

VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL MEETING
NOVEMBER 11, 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 Control Ordinance relative to the following:

- Comprehensive non-substantive amendments and correction of inconsistent provisions throughout the Liquor Control Ordinance
- Define and create a Class BF license classification to allow for on-premise consumption and off-premise retail sales of craft beer at a brewing facility
- Establish the number of Class BF liquor licenses available

STRATEGIC PLAN ALIGNMENT

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

FISCAL IMPACT

N/A

UPDATE & RECOMMENDATION

This item was discussed at the November 4, 2014 Village Council meeting. Staff recommends approval on the November 11, 2014 Active Agenda.

BACKGROUND

Staff has received a request from a brewing company to amend the Liquor Control Ordinance (Chapter 3) to allow for on-premise and off-premise retail sales of craft beer at a brewing facility. The attached ordinance defines brewing facilities as establishments which shall distribute, manufacture, store and sell craft beer brewed on the facility. Product sampling shall be allowed in accordance with State law. The on-premise consumption area shall be limited to 3,000 square feet of the facility. Food service is not a requirement for this license class, however, customers are limited to 48 ounces of beer on any given day, provided a single serving size does not exceed 16 ounces. Those under 21 years of age will be allowed in the facility when accompanied by someone 21 years of age and older.

The proposed ordinance places a limit of two on the number of Class BF licenses. The Liquor Commission reviewed the proposed ordinance as it was a request for a newly created license classification and they recommended that the draft ordinance be forwarded to the Village Council for approval (minutes attached).

Staff is also proposing comprehensive non-substantive amendments to the Liquor Control Ordinance, which are set forth in the attached ordinance. Through this review, license class definitions have been made consistent, references have been made standard, typographical errors have been corrected and general provisions have been clarified throughout. The last review of the Liquor Control Ordinance was completed in 2006. Since that time, a number of liquor classifications have been added to the code and there have been numerous liquor amendments which warranted this comprehensive review.

ATTACHMENTS

Ordinance

Recommendation & Liquor Commission Minutes - March 6, 2014 and April 3, 2014

VILLAGE OF DOWNERS GROVE
COUNCIL ACTION SUMMARY

INITIATED: Village Attorney **DATE:** November 11, 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 LIQUOR CODE PROVISIONS", as presented.



SUMMARY OF ITEM:

Adoption of the attached ordinance shall amend certain liquor code provisions.

RECORD OF ACTION TAKEN:

ORDINANCE NO. _____

AN ORDINANCE AMENDING LIQUOR CODE PROVISIONS

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 3.1SEC. is hereby amended to read as follows:

3.1SEC. Title.

The provisions of this Chapter-3 may be cited and referred to as the "Downers Grove Liquor Control Ordinance". (Ord. No. 2735, § 1.)

Section 2. That Section 3.2. is hereby amended to read as follows:

3.2. Purpose.

It is the policy of the Village to limit the sale and service of alcoholic liquor in accordance with the terms and conditions of this Ordinance and State law. Further in promotion of the public safety and well being, it is the policy of the Village to limit the purchase, consumption or possession of alcoholic liquor in order to prevent intoxication, disorderly conduct, trespasses, unruly disturbances at public or private assemblies, traffic accidents and similar conduct which often result from the unlawful or excessive purchase, consumption or possession of alcoholic liquor. (Ord. No. 2735 § 1.)

Section 3. 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 (1/2) of one percent (1%) of alcohol by volume shall be presumed to be alcoholic liquor for purposes of this Chapter.

Alcoholic 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 alcoholic liquor. This includes, but is not limited to, those signs commonly referred to as "beer signs" and may involve electronic or neon displays.

Billiard Hall. A place kept, used, maintained, advertised or held out to the public as a place in which the public may participate in a game of skill commonly known as pool. Such facility establishment shall have a guest seating capacity, excluding outdoor areas, of not less than one hundred (100). Such facility establishment shall be limited to patrons twenty-one (21) years of age and older.

Bowling Alley. ~~Any public place kept, used, maintained, advertised or held out to the public as a place wherein the game of in which the public may participate in the game commonly known as bowling is played with composition balls and ten wooden or plastic pins.~~ Such facility establishment shall have a guest seating capacity, excluding outdoor areas, of not less than one hundred twenty-five (125).

Brew Pub/Restaurant. ~~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. ~~The~~

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~~business~~ Such establishment shall operate as a restaurant and bar/lounge seating shall be limited to twenty percent (20%) of the entire seating for the establishment.

Brewing Facility. A place kept, used, maintained, advertised or held out to the public as a place in which the primary business is the distribution, manufacture, packaging, sale and storage of craft beer produced on the premises in compliance with Federal and State laws.

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.

