

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

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

**SYNOPSIS**

An ordinance has been prepared to amend the Village's Liquor Code relative to the following items:

- Create a Class E-5 liquor license classification allowing on-site consumption of liquor at an entertainment / restaurant facility
- Amend provisions for fines issued to servers involved in the sale of alcohol to minors
- Increase the number of Class P-2 liquor licenses available.

**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 November 3, 2009 active agenda.

**BACKGROUND**

Based upon a request, the Downers Grove Liquor Commission discussed creating a liquor license classification which would allow the consumption of alcoholic liquor at an entertainment / restaurant facility. Currently, the Village allows entertainment facilities, but they are sport, artistic or theatrical oriented. The owner of Rita's Road House has requested that a license be created in order to allow entertainment as the primary business on the premises which would include a dance floor area, live entertainment area, dueling pianos, mechanical bull, lounge and dining areas. Food service would be available at all times. However, restaurant activities would not be the primary business of the establishment. Physical bar seating would be limited to 20% of the total seating available in the establishment. The Liquor Commission discussed this matter at their September 10 and October 1 meetings and recommended the ordinance be forwarded to the Council for their consideration and approval.

The ordinance also amends the fine provisions for serving minors from \$250 to \$500. Currently, the ordinance imposes a \$250 fine to the server if alcohol is sold to a minor and a \$500 fine if alcohol is sold to a minor and a vertical under 21 license is shown. The proposed ordinance eliminates the penalty for showing the vertical under 21 license and simply imposes a \$500 fine for serving alcohol to a minor.

This ordinance also increases the number of beer and wine off-premise consumption licenses from 10 to 12. Currently there are two licenses available, however, the Village has received multiple requests for this license classification and is being increased to accommodate those requests.

**ATTACHMENTS**

Ordinance

Liquor Commission Recommendation & Minutes – September 10, 2009 and October 1, 2009 (draft)

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

**AN ORDINANCE AMENDING LIQUOR LICENSE CLASSIFICATIONS**

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, film viewing/critique, or theater

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production/box office events .

*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 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,*

*Entertainment/Restaurant Facility, Recreational Facility and Theater.*

*Entertainment/Restaurant facility.* Any public place kept, used, maintained, advertised or held out to the public as a restaurant and where dancing or live entertainment is available.

*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.

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*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 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

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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.**

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

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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

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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 of not less than twelve thousand (12,000) square feet. Such facility shall have dining on the premises with a guest seating capacity, excluding outdoor areas, of not less than one hundred twenty-five (125). Such facility shall have an area where food is prepared on the premises. An area or area(s) may be devoted to dancing and/or live entertainment. Physical bar seating shall be limited to twenty percent (20%) of the total amount of dining seats provided.

Such facility shall be limited to patrons 21 years of age and older.

A monthly report shall be submitted to the Village describing any planned events or scheduled entertainment scheduled by the Licensee.

The Licensee shall provide the Village with a detailed security plan for the facility, including, but not limited to, policy, security procedures and security staffing provisions. Twenty-four hour emergency contact information shall be provided to the Village's Police and Fire Departments.

### **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

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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, 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**



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"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 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

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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:

**\$ 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

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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 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

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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)	\$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
<b>"E-5" (Entertainment - full)</b>	<b>\$4,100.00</b>
"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
"P-O-2" (Packaged - full off premise and beer/wine on premise consumption)	\$1,840.00
"R-1" (Restaurant - full)	\$3,100.00
"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;

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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 3.15. 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:

<b>License Classification</b>	<b>Amount of licenses not to Exceed</b>
"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
<b>"E-5" (Entertainment - full)</b>	<b>1</b>
"H-1" (Hotel)	Unlimited
"K-1" (Catering - full)	4
"K-2" (Catering - Park District - beer/wine)	1
"O-1" (Outdoor)	Unlimited
"P-1" (Packaged-full)	17
"P-2" (Packaged -beer/wine)	<del>10</del> 12
"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 5. That Section 3.27. is hereby amended to read as follows:**

