" (Recreational Facility - beer/wine)	\$2,300.00
"E-3-C" (Recreational Facility - full)	\$3,670.00
"E-3-D" (Billiard Hall - full)	\$3,670.00
"E-4" (Cultural/Performing Arts Facility - beer/wine)	\$1,930.00
"E-5" (Entertainment/Restaurant Facility - full)	\$3,670.00
"H-1" (Hotel)	\$4,050.00
"K-1" (Catering - full)	\$ 950.00
"K-2" (Catering - Park District - beer/wine)	\$ 1,090.00
"O-1" (Outdoor)	\$ 270.00
"P-1" (Packaged - full)	\$2,070.00
"P-2" (Packaged - beer/wine)	\$1,300.00
"P-3" (Packaged - wine shop)	\$1,240.00
<u>"P-O-2" (Packaged - full off premise and beer/wine on premise consumption)</u>	<u>\$ 1,840.00</u>
"R-1" (Restaurant - full)	\$3,100.00

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"R-2" (Restaurant - beer/wine)	\$1,750.00
"S-1" (Special Event)	\$ 420.00
"S-2" (Special Event)	\$ 95.00
"W-1" (Wine Boutique)	\$
1,550.00	

(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. 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 3. That Section 3.15. is hereby amended to read as follows:

3.15. Limitation on number of licenses.

The number of licenses in each classification as defined in Section 3-13 which it shall be lawful to issue shall be limited so that the licenses in force and effect at any time shall not exceed the following numbers:

License Classification	Amount of licenses not to Exceed
"B-1" (Brew Pub)	1
"C-1" (Club, private)	6
"E-1" (Theater)	1
"E-2" (Comedy Club)	1
"E-3-A" (Golf Course)	1
"E-3-B" (Recreational Facility - beer/wine)	0
"E-3-C" (Recreational Facility - full)	2
"E-3-D" (Billiard Hall - full)	1
"E-4" (Cultural/Performing Arts Facility - beer/wine)	1
"E-5" (Entertainment/Restaurant Facility - full)	1
"H-1" (Hotel)	Unlimited
"K-1" (Catering - full)	4
"K-2" (Catering - Park District - beer/wine)	1

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"O-1" (Outdoor)	Unlimited
"P-1" (Packaged-full)	17
"P-2" (Packaged -beer/wine)	10
"P-3" (Packaged - wine shop)	3
"P-O-2" (Packaged - full off premise and beer/wine on premise consumption - Grocery Store)	1
"R-1" (Restaurant - full)	Unlimited
"R-2" (Restaurant - beer/wine)	Unlimited
"S-1" (Special Event)	Unlimited
"S-2" (Special Event)	Unlimited
"W-1" (Wine Boutique)	2

(Ord. No. 244, § 4a; Ord. No. 284, § 1; Ord. No. 356, § 2; Ord. No. 1059, § 1; Ord. No. 1200, § 1; Ord. No. 1395, § 1; Ord. No. 1465, § 2; Ord. No. 1741, § 21; Ord. No. 2246, § 2; Ord. No. 2541, § 8; Ord. No. 2735, § 1; Ord. No. 2861, § 3; Ord. No. 3050, § 3.)

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



www.downers.us

May 30, 2009

COMMUNITY RESPONSE

CENTER

630.434.CALL (2255)

CIVIC CENTER

801 Burlington Avenue

Downers Grove

Illinois 60515-4776

630.434.5500

TDD 630.434.5511

FAX 630.434.5571

FIRE DEPARTMENT

ADMINISTRATION

5420 Main Street

Downers Grove

Illinois 60515-4834

630.434.5980

FAX 630.434.5998

POLICE DEPARTMENT

825 Burlington Avenue

Downers Grove

Illinois 60515-4783

630.434.5600

FAX 630.434.5690

PUBLIC WORKS

DEPARTMENT

5101 Walnut Avenue

Downers Grove

Illinois 60515-4074

630.434.5460

FAX 630.434.5495

The Honorable Ronald L. Sandack
Mayor and Liquor Commissioner

Re: *Creation of a Packaged On & Off Premise Consumption Liquor License (P-O-2)*

Dear Mayor Sandack:

