

**VILLAGE OF DOWNERS GROVE  
REPORT FOR THE VILLAGE COUNCIL MEETING  
JUNE 12, 2012 AGENDA**

<b>SUBJECT:</b>	<b>TYPE:</b>	<b>SUBMITTED BY:</b>
Ordinance Amendment: Liquor Classifications	Resolution ✓ Ordinance Motion Discussion Only	Enza Petrarca Village Attorney

**SYNOPSIS**

An ordinance has been prepared amending the Liquor Code to eliminate certain obsolete liquor license classifications.

**STRATEGIC PLAN ALIGNMENT**

The goals for 2011-2018 include *Strong, Diverse Local Economy*.

**FISCAL IMPACT**

N/A

**RECOMMENDATION**

Approval on the June 19, 2012 active agenda.

**BACKGROUND**

A number of licenses classifications created to accommodate certain applicants have now become obsolete. In an effort to simplify the Liquor Code, staff recommends the removal of certain license classifications that are not being utilized.

The Liquor Commission discussed this matter at their meetings of March 1 and May 3 and recommended approval of these amendments.

**ATTACHMENTS**

An Ordinance Amending Liquor License Classifications  
Liquor Commission Minutes & Recommendation – May 3, 2012 & March 1, 2012

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 production/box office events.

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

~~*Cultural/Performing Arts facility.* 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~~

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~~on premises is provided, including hot or cold sandwiches or other similar foods.~~

*Drug Store.* A retail store where medication and miscellaneous articles (food, cosmetics and film) are sold.

*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.

*Gaming Facility.* A place in which the public may participate for a fee in organized, competitive video gaming, online and through the use of video gaming consoles, excluding video gaming that involves gambling of any type.

*Grocery Store.* A building where the primary business consists of the direct retail sale of items such as meats, cereals, grains, produce, baked goods, dairy products, canned and frozen prepared food products, beverages, cleaning supplies, pet food and supplies, over the counter medicines, personal products, household goods and similar items are available to be purchased by the consumer.

*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 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, indoor simulated golf facilities, 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 with the service of food and drink, 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, hobs 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 where the retail sale of wine, wine tastings and wine education seminars/classes are conducted on a regular basis and on site consumption of wine and beer is allowed subject to provisions of the wine boutique license classification.

*Wine Shop.* A facility where the retail sale of wine for off-premise consumption, wine tastings and wine education seminars/classes are conducted on a regular basis. (Ord. No. 244, § 1; Ord. No. 1741,

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§ 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:

### **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 "BYO" Bring Your Own Licenses**

"BYO" licenses shall authorize the consumption of beer and wine which has been brought onto the premises by a patron or patrons over the age of twenty-one (21) for on-site consumption where the premises is that of a restaurant as defined herein. The following provisions shall apply:

BYO shall be permitted in conjunction with the purchase and consumption of a meal while seated at a table and served by wait staff;

No more than one (1) 750ml bottle of wine per patron or no more than 36 ounces of beer per patron (unopened) shall be permitted to be brought into the premises;

BYO shall be allowed only during the restaurant hours of operation and only along with and during regular food service. Downers Grove allowable sales hours per Section 3.31(a) shall apply;

BYO shall be limited to indoor seating only. Under no circumstances shall BYO be allowed outside unless as otherwise provided by a separate license classification validly held by the licensee;

BYO licensees may provide glass ware and ice to patrons; may uncork, pour and control its consumption and may charge a corkage fee;

Employees who have successfully completed a certified training program may perform corkage/serving duties. Such employees must be at least nineteen (19) years of age and shall serve in accordance with all State and local laws;

BYO licensees shall provide a certificate of insurance reflecting coverage for dram shop or equivalent liability for BYO service;

At a patron's request, the licensee shall re-seal any unconsumed portion of wine in accordance with State law;

Licensees are prohibited from storing liquor on the premises, unless as otherwise provided by a separate license classification validly held by the licensee;

Packaged and on-site sales of liquor is prohibited, unless as otherwise provided by a separate license classification validly held by the licensee;

Licensees shall be liable for violations of this Chapter in the same manner as the holder of any other classification of liquor license, including but not limited to violations for service to minors and the over-serving of patrons.