#### **3.27. Required warning signs.**

In every place in the Village where alcoholic liquor is sold there shall be displayed at all times in a prominent place a printed card which shall read substantially as follows:

*Warning: If you are under twenty-one years of age, you are subject to a fine of up to \$750.00 under the Downers Grove Municipal Code if you attempt to purchase alcoholic liquor, purchase alcoholic liquor or misrepresent your age for the purpose of purchasing or obtaining alcoholic liquor. Official photo identification will be required to prove age before purchase.*

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**Warning to Servers & Sellers of Alcoholic Liquor**

*If you sell, give or deliver alcoholic liquor to a person under twenty-one years of age, you are subject to a minimum fine of ~~\$250.00~~500.00 under Section 1-16 the Downers Grove Municipal Code. Official photo identification should be requested from patrons to prove age before a purchase.*

(Ord. No. 2735, § 1; Ord. No. 2910, § 2.)

**Section 6. 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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- (iii) Section 8-99(a)(7); Requirements for Display of Massage
- Establishment License.
- (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

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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 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 one thousand 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 7.** That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**Section 8.** That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.



Entertainment

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Mayor

Passed:

Published:

Attest:

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Village Clerk

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 "E-3-C" , full alcohol, on-premise consumption liquor license application.

**MR. KRUSENOSKI MOVED TO FIND APOLLO'S WINGS II, LLC D/B/A NORTH BEACH LOCATED AT 1211 B BUTTERFIELD ROAD, QUALIFIED FOR A CLASS "E-3-C", FULL ALCOHOL, ON-PREMISE CONSUMPTION LIQUOR LICENSE. MR. CLARY SECONDED.**

Ms. Strelau advised that she would be voting not-qualified. She was uncomfortable with the materials the Commission was provided as they were not final documentation. She stated that information provided was part of the old operation. She would like the documentation cleaned up which may require them to return. She felt it would be helpful for them to get their policies finalized before they venture into this business.

**VOTE:**       **Aye:** Mr. Krusenowski, Mr. Clary, Ms. King

**Nay:** Ms. Strelau, Ms. Fregeau, Mr. Adank, Chairman McInerney

**Abstain:** None

**MOTION CARRIED: 3:4:0**

The Motion failed.

Chairman McInerney recommended that they revise their materials based on the feedback and discussion from the Commission and re-present their materials at the next meeting. He stated that they are anxious for their success, but did not want them to rush into taking what was there, but make a good clean start.

Ms. Kuchynka stated that the Commission could re-consider the North Beach application in October. She asked the Commission if they would like North Beach to revise inconsistencies in the liquor manual, submit a security policy and address activities planned at the facility. The group agreed.

Ms. Fregeau stated that they are fortunate to have a liaison who can be a resource for them and encouraged them to work closely with staff to revise their plans.

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

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The Commission took a 5-minute break.

## **V. ORDINANCE DISCUSSION**

Chairman McInerney stated that the next order of business was ordinance discussion. Ms. Kuchynka provided a draft ordinance creating an entertainment liquor license classification. She stated that the classification requested would allow a entertainment/tavern facility. She stated that food service would be a small adjunct to the operation. She stated that bar/lounge seating is not restricted nor seating required in this draft.

Ms. Kuchynka advised that there have been issues with the entertainment license classification and advised that these facilities have created burdens on staff and Police Department resources in excess of

what is experienced by traditional restaurant license holders. She stated that they would like to conduct additional monitoring on this type of facility. She stated that the Commission should particularly revisit fees associated with this classification. She stated that the license will be limited to one in number and specific to the potential applicant.

Ms. Kuchynka provided a draft floor plan and some background information from Rita's Road House. She would like the Commission to discuss if they would require any dining seats and/or any other pertinent regulations. She stated that members of Rita's were present to answer questions and discuss their request.