On May 7, 2009, at a regular meeting of the Downers Grove Liquor Commission, the members made a recommendation to forward a draft ordinance to the Council which would create a full alcohol, off-premise sales and beer and wine only on-premise consumption liquor license. The following finding was made:

MS. STRELAU MOVED TO FORWARD THE DRAFT ORDINANCE CREATING A CLASS "P-O-2", BEER AND WINE ON-PREMISE CONSUMPTION AND FULL ALCOHOL OFF- PREMISE CONSUMPTION LICENSE CLASSIFICATION TO THE VILLAGE COUNCIL FOR CONSIDERATION. MR. CLARY SECONDED.

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

Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

The Motion carried.

This motion can be found in the May 7, 2009 minutes of the Liquor Commission (attached).

Very truly yours,

Daniel McInerney, Chairman
Liquor Commission

VILLAGE OF DOWNERS GROVE

Attachments

DEPARTMENT OF

COUNSELING AND SOCIAL SERVICES cc: April Holden, Village Clerk

842 Curtiss Street

Downers Grove

Illinois 60515-4761

630.434.5595

FAX 630.434.5599

arecommend.l-eP-O-2

Mr. Adank asked when they projected to open. Mr. Binstein hoped September.

Chairman McNerney had no questions specific to the license class. He felt the ordinance was well-crafted. He recalled discussing their needs for on-premise consumption at the last meeting. He looked forward to their application hearing.

There being no further discussion on the draft ordinance, Chairman McNerney called for a recommendation.

MS. STRELAU MOVED TO FORWARD THE DRAFT ORDINANCE CREATING A CLASS "P-O-1", FULL ALCOHOL ON- AND OFF- PREMISE CONSUMPTION LICENSE CLASSIFICATION TO THE VILLAGE COUNCIL FOR CONSIDERATION. MR. CLARY SECONDED.

VOTE: **Aye:** Ms. Strelau, Mr. Clary, Ms. Fregeau, Mr. Adank, Chairman McNerney

Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

~~The Motion carried.~~

Chairman McNerney stated that the next order of business was discussion for the creation of another mixed use packaged license classification. Ms. Kuchynka stated that she provided the Commission with a draft ordinance creating a Class "P-O-2", full alcohol, off-premise and beer and wine only, on-premise license for a grocer in the Downtown area. She apologized for the tardiness of the draft. She stated that the group just met with staff on Tuesday to discuss the concept. She asked Mr. Bedalov to introduce the matter.

Mr. Bedalov stated that it has been the mission of the EDC and Downtown Management Organization to find a grocer for the Downtown Business District. He stated that they were able to find the group through Michael's Fresh Market which is opening a store on 75th Street in the old Dominick's location.

Mr. Bedalov advised that a survey was taken based on the need for a Downtown grocer. He stated that the notion of on-premise beer and wine sales and off-premise full alcohol sales came up during discussion with the group. He stated that they will have a deli, outdoor café, cooking class and wine tastings - thereby allowing not only packaged sales but being able to purchase beer and wine by the glass with the small deli component. Mr. Bedalov noted that this operation will not be similar to Binny's. He stated that they are trying to fill a need in the Central Business District and that residents have called for. He hoped this license creation would be an incentive for them to locate in the Downtown area.

Ms. Kuchynka stated that this license classification is similar to the P-1-O except to a smaller scale. She stated that the location shall exceed 5,500 square feet and located in the Downtown Business District. She added it will be a full packaged off-premise and beer and wine only on-premise sales and the on-premise consumption area shall be limited to 10 percent of the retail square. She stated that a separate license would be required for outdoor liquor service. She stated that the establishment shall not be held out or marketed as a drinking establishment. Ms. Kuchynka reminded the group of the separate

servicing/sale hours by noting on-premise sales commence at noon on Sunday, however, off-premise sales begin at 9:00 a.m. Ms. Kuchynka stated that full alcohol sales will be intended for off-premise consumption and that patrons will not be allowed to open alcohol in the deli area. She stated that the principal business will be a grocery store.