##### **Class "C" Club (Private) Licenses**

"C-1"- Private club licenses shall authorize the retail sale of alcoholic liquor for consumption on the

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premises where the business is that of a club as defined herein.

### **Class "E" Entertainment Facility Licenses**

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

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

~~"E-2" Entertainment/Recreational Facility licenses shall authorize the retail sale of alcoholic liquor for consumption on the premises where the 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 where the primary business is a recreational facility, as defined

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

"E-3-D" Entertainment/Recreational Facility licenses shall authorize the sale of alcoholic liquor for consumption on the licensed premises where the 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 primary business is that of a Cultural/Performing Arts Facility as defined herein, subject to the following conditions:~~

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

"E-5" Entertainment/Restaurant Facility licenses shall authorize the sale of alcoholic liquor for consumption on the licensed premises where the primary business is an entertainment/restaurant facility as defined herein, 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, a policy, security procedures and security staffing provisions. Twenty-four hour emergency contact information shall be provided to the Village's Police and Fire Departments.

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"E-6" Entertainment/Gaming Facility licenses shall authorize the sale of alcoholic liquor for consumption on the license premises where the primary business is a gaming facility as defined herein, of not less than ten thousand (10,000) square feet. Such facility shall have a retail game sales area. Such facility will have an area where food is prepared on the premises. Food service shall be available during operation and such facility shall have a guest seating capacity, excluding outdoor areas, of not less than thirty-five (35). Bar/lounge seating shall be no more than twenty percent (20%) of the total seating provided for patrons of the establishment.

### **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.

### **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-



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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 primary business and/or in locations where the primary 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 primary 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 primary 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 primary 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 alcohol shall also 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 alcohol on the premises shall not exceed seven hundred fifty (750) square feet.

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c. Consumption of alcohol 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 alcohol, 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 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 primary business is that of a restaurant, as defined herein. In addition, bar seating shall be limited to twenty percent (20%) of the entire seating for the establishment.

### **Class "S" Special Event Licenses**

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

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

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

(c) A fee shall be paid along with the application submittal as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule".

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

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(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 six (6) 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 temporary use license as provided in Chapter 4 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 primary 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

Lic Class

(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 3.15. 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
"BYO" (Bring Your Own - beer/wine)	4
"C-1" (Club, private)	6
"E-1" (Theater)	1
<del>"E-2" (Comedy Club)</del>	<del>1</del>
"E-3-A" (Golf Course)	1
"E-3-B" (Recreational Facility - beer/wine)	1
<del>"E-3-C" (Recreational Facility - full)</del>	<del>2</del>
"E-3-D" (Billiard Hall - full)	1
<del>"E-4" (Cultural/Performing Arts Facility - beer/wine)</del>	<del>1</del>
"E-5" (Entertainment - full)	1
"E-6" (Gaming Facility - full)	1
"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)	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 4.** That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Lic Class

**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

are not open until 9 p.m. Ms. Fregeau was concerned that they are frequently advertising and promoting themselves as a club. She felt that they should operate in the way that was presented to the Commission and the Village should hold them to those guidelines. Chairman Pro Tem Strelau stated that their promotions may be an indication that they are not doing well and need to draw business by promoting questionable activities. Chairman Pro Tem Strelau stated that North Beach took the same route. She wondered if they continued fit their category of license.

Ms. Fregeau asked if altering a floor plan would violate the ordinance. Ms. Kuchynka replied yes, especially if a licensee alters the floor plan to accommodate more area for drinking and entertainment. She stated that all licensees must maintain minimum dining seat requirements listed under the class of the license issued. She stated that the Mayor must approve any changes to licensee floor plans.

Mr. Clary asked if licensees were up for renewal. Ms. Kuchynka replied yes. She stated that it is the Mayor's decision whether to grant or deny a renewal based on the operation of the establishment. She noted that renewals applications go out in mid-May.