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~~ place kept, used, maintained, advertised or held out to the public as a place in which the sale of food, ~~non-alcoholic beverages,~~ medications, household products, cosmetic items and reading materials ~~is~~ are provided. No more than twenty-five percent (25%) of the retail sale square footage area shall be devoted to the sale of alcoholic liquor ~~beer/wine~~ and tobacco products.

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

Entertainment/Restaurant facility. ~~Any~~ public place kept, used, maintained, advertised or held out to the public as a restaurant and where dancing, live entertainment or recreational activities such as those which are included in the definition of a recreational facility, are 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 kept, used, maintained, advertised or held out to the public as 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. Such facility shall have a retail game sales area. Such facility shall have a guest seating capacity, excluding outdoor areas, of not less than thirty-five (35).

Grocery Store. A ~~building~~ place kept, used, maintained, advertised or held out to the public as a place 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. No more than twenty-five percent (25%) of

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the retail sale square footage area shall be devoted to the sale of ~~beer/wine~~ alcoholic liquor and tobacco products.

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.

Men's or women's club. ~~An establishment~~ place kept, used, maintained, advertised or held out to the public as a place 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 personal, 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 kept, used, maintained, advertised or held out to the public as a place in which the public may participate in activities, including but not limited to bowling, gaming, billiards, and indoor simulated golf, as defined herein. Such ~~facilities~~ establishment shall include an area where food is prepared on the premises and food service shall be available during operation. It shall be unlawful for any licensee holding a license for a recreational facility to sell or offer for sale at retail, any alcoholic liquor on such premises at any time when the regular and complete business of the recreational facility is not staffed, in actual operation, and open to the public for business, except that such sales may be made during a one (1) hour period immediately following the close of regular recreational facility operations in such premises. Bar/lounge seating shall be no more than twenty percent (20%) of the total seating provided for patrons of the establishment.

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, hors d'oeuvres or other similar foods will not, standing alone, be deemed sufficient to constitute such ~~premises~~ establishment as 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

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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. Bar/lounge seating shall be no more than twenty percent (20%) of the total seating provided for patrons of the establishment.

Retail sale. The sale for use or consumption, and not for resale.

Retail sales square footage area. The area or space in a building an establishment 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.

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.

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. (to Sell) 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 alcoholic liquor.
- (2) The delivery of alcoholic liquor, without additional charge, with a meal or with entertainment or the providing of samples of alcoholic liquor as part of a promotion or sales device of any kind.
- (3) The dispensing of alcoholic 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 alcoholic liquor.
- (6) The providing of "set-ups" containing alcoholic liquor.
- (7) The giving away of alcoholic liquor.

However, it shall not be considered a "Sale" shall not include when:

- (1) a person acting in the privacy of his/her home
- (2) where alcoholic liquor is provided as part of a religious ceremony; and/or
- (3) ~~at~~ private functions as defined herein that are held by the host and where the guests are not charged for the alcoholic liquor consumed.

Theater. A facility place kept, used, maintained, advertised or held out to the public as a place 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 nine hundred (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 place kept, used, maintained, advertised or held out to the public as a place where the retail sale of wine and beer, 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 place kept, used, maintained, advertised or held out to the public as a place where the retail sale of wine and beer for off-premise consumption, 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:

Section 4. That Section 3.4. is hereby amended to read as follows:

3.4. Local Liquor Commissioner.

(a) The Mayor of the Village shall serve as the Local Liquor Commissioner and shall be charged with the administration of the Downers Grove Liquor Control Ordinance and of such other ordinances relating to alcoholic liquor as may be, from time to time, enacted by the Village Council.

(b) The Local Liquor Commissioner shall have all power and authority permitted under State law as well as the following powers and duties with respect to local liquor licenses:

(1) To grant, ~~or to suspend for not more than thirty days or to revoke for cause,~~ all local licenses issued ~~to persons or entities~~ for premises within the Village.

(2) To enter or to authorize any law ~~enforcement~~ enforcement officer or other Village employee designated by the Village Manager to enter, at any time, upon a premise licensed hereunder to determine whether any of the provisions of the State law or Village ordinance or any rules or regulations ~~adopted by the Village or by the Illinois Liquor Control Commission~~ have been or are being violated, and ~~at such time~~ to examine the premises of the licensee in connection therewith.

(3) To receive complaints from any citizen within the Village that any provision of the State law or ~~of this Chapter~~ Village ordinance has been or is being violated and to act upon any such complaints in the manner provided by law.

(4) To examine, or cause to be examined, under oath, any applicant for a local license or for a renewal thereof, or any licensee upon whom notice of revocation has been served, or any licensee against whom a citation proceeding has been instituted by the State of Illinois Liquor Control Commission ~~or Village;~~ to examine, or cause to be examined, the books and records of any such applicant or licensee, and to hear testimony and take evidence for use in the performance of the Local Liquor Commissioner's duties; ~~and for the information of the Local Liquor Commissioner~~ to issue subpoenas which shall be effective in any part of this ~~s~~State. Other persons may be designated by the Local Liquor Commissioner to take action for the purpose of obtaining any of the information desired by the Local Liquor Commissioner under this section.