Ms. Kuchynka asked the representatives if the classification meets their needs and asked the Commission for their comments as well. Mr. Bedalov stated that the concept has not been finalized, nor a lease signed. He stated that they are hoping to occupy Building 3 of Acadia On The Green which is located on the east side of Mochel Drive along Burlington Avenue. He noted it is near the courtyard area and advised the space is 5,875 square feet in size.

Mr. Tim Canning, Shaun Black and John Derns introduced themselves. Chairman McInerney asked if they had anything to add to the proposed license classification draft. Mr. Derns replied they did not get a good chance to look at it. The Commission agreed. Mr. Derns stated that it seemed to be in line with what they are looking to do.

Mr. Derns advised that they operate primarily as grocers. He noted that this will be the 8th store, but the first store in which they are partnering with Shaun and Tim. He stated they are planning a new and different concept. He stated that they will have meats, a deli, grocery, produce and will have wine tastings and cooking classes. He advised it will be their smallest store and informed the Commission that the 75th Street store is 45,000 square feet in size.

Ms. Kuchynka felt that this draft ordinance amendment tied in well with the Binny's amendment. She thought it appropriate to discuss the ordinance tonight, although the draft ordinance was just provided to them. Chairman McInerney agreed and hoped that the classification drafted would be appropriate for their concept.

Ms. Strelau was excited about the concept and reiterated the need for a Downtown grocer. She asked what the breakdown of sales would be and if the deli/seating areas were one of the same. Mr. Derns replied that the location will be set up like a traditional grocery store. He stated that there will be an area set up for cooking classes with an exposed kitchen and seating with liquor service. He planned to have wine and fine craft micro brews.

Ms. Strelau asked what percentage of the floor plan would be devoted to on-site service. Mr. Canning replied 10 percent. Chairman McInerney noted that the draft ordinance provided that the sales/service area is limited to 10 percent of the square footage and shall not exceed 550 square seats with no physical bar seating. Ms. Strelau asked if the license will meet their needs. Mr. Derns felt it should, however, the layout is not finalized and he advised they have not signed a lease and was unsure how much actual space will be available to them.

Mr. Derns had a preliminary floor plan and Mr. Bedalov distributed copies to the Commission.

Mr. Derns wondered if having a liquor license in another town would speed up the application process. Ms. Kuchynka replied no. Chairman McInerney asked if they have any other establishments with this type of business model. Mr. Derns replied no and added that he owns a bar in Elmhurst. Chairman McInerney stated that their record of service in another town would be taken into consideration.

Ms. Strelau was trying to understand the concept. She asked if the deli area will be separate from the seating area. Mr. Derns replied the deli is a separate area and will be a completely different counter space. Ms. Kuchynka clarified that patrons can get meats and cheese to take home, but can also get a

deli sandwich to eat on the premises. Mr. Black confirmed. He stated that they plan to have sushi, sandwiches and specialty items. He informed the Commission that he is a chef and that he and another manager will serve as chefs. He planned to have a limited café menu and will conduct cooking classes on the premises. Mr. Canning noted that they have many ideas for the store but noted that the plans and the concept are not finalized. He advised that they have met with an architect and believed that the 10 percent seating will meet their needs.

Mr. Derns added that they would like to utilize the courtyard for an outdoor dining area. Ms. Kuchynka stated that staff will need to determine if that area is public or private property.

Mr. Canning walked the Commission through the floor plan and discussed the proposed areas of the store. He explained that there will be areas for produce, dairy, dry goods, liquor, deli, meat preparation/butcher, freezer/cooler storage, kitchen and seating. He stated that there will be no physical bar and the beer and wine would be served by staff from the kitchen area to patrons seated in the indoor and outdoor areas.