Ms. Petrarca stated that the Liquor Commission has the opportunity to remove certain license classifications if there is a vacancy or no further need for that type of license. Ms. Kuchynka added that they would need to eliminate the number of licenses available and the class description itself.

Mr. Austin stated that the Village may dissolve any class of license. Ms. Kuchynka noted it is easier to dissolve if no establishment holds the license and would be a good time to address the issue. She stated that if anyone in the future wants to do similar activities, they would have the ability to create a license or comply with existing provisions of the Code.

Chairman Pro Tem Strelau stated that the Commission created the E license classifications which were specific to each applicant and noted their activities tend to evolve from what was presented to the Commission. She stated that most operations are not close to what was proposed and they turn into exactly what the Commission did not ask for. She stated that the Village should do better in keeping licensees in line with what was presented. Ms. Kuchynka stated that licensees have often argued that when completely new to the market, that they cannot predict how the establishment will evolve. She stated it is difficult to take a license away. Chairman Pro Tem Strelau stated that if certain licensees are not adhering to the floor plan on file, the Village should be able to go in, issue citations and/or regulate it.

Ms. Fregeau stated that accountability should be a goal and if approved business plans are not being followed, they should be addressed by the Village. Ms. Petrarca stated that the Village can bring in any licensee, especially at renewal. Ms. Petrarca stated that concern can be addressed by the Mayor and staff. Mr. Clary stated that licensees should be advised that they are regularly monitored, especially website promotions. Ms. Petrarca stated that staff and the Police Department have discussed advertising issues with certain licensees. Ms. Fregeau asked that they operate as they presented, with floor plans maintained, hours of business and food service requirements.

Ms. Kuchynka asked the Commission for their thoughts on eliminating certain license classifications. The Commission agreed. Staff agreed to present a draft ordinance to them at the next meeting.

## **IX. COMMENTS FROM THE PUBLIC**

There were none.



www.downers.us

May 8, 2012

The Honorable Martin T. Tully  
Mayor and Liquor Commissioner

Re: *Liquor License Classification Amendments*

Dear Mayor Tully:

On Thursday, May 3, 2012, 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 eliminate certain obsolete liquor license classifications. The following finding was made:

**MS. STRELAU MOVED TO FORWARD AN ORDINANCE AMENDING CERTAIN LICENSE CLASSIFICATIONS TO THE VILLAGE COUNCIL FOR CONSIDERATION. MS. FREGEAU SECONDED.**

**VOTE:**

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

**Nay:** None

**Abstain:** None

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

The motion carried.

This motion can be found in the May 3, 2012, minutes of the Liquor Commission (attached).

Very truly yours,

Daniel McInerney, Chairman  
Liquor Commission

VILLAGE OF DOWNERS GROVE

**Attachments**

cc: April Holden, Village Clerk

a\recommend.l-cl\Class-Obsolete

**COMMUNITY RESPONSE  
CENTER**

630.434.CALL (2255)

**CIVIC CENTER**

801 Burlington Avenue

Downers Grove

Illinois 60515-4782

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 60515-4046

630.434.5460

FAX 630.434.5495

## VII. OLD BUSINESS

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

Ms. Kuchynka stated that she provided the Commission with a draft ordinance which would eliminate obsolete liquor license classifications. She stated that certain license classes were created for particular applicants, particularly a comedy club, cultural/performing arts facility and a recreational facility which are currently not in use. She stated that staff would like to clean up the Municipal Code and eliminate these obsolete license classifications. She stated that applicants may petition the Liquor Commission to create license classifications but noted that the Commission has discussed not being so particular with license conditions in the future. She asked the Commission for their comments, questions or concerns with the draft ordinance.

Chairman McInerney felt that it made sense to clean up the liquor code. He recalled many painstaking hours creating such classifications and asked that staff maintain the language so as not to have to re-create the wheel. He agreed with staff that the Commission historically has relied on what information an applicant provides to the Commission in order to craft a license. He felt that they may want to look at classification in a broader sense as to what fits the Village.