(5) To appoint any other member of the Village Council to serve as Deputy Local Liquor Commissioner, which person shall have full authority to exercise, in the absence of the Local Liquor Commissioner, any of the powers and duties enumerated herein, except as the Local Liquor Commissioner may specifically exclude by such appointment.

(6) To appoint the members of the Local Liquor Commission to advise and assist in the performance of the aforementioned powers and duties, to designate a chairman for the Commission, to attend such hearings or other meetings of the Local Liquor Commission as the Local Liquor Commissioner may deem necessary or appropriate.

(7) To report to the Village Council from time to time actions which have been taken to grant or deny liquor licenses or to ~~penalize~~ discipline licensees. (Ord. No. 2735, § 1.)

Section 5. That Section 3.5. is hereby amended to read as follows:

3.5. Local Liquor Commission.

(a) A Local Liquor Commission is hereby created, which shall consist of seven members appointed by the Local Liquor Commissioner ~~for staggered terms of three years each~~ as provided for in Section 2.53 of the Downers Grove Municipal Code. Members shall hold office for their designated terms and until their successors have been appointed.

(b) A chairman shall be designated by the Local Liquor Commissioner for the purpose of presiding over meetings conducted at the direction of the Local Liquor Commissioner. The Village Manager shall appoint a member of the Village staff to advise the Local Liquor Commission and assist in the conduct of such meetings.

(c) The Local Liquor Commission shall have and exercise the following powers and duties:

(1) Upon referral of applications for liquor licenses by the Local Liquor Commissioner, to

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review applications and the investigation of applicants for liquor licenses, and to submit findings and recommendations to the Local Liquor Commissioner setting forth its conclusions respecting such applications.

(2) To conduct disciplinary hearings at the request of the Local Liquor Commissioner and to submit findings and recommendations to the Local Liquor Commissioner setting forth its conclusions respecting the existence and nature of any violation of this Chapter ~~and the appropriate disciplinary action to be taken, if any.~~

(3) To keep written records of its meetings and proceedings which shall be open for public inspection during regular business hours at Village offices provided that such public records shall not include matters concerning the applicants or licensees which would result in an invasion of privacy.

(4) To assist the Local Liquor Commissioner in the performance of the powers and duties as requested by the Local Liquor Commissioner or Village Council.

(5) At the Local Liquor Commissioner's request, to ~~To~~ review recommended revisions to this ordinance. Said reviews and recommendations shall be advisory only and shall not prevent the Local Liquor Commissioner and the Village Council from taking whatever action he/she deems appropriate or necessary. (Ord. No. 2735, § 1; Ord. 2882, § 1; Ord. No. 3182, § 1.)

Section 6. That Section 3.6. is hereby amended to read as follows:

3.6. Village Manager as Chief Administrative Officer.

(a) Subject to the policies of the Village Council and the direction of the Local Liquor Commissioner, the Village Manager shall direct the Village staff in its enforcement of the provisions of this Chapter.

(b) The Village Manager shall direct the Village staff in performing its responsibilities related to the administration of the Liquor Control Ordinance, including but not limited to, the response to questions concerning liquor licenses and the handling of liquor license applications.

(c) At the end of each fiscal year, the Village Manager shall prepare and submit to the Village Council an annual report concerning the activities of the Village staff in administering and enforcing this Chapter. (Ord. No. 2735, § 1.)

Section 7. That Section 3.7. is hereby amended to read as follows:

3.7. Applicability of other provisions.

Nothing in this Chapter shall excuse or relieve the licensee, owner, proprietor, or person in charge of any place in the Village where alcoholic liquor is sold from the restrictions and requirements of any other provision of this Code, other ordinances of the Village or of the statutes of the State of Illinois, including but not limited to the Act, as amended from time to time, and the Illinois Liquor Control Commission Rules and Regulations. (Ord. No. 2735, § 1.)

Section 8. That Section 3.8. is hereby amended to read as follows:

3.8. License required.

It shall be unlawful to sell or offer for sale any alcoholic liquor without having a State and local liquor license, a State and local special event license, or to violate the terms of this Ordinance. (Ord. No. 244, § 2; Ord. No. 1741, § 9; Ord. No. 2388, § 4; Ord. No. 2735, § 1.)