Chairman McNerney noted that they will need an outdoor liquor license, which would be in addition to the interior license. Ms. Kuchynka advised that the outdoor license will allow the same service that is allowed on the interior, which would be limited to beer and wine, in conjunction with food service.

Ms. Kuchynka advised that if the outdoor seating area property is Village owned, they will need to enter into a Sidewalk Café License Agreement. Mr. Bedalov believed that the area immediately in front of the store entrance is private property. He added that the courtyard area is under the control of the Village. Mr. Bedalov advised the group the Homeowner's Association does not have to provide approval for outdoor dining and approval for use of the private property rested solely with the landlord. Ms. Kuchynka added that if the café is on private property, they will need to obtain a Temporary Use permit. Staff will advise them of all licenses and permits required for the property.

Mr. Bedalov stated that they have been working with staff, Council and the Downtown Management Organization to work out parking issues and how to designate spaces to accommodate the grocery store. He is aware that the store will need dedicated parking.

Ms. Fregeau asked what their working name was. The group replied The Lemon Tree Grocers.

Ms. Fregeau was pleased with the concept and their experience being grocers. Mr. Derns welcomed the Commission to visit the Michael's Fresh Market website (michaelsfreshmarket.net) to see how they operate and that this location would be similar, but on a smaller scale.

Ms. Fregeau stated that the concept sounds unique. She had no other questions and felt that the draft ordinance was self-explanatory.

Mr. Clary had no questions. He thought it was a great idea and hoped they can get the parking situation figured out.

Mr. Adank felt that a grocery store would be a missing piece of the puzzle for Downtown. He felt it would be very welcome in the area.

Chairman McNerney stated that staff did a fine job putting together the ordinance. He stated that by the Commission standards, this new type of license is moving at the speed of light. He stated that it typically takes months for the Commission to flush out topics when new topics come about. He felt that Mr. Bedalov did a good job in introducing the concepts to the Commission last month so that staff could

prepare something to meet the needs of these hybrid versions of packaged stores with on-premise consumption. He wished them luck.

There being no further discussion on the draft ordinance, Chairman McInerney called for a recommendation.

MS. STRELAU MOVED TO FORWARD THE DRAFT ORDINANCE CREATING A CLASS "P-O-2", BEER AND WINE ON-PREMISE CONSUMPTION AND FULL ALCOHOL OFF-PREMISE CONSUMPTION LICENSE CLASSIFICATION TO THE VILLAGE COUNCIL FOR CONSIDERATION. MR. CLARY SECONDED.

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

Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

The Motion carried.

OLD BUSINESS

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

Ms. Kuchynka followed up with Ms. Strelau's concern about signage at the Downers Grove Food Mart. She had Code Enforcement visit the facility and it was determined that they exceeded maximum signage permitted by ordinance. She advised that they were in the process of correcting it.

Ms. Kuchynka advised the group that the liquor fee ordinance amendment was passed by the Village Council on May 5th. She informed the group that renewal applications were mailed today in order to allow adequate time for licensees to return the documents by the June 12th deadline.

Ms. Kuchynka followed up with questions from last month's meeting about the carding system at Sam's Wine & Spirits. She stated that she reviewed the Mayor's Finding and Order which only required that they install the system but it did not require that they card everyone. She talked to the manager who advised that they card patrons who appear under the age of 35 and that they have signage posted reserving the right to card everybody. She stated that since their last violation, Sam's has passed three control buys.

Ms. Kuchynka stated that the high school received a donation from the Village for their non-alcoholic graduation celebrations. She advised that licensee contribute to this program as part of their annual fee. Ms. Strelau asked if the amount was increased. Ms. Kuchynka replied yes.

Chairman McInerney asked for clarification on the liquor fee ordinance. He asked if the ordinance contained the provision which doubled annual renewal fees if a licensee had a violation in their prior year of operation. Ms. Kuchynka replied no. She stated that staff forwarded the recommendation to the Mayor and it was better to reserve his ability to charge additional fines through the Findings & Order.