Ms. Strelau noted that the Commission tried to be narrow in creating license conditions, whereby making them appear to be "boutique" licenses, but noted there were reasons the Commission was being specific. She felt there were good reasons for regulating the classes.

Ms. Fregeau asked that staff provide the Commission with a report with information on what classification each establishment holds. Ms. Kuchynka noted that she provides the Commission with a Classification Chart as to how many licensees hold each class of license. Ms. Fregeau would like names of the establishments. Ms. Kuchynka agreed to provide a detailed overview once renewals are finalized in July.

Ms. Strelau asked if anyone applied for the BYO license. Ms. Kuchynka replied no. She stated that she had discussions with a potential applicant, however, they felt it was too expensive to pursue. Ms. Strelau asked what the charge was. Ms. Kuchynka replied \$525 per year, however, they were more concerned with the application fee of \$1,445. She advised that every administrative aspect of the application fee is accounted for in the Cost Center Analysis. She noted those fees cover hearing costs, court reporter fees, staff time, background checks and processing the application. Mr. Austin asked if Village BYO license differs from other communities. Ms. Kuchynka replied no, however, the fees may be shocking. She noted that tax payers should not have to cover the costs for establishments who want to serve or sell liquor. Ms. Petrarca believe that the proponents for the BYO believed the Village was going to allow BYO as the City of Chicago does, without a license, fees or monitoring. Chairman McInerney felt that the application fee may be an entry barrier.

Mr. Austin asked how long it would take an establishment to profit and recover application fees. Ms. Kuchynka noted that some licensees offer liquor as a convenience to their customers and are not concerned per say, with profit. She noted it may take a licensee a bit to regain the license fees, however in the case of BYO, corkage fees do not amount to much, which is why she suggests that applicants seek a regular license so they can make a profit. She noted that licensees make profits with liquor sales, not with corkage fees, which is a convenience charge.



Ms. Fregeau noted that Walgreens listed fees charged by communities they hold licenses in and felt it may be good to compare the fees of Downers Grove with surrounding communities. Ms. Kuchynka stated that all fees are based on what it costs the Village to administer the license. She noted that the Village has many more awareness and compliance programs than other communities, and the licensees are charged for such services.

Mr. Austin asked what advantages establishments have for BYO and wondered if the fees were creating a barrier for establishments to obtain a license. Ms. Kuchynka replied, mainly as convenience or perk for the customer. Ms. Kuchynka advised that the Liquor Commissioner has the option to waive the public hearing before the Liquor Commission, which would reduce the application fees. She noted that the application would be placed on file with the Village Clerk and that background checks would be conducted, however, there would be no testimony before the Liquor Commission. She stated that if there is a history of violations with the applicant, it would not be discussed in a public forum. She stated that a recommendation on whether to grant or deny the license from staff would be provided to the Mayor for consideration.

Mr. Krusenoski asked if there could be subsidization of the application fee for the BYO applicant which is supported by fees of other license holders. Ms. Petrarca noted that the liquor license fee is not the issue, the application fee is.

Ms. Fregeau noted that some potential BYO applicants may also have issues with storage space.

Chairman McInerney recalled the Cost Center and had questioned the methodology of the analysis. He stated that the Commission may not have taken into consideration the enforcement provisions into the license fee structure in the past and felt a much better job is being done collecting those fees now, especially with the Class E licenses. Chairman McInerney felt that the Village might be on the low side of truly covering all costs. Ms. Kuchynka advised that additional Alcohol Awareness funds have been transferred to the Police Department for compliance testing activities.

Ms. Strelau asked if staff needed a motion on the draft ordinance. Ms. Kuchynka replied yes.

**MS. STRELAU MOVED TO FORWARD AN ORDINANCE AMENDING CERTAIN LICENSE CLASSIFICATIONS TO THE VILLAGE COUNCIL FOR CONSIDERATION. MS. FREGEAU SECONDED.**

**VOTE:**

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

**Nay:** None

**Abstain:** None

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

The motion carried.

Ms. Kuchynka stated that she would forward the item when it goes to the Council for consideration.