

**VILLAGE OF DOWNERS GROVE  
REPORT FOR THE VILLAGE COUNCIL MEETING  
APRIL 8, 2014 AGENDA**

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

**SYNOPSIS**

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

- Define and create a Class RF license classification to allow for on-premise consumption of alcohol at a retirement facility
- Amend the Class P-O liquor license classification which allows off-premise sales and on-site consumption of liquor at a grocery store
- Establish the number of Class RF liquor licenses available
- Increase the number of Class P-O liquor licenses available

**STRATEGIC PLAN ALIGNMENT**

The Goals 2011-2018 identified *Strong, Diverse Local Economy*.

**FISCAL IMPACT**

N/A

**UPDATE & RECOMMENDATION**

This item was discussed at the April 1, 2014 Village Council meeting. Based on Council discussion at the meeting regarding the Class P-O license, staff changed the proposed language for the maximum seating area for on-site consumption to “20% of the retail square footage or three thousand square feet, whichever is less”. Three thousand square feet was based on an average size restaurant seating area. Staff recommends approval on the April 8, 2014 Active Agenda.

**BACKGROUND**

Staff has received a request from Oak Trace Lifespace Community to amend the Liquor Code to allow for on-premise alcohol sales at the retirement facility. The proposed ordinance defines retirement facilities and sets forth the terms of the license classification. The proposed ordinance does not place a limit on the number of Class RF licenses in order to accommodate this request, as well as any future requests. As this was a newly created license classification, the request was forwarded to the Liquor Commission for input and review. The Liquor Commission recommended that the draft ordinance be forwarded to the Village Council for approval (minutes attached).

Staff has received a request from Angelo Caputo’s Fresh Market (“Caputo’s”) to amend the Class P-O grocery store license which provides for off-premise sales and on-premise consumption. The amendment removes a provision from the current ordinance which requires that the premises be located in the Downtown Business District and revises the area allowed for on-site consumption from 750 square feet to twenty percent (20%) of the retail sales area square footage. Caputo’s also requested that the ordinance be amended to remove the requirement that the consumption on-premises be limited to the designated

seating/serving area. Staff is not recommending the removal of this restriction from the ordinance at this time. In addition, the proposed ordinance increases the number of Class P-O licenses from one to three in order to accommodate this request, as well as any future requests.

Due to the timing of the Village Council meetings and Liquor Commission meetings for the months of April and May, the Caputo's item was not presented to the Liquor Commission for consideration, but rather is being brought directly to the Village Council in order to expedite the process and to take advantage of this economic development opportunity.

## **ATTACHMENTS**

Ordinance

Recommendation & Liquor Commission Minutes (draft) - March 6, 2014

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**VILLAGE OF DOWNERS GROVE**  
**COUNCIL ACTION SUMMARY**

**INITIATED:** Village Attorney **DATE:** April 8, 2014  
(Name)

**RECOMMENDATION FROM:** Liquor Commission **FILE REF:** \_\_\_\_\_  
(Board or Department)

**NATURE OF ACTION:**

- Ordinance
- Resolution
- Motion
- Other

**STEPS NEEDED TO IMPLEMENT ACTION:**

Motion to Adopt "AN ORDINANCE AMENDING CERTAIN LIQUOR LICENSE CLASSIFICATIONS", as presented.



**SUMMARY OF ITEM:**

Adoption of the attached ordinance shall amend certain liquor license classifications.

**RECORD OF ACTION TAKEN:**

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

**AN ORDINANCE AMENDING CERTAIN  
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:

\* \* \*

**Retirement Facility.** A multi-family dwelling complex and health center where meal service and recreational activities are provided to occupants fifty-five (55) years of age or older.

\* \* \*

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

"P-O" 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 ~~twenty percent (20%) of the retail square footage area of the premises or three thousand (3,000) square feet, whichever is less.~~

## Misc Classifications

- 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 "RF" Retirement Facility Licenses**

"RF"- Retirement facility licenses shall authorize the sale of alcoholic liquor for consumption on the premises to temporary or permanent residents of a retirement facility and their bona fide guests. On-site consumption shall be allowed within the confines of dining rooms and outdoor patio areas where meals are regularly served. No packaged sales of alcoholic liquor shall be allowed. The facility shall not be permitted to advertise or promote the sale of alcoholic liquor nor offer alcoholic liquor for sale to the public.

Private functions shall be allowed in common areas as part of regular activities integral to the facility. Marketing programs conducted by the facility shall be allowed provided they are private, by invitation only, and are limited to age-appropriate prospective clientele.