Chairman McInerney asked that representatives be seated and sworn in by the court reporter.

Mr. Larry Spatz introduced himself as the CEO of Small World Entertainment, Inc. d/b/a Rita's Road House. Mr. Ronald Michalski introduced himself as head of security. They distributed materials concerning their proposed concept to the Commission.

Mr. Spatz stated that he started the Baha Beach Club nightclub chain in 1985. He advised that it was the largest nightclub entertainment chain in the U.S. He stated that the Chicago location was 24,000 square feet with 150 employees. He noted that he operated in 30 cities in over 15 states with no violations. He stated that he sold the entity in 2002.

Mr. Spatz was looking to get back into the business and create a fun, casual, comfortable place at a good value. He stated that Rita's Road House would have a road house/americana theme. He referred to renderings in the packet he provided to the Commission. He stated that the decor will be a southern road house style and northern Wisconsin knotty pine/lodge atmosphere.

Mr. Spatz was looking to open in Downers Grove and possibly expand the chain in the future. He liked the location because of the proximity to the upscale western suburbs. He stated that he plans to have live entertainment, dancing, karaoke, dueling pianos and a mechanical bull ride. He anticipated attracting a 25-45 year old crowd. He advised that they planned to have food at the location, but did not want to operate as a restaurant. He stated that they plan to serve pizza, brats, salads and sandwiches. He noted that wait staff will serve food and food will be available during the hours of operation. He was not able to provide a breakdown of the food sales percentage.

Mr. Spatz stated that corporate events and private parties will be a large part of the business. He referred to a list contained in the distributed materials of the companies they have done private functions, charity events and fund raisers for in the past. Mr. Spatz advised he has been involved in a number of philanthropic organizations.

Mr. Spatz stated that he owns a solar electric vehicle company. He would plan utilize these in the parking lot for customer convenience and safety. He advised that they plan to have security in the parking lot.

Mr. Spatz advised that his partner, Ron Frankl, has 30 years of experience in the business.

Mr. Spatz hoped to be at this location for 10 years.

Mr. Michalski stated that he will be head of security for the facility. He stated that he has 29 years of law enforcement experience. He has been retired for 6 years and has done private security and private investigative work.

Mr. Michalski stated that he pays particular attention to detail and plans to train all staff. He stated that they provided a draft of the alcohol management program and door management program. He stated that they plan to create an evacuation plan and security plan in addition to the other management programs. He stated that employees will be BASSETT trained. He stated that he will be a hands-on manager and act as a liaison to the Fire Department and Police Department to report and address any problems at the facility.

Mr. Spatz stated that the distributed materials also contained letters of recommendation.

Chairman McInerney thanked them for the information and plans. He was pleased with their professional background and prior experience.

Chairman McInerney noted that today's operating environment is very different regarding liquor service. He advised that happy hours and liquor promotions that brought customers in the past are no longer allowed.

Chairman McInerney noted that the Commission has a learning history with the creation of the Class E licenses. He asked that the Commission discuss provisions and requirements they would like this establishment to meet and incorporate them into the draft ordinance. He stated that they will discuss Rita's business model, but noted that the creation of the license will be separate from the application hearing. He advised that the creation of a new classification can be a lengthy process and may take multiple meetings to establish provisions that are mutually acceptable. He stated that resolution of details will need to be completed before the draft ordinance is presented to the Village Council for consideration.

Ms. King asked if they plan allow under 21 year olds into the facility. Mr. Spatz replied no. He stated that if they are closed on Sunday and/or have a private party they may consider allowing minors in the facility. Ms. Kuchynka noted that the draft ordinance is written so as not to allow anyone under 21 into the facility at any time. She stated that if they plan to have private functions to allow this, the draft ordinance will need to be amended.