\* \* \*

### **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" (Entertainment/Restaurant - full)	2
"G" (Golf Course)	1
"H-1" (Hotel)	Unlimited
"K-1" (Catering - full)	4
"K-2" (Catering - Park District - beer/wine)	1
"O" (Outdoor)	Unlimited
"P-1" (Packaged-full)	20
"P-2" (Packaged -beer/wine)	15
"P-O" (Packaged - full off premise and on premise consumption - Grocery Store)	43
"REC-1" (Recreational Facility - full)	3
"REC-2" (Recreational Facility - beer/wine)	1
"R-1" (Restaurant - full)	Unlimited

## Misc Classifications

"R-2" (Restaurant - beer/wine)	Unlimited
"RF" (Retirement Facility - full)	Unlimited
"S-1" (Special Event)	Unlimited
"S-2" (Special Event)	Unlimited
"T" (Theater)	1
"W-1" (Wine Boutique)	2

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

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

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

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Mayor

Passed:

Published:

Attest: \_\_\_\_\_

Village Clerk

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www.downers.us

March 25, 2014

**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

The Honorable Martin T. Tully  
Mayor and Liquor Commissioner

*Re: Creation of a Retirement Facility Liquor License*

Dear Mayor Tully:

On Thursday, March 6, 2014, at a regular meeting of the Downers Grove Liquor Commission, the members made a recommendation to forward a draft ordinance to the Council which would create a full alcohol, on-premise consumption retirement facility liquor license. The following finding was made:

**MR. CLARY MOVED TO RECOMMEND THAT THE DRAFT ORDINANCE FOR THE CREATION OF A CLASS "RF" RETIREMENT FACILITY LIQUOR LICENSE BE FORWARDED TO THE VILLAGE COUNCIL FOR CONSIDERATION. MR. JACOBSON SECONDED.**

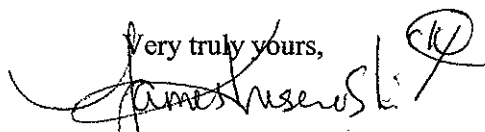
<b>VOTE:</b>	<b>Aye:</b>	Mr. Clary, Mr. Jacobson, Mr. Austin, Chairman Pro Tem Krusenoski
	<b>Nay:</b>	None
	<b>Abstain:</b>	None

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

Motion carried.

The motion carried.

This motion can be found in the March 6, 2014 (draft) minutes of the Liquor Commission (attached).

Very truly yours,  
  
James Krusenoski, Chairman Pro Tem  
Liquor Commission

VILLAGE OF DOWNERS GROVE

Attachments

cc: April Holden, Village Clerk

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# DRAFT

## V. NEW BUSINESS

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

### Oak Trace - 200 Village Drive

Ms. Kuchynka stated that staff has prepared a draft ordinance based on a request for the creation of a retirement home facility liquor license classification.

Ms. Kuchynka stated that there were a few minor changes to the draft based on her discussion with Oak Trace. She stated that the definition of the facility will be revised to state: a multi-family dwelling complex "with health center".... She stated that Oak Trace also requested a clarification in the classification section and requested that "residents" be amended to "clients" of the retirement facility as some members of the health center are not permanent residents of the facility.

Ms. Kuchynka requested that individuals representing Oak Trace step forward and be seated. She asked that any individual(s) giving testimony, state and spell their name for the record, indicate their affiliation with the establishment and be sworn in by the court reporter.

Ms. Dawn Mueller and Mr. Mark Longenecker were sworn in by the court reporter. Ms. Mueller introduced herself as the Director of Administrative Services for Oak Trace Lifespace Community. Mr. Longenecker introduced himself as the Executive Director of Oak Trace.

Ms. Mueller stated that Oak Trace has been in operation at 200 Village Drive since 1973. She stated that in 2011, Lifespace acquired the facility. She added that there are 11 other Lifespace communities in the United States. She stated that they are seeking liquor service as all other facilities are currently licensed and that they have received numerous requests from their residents.

Ms. Mueller stated that liquor service will be provided to residents of the complex in the dining areas. She stated that liquor service will be limited to residents and their guests. She added that they would also like to be able to serve alcohol at private functions and marketing events that will be by invitation only.

Ms. Mueller stated that they are a continuing care facility with independent living. She stated that there are 218 apartment buildings and 56 town & garden homes and 175 beds in the health center. She stated that services range from assisted living to full scale nursing care.