Ms. King recalled Baha Beach Club and asked about the dress code and asked what type of music they plan to have. Mr. Spatz replied that they have a style code. He added if a customer is not dressed appropriately, they will not be allowed in. He added that Rita's would not be like a hip hop dance club, but more in line with the 70's and 80's and varied music genre. He added that as the night gets older, the music will get younger.

Mr. Krusenoski asked about the hours of operation. Mr. Spatz replied Monday through Friday 4:30 p.m.-1:00 a.m. and until 2:00 a.m. on Saturdays. Mr. Krusenoski asked if they were seeking a waiver from Friday night hour of operation. Mr. Spatz stated that he would prefer liquor sales until 2:00 a.m. on Fridays to stay competitive with surrounding communities, but could live with the 1:00 a.m. limitation on Friday nights. He stated that his application would not be contingent on the changing the allowable hours of operation.

Chairman McInerney felt that this license class should require submittal of a security plan. He believed this requirement has come out of necessity. He asked Mr. Spatz if he would have any problem providing a security plan. Mr. Spatz replied no.

Chairman McInerney suggested that the security policy language be kept fairly vague and not to prescribe specific operations. He stated that draft language could address access to the facility, general security guidelines and communication with the police department.

Ms. Fregeau had a recollection of his prior facility. She advised that there are dining requirements in other classifications and are a key element of the liquor code. She asked if they could elaborate on the availability of food service whether it be counter service or staff service. Mr. Spatz replied that the space will be broken up into rooms. He stated that they were contemplating an area for "Rita's Kitchen" which would be a combination of a service window and wait staff service to the whole club. He stated that this defined area could be more conducive for dining. He added that pizzas will need to be made to order and delivered throughout the club, but pizza slices and brats could be made available at the service window.

Ms. Fregeau understood their plan was preliminary, but did not see any seating indicated on the layout. Mr. Spatz received the former occupant's plan from the landlord. He noted that the purpose was to show the physical space and was not intended to be their actual plan.

Chairman McInerney stated that license classifications have some sort of seating capacity required. He asked if they had any thoughts as to what their seating capacity might be. Mr. Spatz replied that they are still in the design stage and he could not provide numbers at this time. Ms. Kuchynka advised that she was informed by the building management that seating and tables were removed by the previous tenant. Ms. Fregeau asked for clarification as to the proposed location. Mr. Spatz replied the old Stardust.

Ms. Strelau asked Mr. Spatz if he read the liquor ordinance and if he was familiar of what is allowed in Downers Grove. She stated that the Crains Chicago Business rowdy convention crowd article contained in their handout materials caught her eye. She asked if he as aware that nudity or gambling were not allowed in the Village. Mr. Spatz replied yes. Ms. Strelau noted that liquor laws have changed a lot since they operated Baha's.

Ms. Strelau though that the concept on its face was intriguing. She advised that the Commission has been down the path many times with the entertainment license classes. She stated that the initial meetings tend to differ from subsequent meetings. She believed if they understand the liquor ordinance, they will understand what the Village's expectations are. She noted that they want to have successful businesses, but there are requirements. She wanted to have some sort of seating requirement and they need to provide the Village with a good understanding on their under 21 policy. She wants them to be clear on what they intend to do.

Ms. Strelau stated that she had noticed that they were heard at the July 9<sup>th</sup> Naperville Liquor Commission meeting proposing essentially the same concept. Ms. Strelau asked if they are no longer considering Naperville. Mr. Spatz replied they are no longer considering the Naperville location. Ms. Strelau stated that it was interesting that Naperville expressed the same concerns as Downers Grove.

Ms. Strelau felt that the Village needs to retain some of the basic principals that are required for other license holders when designing this classification. She stated that the Village has not created license classifications that do not have a food requirement. She understood the concept and wanted to be open to

the idea, but food service is a big hurdle and added that bars are not something the Village has. She stated that it could be a lot of fun but needs to be the right kind of fun for Downers Grove.

Mr. Spatz agreed with the Commission comments. He believed that this concept was right for Downers Grove.

Ms. Strelau asked if allowing bull riding entertainment at the facility would need to be spelled out in the ordinance. Ms. Petrarca replied no.

Ms. Strelau stated their projected age group was 25-45 and was unsure if most in that age group would ride the mechanical bull. Mr. Spatz stated it is just a fun activity for his patrons and where a bunch of people can cheer on someone riding a bull and is more about people watching to see who is going to ride it. He stated that there are federal regulating its operation. He advised they do not charge people to use it and it is not a profit center for them and actually takes up space.

There being no further discussion, Chairman McInerney asked for a motion.

**MS. STRELAU MOVED TO REQUEST STAFF TO AMEND THE PROPOSED CLASS E-5 CLASSIFICATION TO INCLUDE A SECURITY PLAN REQUIREMENT, A SEATING REQUIREMENT AND ELABORATE ON THE UNDER 21 VERSUS OVER 21 OPERATIONS FOR REVIEW AT THE NEXT MEETING. MS. FREGEAU SECONDED.**

**VOTE:**

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

**Nay:** None

**Abstain:** None

**MOTION CARRIED:7:0:0**

Ms. Fregeau asked for an extra copy of the alcohol management policies.

Mr. Spatz wondered how long the license development process would take and advised that he was currently in lease negotiations. He wondered if in the next month an acceptable classification could be created. Chairman McInerney stated that as much detail as possible would need be flushed out with staff between meetings so a classification can be created that meets their needs and it being in line with Village requirements. He noted that in some cases license classifications have been created quickly, but it has taken several months to develop others. He added that the Commission is only responsible for determining details of the license, but the Council would be the one ultimately to vote upon its creation.

Ms. Kuchynka stated that the next meeting would be October 1<sup>st</sup>, where she would place the draft ordinance on the agenda. She stated in the meantime they can concentrate on their seating plan and security detail and more specific operations.

Mr. Spatz appreciated their time.

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 "R-1", full alcohol, on-premise consumption liquor license application.

**MR. ADANK MOVED TO FIND CHAMA GAUCHA BRAZILIAN STEAKHOUSE, INC. D/B/A CHAMA GAUCHA BRAZILIAN STEAKHOUSE, LOCATED AT 3008 FINLEY ROAD, QUALIFIED FOR A CLASS "R-1", FULL ALCOHOL, ON-PREMISE CONSUMPTION LIQUOR LICENSE. MS. FREGEAU SECONDED.**

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

**Nay:** None

**Abstain:** None

**MOTION CARRIED: 6:0:0**

The motion carried.

~~Mr. Krusenoski asked when they planned to open. Mr. Phu replied on or near October 21<sup>st</sup>.~~

## **V.       ORDINANCE DISCUSSION**

Chairman McInerney stated that the next order of business was continued ordinance discussion regarding the creation of a new liquor license classification. Ms. Kuchynka provided a revised draft ordinance creating an entertainment liquor license classification which included provisions discussed at last month's meeting. She stated that seating, food service and reporting requirements were added to the draft. She stated that members of Rita's were present to answer questions and to further discuss their request.

Ms. Kuchynka advised that the proposed operation has been amended. She asked that representatives explain their changes to the Commission and discuss any further amendments to the draft.

Chairman McInerney asked that representatives be seated and sworn in by the court reporter.

Mr. Larry Spatz introduced himself as the CEO of Small World Entertainment, Inc. d/b/a Rita's Road House. Mr. Ronald Michalski introduced himself as head of security. They distributed materials concerning their revised concept to the Commission. Chairman McInerney thanked them for the additional information and plans.

Mr. Spatz advised that Downers Grove would be the prototype for their possible other locations in the future. He provided a security plan for the operation. He advised that Mr. Michalski has been designated as Vice President and Director of Security. He noted that Mr. Michalski and the general manager will have profit sharing as they felt this very important to their future.