Chairman Pro Tem Krusenoski asked for comments from the Commission. Mr. Austin asked staff if Oak Trace was looking for a specific license classification. Ms. Kuchynka stated that the Village did not have a classification in the Code that would fit their activities. She stated that there are no other retirement communities licensed in the Village. She stated that Lombard licensed one of their Lifespace facilities as a not-for-profit club.

Mr. Austin noted that the restaurant classification may not work as the service of food is not their primary function. Ms. Kuchynka replied that most liquor at the facility will be served in conjunction with meals, however, Oak Trace is proposing to host marketing events for potential clientele. She stated those could be considered private functions, but the Village would need notification. Ms. Mueller stated that the dining rooms are not open to the general public.



Mr. Austin asked staff how hotels are licensed. Ms. Kuchynka replied that they hold a Class "H" license. She stated that they are required to have a 125-dining seat restaurant. She added that alcohol sales are allowed in the restaurant, lounges, with room service, in banquet hall areas and they also are allowed beer and wine packaged sales. Ms. Kuchynka noted that the retirement complex will not be allowed packaged sales, however, private residents can purchase their own alcohol from local retailers.

Mr. Austin questioned if the Village can issue a license to the complex under an existing classification rather than create a new class. He stated that they are serving alcohol to guests in a dining environment and that maybe they could qualify and meet the protocols of a restaurant. Ms. Kuchynka replied that the restaurant is defined as a place where meals are regularly served to the public. She also noted that the restaurant was not their primary business.

Ms. Mueller stated that residents get a meal a day, which is included in their services. Mr. Austin asked if drinks will be charged separately. Ms. Mueller replied that drinks will be charged to the residents accounts. She stated that they looked at the restaurant class, however, it also states "without sleeping accommodations". Mr. Austin stated he would rather utilize a license already in the code, but noted that might not be possible.

Mr. Austin asked if liquor service will be in other areas or banquet areas of the facility. Mr. Longenecker replied yes and added that they are for the residents use.

Mr. Clary asked if there was a standard format that the other facilities follow concerning the service of alcohol. Ms. Mueller stated that their most similar facility is in Lombard and they will be utilizing their knowledge and policies when preparing their own policy for alcohol service.

Mr. Clary asked if the current employees will be serving liquor. Ms. Mueller replied yes.

Mr. Jacobson asked about the site and if the whole area was included in liquor service. He noted that there are five dining rooms and common areas for events. Ms. Mueller replied yes. Mr. Jacobson also noted that there were a number of outdoor patios. Ms. Mueller noted that there are some private outdoor areas at some residences and that liquor service would not be served in these private areas. She stated that alcohol service will be available to all residents in the patios adjacent to the dining rooms, the roof top garden and pavilion.

Ms. Kuchynka read the definition to the Commission for restaurant which is "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...." She stated that staff opted to create a category for the retirement facility as it did not meet existing codes.

Chairman Pro Tem Krusenoski stated that to classify the retirement facility as a restaurant would be an odd fit.

Ms. Kuchynka stated that it fits in with the service of meals, but staff also took into consideration the license fee for this class. She stated less staff time and resources will be devoted to this license class and felt that control buys would not be warranted as they will be primarily serving age 55+ residents.

Mr. Austin asked how many residents would dine in the restaurants on a daily basis. Ms. Mueller replied approximately 273 residents at least once a day.

Mr. Austin asked how the hotel definition read. Ms. Didier replied "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." Mr. Austin replied that might be a fit.

Chairman Pro Tem Krusenoski asked if the Council was meeting before the next Commission meeting. Ms. Kuchynka replied they meet on March 11<sup>th</sup> and 18<sup>th</sup>. Ms. Kuchynka stated that there is not a rush with this amendment to the ordinance. She stated whether they are classified under an existing license or if a new class is created, any ordinance change will need to be voted upon by Council.

Ms. Didier noted that the hotel license authorizes the retail sale of packaged beer and wine.

Chairman Pro Tem Krusenoski asked what the annual fee is for the hotel license. Ms. Kuchynka replied it is over \$4,000. Chairman Pro Tem Krusenoski stated that a license should be created with an appropriate fee. Ms. Mueller advised that they are a not-for-profit organization. Mr. Austin did not feel that the amount of alcohol sales will differ much from that of a restaurant.

Chairman Pro Tem Krusenoski appreciated Mr. Austin's intent for expediency and keeping the code as simple as possible. He stated that without being under any time constraint, it would be his preference to create a license that is specific to a retirement facility. Mr. Austin stated he does not see problems with fees as there are a significant number of residents who may potentially drink. He asked if they are serving meals and drinks at cost. Ms. Mueller replied that the cost of meals is minimal. Mr. Longenecker added that they anticipate any profit on liquor sales to be very minimal.