Mr. Spatz realized after last month's meeting and after doing market research, they determined that the area is under-served for pizza service and decided to add that restaurant component to the operation. He noted that there are 20,000 office workers within one mile of the site.

Mr. Spatz stated that entertainment would serve a function from 4:30 on in the evening on, however, they want to fill the space being a good restaurant. Mr. Spatz stated the people will come for the entertainment and come for the pizza food product.

Mr. Spatz noted that after 3 years in operation, Lettuce Entertain You became a restaurant partner to his Baha Beach Club operation. He stated that Lettuce Entertain You was better than him at providing food service. He distributed a proposed menu to the Commission. He advised he has chosen an outside organization provide food service for the establishment and serve as his restaurant partner for the new Rita's. He stated Patty Costello will bring over her team to run the food service portion of the operation. He stated that Patty has many years of experience in the food service industry and was pleased with her product.

Mr. Spatz explained that this location will be like a Dave N Busters for adults. He noted there will not be children or anyone under 21 allowed into the facility.

Mr. Spatz hoped to combine window service and wait staff service. He plans to hire 60-80 employees.

Mr. Spatz felt that the addition of food service will be a key to their success and will tone down the feel of the entertainment facility. He stated that they will market the food product which will be a main focus.

Mr. Michalski stated that they established both a security operation plan and emergency evacuation plan after meeting with members of the police and fire departments. He felt it was an all inclusive plan.

Chairman McInerney asked if they will focused on defining themselves as a restaurant. He wondered if they would be looking to apply for a restaurant license as opposed to an entertainment facility license. Mr. Spatz replied that they plan to market it with the restaurant component but the facility would also be entertainment oriented. He stated that there will be live entertainment, the riding bull and dancing. Mr. Krusenoski noted that this will be 21 and over facility. Staff felt that this would be better categorized as an entertainment facility. She noted that they are doing more food service, but in reviewing the floor plan, it is truly more than a restaurant operation.

Chairman McInerney asked the Commission for their comments.

Ms. Strelau asked if they were only discussing the ordinance at this time. Ms. Kuchynka replied yes and if they are comfortable with the draft ordinance, the Commission can make a recommendation to forward it to the Village Council for consideration. She stated Rita's would have to return for an application hearing if the Council chooses to create the license.

Ms. Strelau had questions about the ordinance. She wondered if general restaurant provisions would better suit the operation. She thought that the food service requirement being available during "all hours of operation" was stricter than what restaurant licensees are now required to provide. Ms. Kuchynka noted that restaurant food service is required up until one hour prior to close and they can offer a reduced menu for late night hours. She stated that she could amend the ordinance to make it consistent with other food service provisions in the code. She noted that other entertainment classifications require food service during all hours of operation. Ms. Fregeau noted that the E-4 class requires food service during all hours.



Mr. Adank asked if Rita's could offer a reduced menu if the draft was revised. Ms. Petrarca replied yes, as long as they are providing some type of food service. Ms. Kuchynka advised that some restaurants have submitted both a full menu and a reduced menu. She noted that most do not stay open late and have no need to offer the reduced menu. Mr. Adank wondered what the reduced menu could be reduced to. Ms. Petrarca replied the ordinance states that a reduced menu must include appetizers, sandwiches, hors d'oeuvres or other similar foods shall be available.

Chairman McInerney asked if the restaurant/entertainment facility have the restaurant reduced menu provision brought into the scope of this class to avoid some redundant language. Ms. Petrarca agreed that the food service requirement should be available in accordance with the restaurant class.

Ms. Strelau stated that the facility will be no less than 12,000 square feet. She stated that the seating capacity, excluding outdoor, will not be less than 125. She asked if that was the percentage of seating requirement normally used. Ms. Kuchynka replied that it matches the seating requirement that North Beach has. Ms. Kuchynka noted that Mr. Spatz would be providing over 125 seats, but she kept the requirement similar to the other classification.

Ms. Strelau noted that the annual fee remained "to be determined". She asked how the license fee will be determined. Ms. Kuchynka replied that she would do a Cost Center Analysis and planned to calculate the fee accordingly and add fees for additional monitoring costs. Ms. Strelau asked if these additional fees would be based upon Lt. Budds recommendation to cover costs of what he needs to do for additional monitoring. Ms. Kuchynka replied yes.

Ms. Petrarca asked if they planned to charge a cover charge. Mr. Spatz replied after 10 PM. Ms. Petrarca stated that cover charges should be taken into consideration when calculating fees that the police department may need to recover. Ms. Kuchynka agreed and noted she would cover that in the calculation.

Ms. Fregeau asked if these fees are budget neutral. Ms. Kuchynka stated that these funds would come out of her alcohol awareness budget.

Ms. Strelau stated that the Commission has a lot of information specific to Rita's but they are trying to establish a general ordinance. Chairman McInerney informed the representatives that as the Commission goes through and create a new license classification, they listen to their needs and try to fit it into the scope of the Liquor Code. He noted that some questions may be redundant when they come back before the Commission at application.

Mr. Krusenoski asked who the monthly entertainment report will go to. Ms. Kuchynka replied to her. He asked what the criteria is for judging if an event is questionable. Ms. Kuchynka replied that certain venues tend to produce a number of police call outs and complaints. Ms. Kuchynka stated that staff can gage the amount of police activity and associate them with good and bad events. Ms. Petrarca stated that the Village typically monitors website activity at establishments. She noted it is sometimes helpful to know of events ahead of time so they can respond to problems and/or know if there could be potential issues at the site.

Ms. King stated that the last operator at the facility did not seem to have enough room for full kitchen facilities. She wondered if they foresee problems putting in ovens and accommodate more substantial food preparation equipment. Mr. Spatz replied that the full kitchen layout is included on the plan. Ms.

Kuchynka advised Mr. Spatz previously that the kitchen could be the most expensive upgrade to the facility. Ms. King asked if they needed a wood burning stove or a commercial stove. Mr. Spatz replied they can use a pizza conveyor belt or conventional pizza ovens. Ms. King thought it was good for them to take on an already established menu.

Mr. Krusenoski asked if they will utilize the name "Rita's Road House" and wondered how they would market the restaurant aspect of the facility. Mr. Krusenoski stated that when he heard the term "roadhouse" he did not know what to envision. He did not immediately think "bar" and did not immediately think "restaurant". Mr. Spatz replied he will use the name but will also be marketing the pizza that has been served for 50 years. He noted the facility will be marketed with food and entertainment service, possibly Rita's Kitchen and Rita's Road House.

There being no further discussion, Chairman McInerney asked for a motion.

**MS. KING MOVED TO REQUEST STAFF TO FURTHER AMEND THE PROPOSED CLASS E-5 CLASSIFICATION AND FORWARD THE DRAFT ORDINANCE TO THE VILLAGE COUNCIL FOR CONSIDERATION. MR. KRUSENOSKI SECONDED.**

**VOTE:**

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

**Nay:** None

**Abstain:** None

**MOTION CARRIED: 6:0:0**

The motion carried.

Ms. Strelau asked if staff will provide them with an updated ordinance. Ms. Kuchynka replied yes. She hoped to get the item placed on an upcoming workshop agenda and would provide them with a copy of the materials provided to the Council.

Mr. Spatz appreciated their time.

**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 referred to the monthly packet. She provided the Commission with the Findings and Orders of the Liquor Commissioner for the four licensees present for disciplinary hearings at the August meeting. She stated that Findings and Order of the Cellar Door was amended based upon the owner's request. She advised that he requested a fine in lieu of suspension at the hearing but opted to take suspension in lieu of a fine. She noted that some of the fines were substantial and that the Village offered licensees a payment plan.