Ms. Didier asked Ms. Mueller why they requested the ordinance reference from "residents" to "clients" be changed. She asked if the individuals who are in the Health Center are able to dine and get a drink. Ms. Mueller replied that these individuals are rehab patients and that they do not reside at the facility. Mr. Austin asked if they are temporary residents. Ms. Mueller replied yes. Mr. Longenecker stated that rehab patients represent less than 20% of their members. Ms. Didier asked if these temporary residents can bring a guest in to dine. Ms. Mueller replied yes. Mr. Austin did not know why they could not be considered residents.

Ms. Didier suggested that the ordinance be changed to read "permanent or temporary" residents. The group agreed.

Chairman Pro Tem Krusenoski asked if sales would include beer, wine and spirits. Mr. Longenecker replied yes.

Ms. Kuchynka stated that the draft ordinance would need to be approved by the Village Council and once approved, Oak Trace will have to return to the Commission for an application hearing. She noted that when they apply, procedural questions can be discussed at that time.

Ms. Kuchynka stated that they will be required to have a liquor policy and staff will need to receive certified training. Chairman Pro Tem Krusenoski asked if Beacon Hill in Lombard will be the model on which they base their policies at Oak Trace. Ms. Mueller replied yes. She stated that she will utilize their policies, but go through the certification class in order to get more knowledge about liquor serving rules when drafting their own.

Chairman Pro Tem Krusenoski asked if Beacon Hill has full alcohol service. Ms. Mueller replied yes.

Mr. Austin asked why the number of licenses available is being limited to one. Ms. Kuchynka replied that it was an arbitrary number. She stated that it can be unlimited. Mr. Austin agreed as the

Commission can recognize other facilities might be interested. Chairman Pro Tem Krusenoski agreed that they will then not run the risk of having to change the number available if another retirement community in Downers Grove would like to offer alcohol. Ms. Kuchynka agreed to unlimit the number of license available.

Ms. Kuchynka asked the Commission for a motion to forward the draft ordinance creating a retirement facility license class, as amended, to the Village Council for consideration.

**MR. CLARY MOVED TO RECOMMEND THAT THE DRAFT ORDINANCE FOR THE CREATION OF A CLASS "RF" RETIREMENT FACILITY LIQUOR LICENSE BE FORWARDED TO THE VILLAGE COUNCIL FOR CONSIDERATION. MR. JACOBSON SECONDED.**

**VOTE:**        **Aye:**            Mr. Clary, Mr. Jacobson, Mr. Austin, Chairman Pro Tem Krusenoski  
**Nay:**            None  
**Abstain:**        None

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

Motion carried.

Ms. Kuchynka stated that the Oak Trace request, draft ordinance and minutes of tonight's meeting will be forwarded to the Village Council for consideration. She would advise the representatives when the item will be placed on a Council agenda. She stated that they are free to attend that public hearing. She stated if and when the ordinance is adopted, Oat Trace may apply for the license.

**Mad Ape Brewing Company - 5400 Janes Avenue**

Ms. Kuchynka stated that representatives of Mad Ape Brewing Company have requested the creation of a liquor license classification for a brewing facility located at 5400 Janes Avenue.

Ms. Kuchynka asked that any individual(s) representing Mad Ape Brewing Company step forward and be seated. She asked that any individual(s) giving testimony, state and spell their name for the record, indicate their affiliation with the establishment and be sworn in by the court reporter.

Mr. David Yob, Mr. Pete Kosanovich and Mr. Mark Hedrick were sworn in by the court reporter. Mr. Yob introduced himself as a partner, part owner and founder of Mad Ape Brewing Company. Mr. Kosanovich introduced himself as partner and founder of Mad Ape. Mr. Hedrick introduced himself as Master Brewer of Mad Ape.

Ms. Kuchynka stated that a distributor's license and a retailer's license will be required from the State. She stated that they are seeking a local license in order to have on-premise consumption and the retail sales of beer produced on the premises.

Ms. Kuchynka stated that she has not drafted an ordinance for the facility as staff wanted direction from the Commission concerning the license. She added that there is a brew pub license classification in the Code which is held by Emmett's Ale House. She noted that pursuant to the terms of the license, they are required to have a restaurant on the facility. She noted that they have on-site consumption and off-premise sales of beer produced on the premises.