Section 9. That Section 3.9. is hereby amended to read as follows:

3.9. Application.

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(a) *Letter of request.* Any person who wishes to apply for a license required by Section 3.8 shall submit to the Local Liquor Commissioner a letter of request containing information related to the identity, current and past business experience (including, but not limited to, handling of liquor) of the prospective applicant; the class of license desired; the location and nature of the business proposed; and any additional information relevant to his/her qualifications for a ~~retail liquor dealer's~~ license. Upon such written request, the prospective applicant shall be provided with information concerning the availability of licenses of the requested classification and the application procedure.

(b) *Availability of license.* If no license of the requested classification is available at the time a written request is received, the name of the person shall be placed on a list of persons interested in a license of such classification. Any person placed on such list shall be obligated to inform the Village Manager in writing on or before December 31 of each year of their desire to remain on such list for the next year. Failure to do so will result in removal of such person's name from the list. Persons whose names appear on such list at the time a license of the requested classification becomes available shall be so informed, and may then, at their option, proceed to apply for a liquor license.

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

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

(2) A floor plan:

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

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

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

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

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

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

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

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

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

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termination of the policy; ~~and,~~

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

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

(d) *Application for classification change.* A licensee wishing to file an application for a change of liquor license classification shall submit an application to the Village on forms as prescribed by the Village Manager. Such application shall be filed with the Local Liquor Commissioner and shall include those items listed in Section 3.9(c).

(e) *Application fee.* Except as otherwise provided herein, a non-refundable application fee as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule" shall be required with the filing of any application. Where the Local Liquor Commissioner in his/her sole discretion determines, based upon the nature and complexity of the application, that the administrative functions were de minimis, a full refund may be granted. Where the Local Liquor Commissioner determines that the administrative functions were not de minimis, a partial refund of one-half of the application fee may be granted. The application fee may be reduced or waived if the Local Liquor Commissioner:

(1) grants a liquor license without referring the application to the Local Liquor Commission ~~or the Plan Commission;~~

(2) grants a liquor license without requiring a full investigation; or,

(3) grants a liquor license while referring the application to the Local Liquor Commission for change of liquor license classification.

In the event that the applicant is seeking a license for outdoor liquor sales, a non-refundable application fee shall be required with the filing of any application. The fee for such application shall be as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule". ~~Provided, in the event the outdoor seating area application is filed and processed in conjunction with an application for issuance of a liquor license under this Section, the outdoor seating area application fee shall be as set forth in Administrative Regulation entitled "User Fee, License and Fine Schedule".~~

(e) *Request for creation of new license classification.* A written request shall be made to the Local Liquor Commissioner specifying the nature and type of liquor license sought, along with a business plan and/or operation plan outlining the type(s) of activities to occur on such premises. The license sought shall be in substantial conformance with the nature and intent and requirements of the Village's Liquor Code. If the Local Liquor Commissioner determines that the requested classification is warranted, he may forward such request to staff for processing. A public hearing ~~shall~~ may be required before the ~~Downers Grove~~ Local Liquor Commission to consider the creation of all new license classifications. ~~Upon positive recommendation from the Liquor Commissioner following such public hearing, the Village Council shall consider an ordinance creating such license classification.~~

(f) *One time license fee.* A request for the creation of a new liquor license classification shall be subject to a one time license fee as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule" which shall be intended to cover staff time and administrative costs for processing such request. Payment of such fee shall not guarantee the creation of such license classification.

(Ord. No. 244, § 3; Ord. No. 1741, § 10; Ord. No. 1749, § 2; Ord. No. 2388, § 5; Ord. No. 2450, § 3; Ord. No. 2541, § 4; Ord. No. 2735, § 1; Ord. No. 2847, § 2; Ord. No. 3064, § 1; Ord. No. 3182, § 2; Ord. No. 3343, § 1.)

Section 10. That Section 3.10. is hereby amended to read as follows:

3.10. Persons eligible for license.

No retail liquor license shall be issued or renewed to any person, corporation or partnership who would not be eligible for a license under the provisions of the Act* or in the Local Liquor Commissioner's

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discretion (Ord. No. 244, § 4; Ord. No. 1741, §§ 11 to 14; Ord. No. 2388, § 6; Ord. No. 2541, § 5; Ord. No. 2735, § 1.)

~~Ill. Comp. Stat., ch. 235, § ILCS 5/6-2.~~

Section 11. That Section 3.11. is hereby amended to read as follows:

3.11. Restrictions on issuance.

(a) No liquor license shall be issued to any person for premises upon which theatrical or other live performances which include the types of conduct enumerated in Section 3.33(c) of this Chapter shall constitute the entertainment offered to the patrons thereof. This prohibition includes, but is not limited to, any entertainment, fashion show or other presentation which may include any person in a nude or semi-nude state, including, but not limited to, servers, hosts, hostesses, dancers, singers, models or other performance artists, or role playing interactions.

(b) No liquor license shall be issued for the sale at retail of any alcoholic liquor within one hundred (100) feet of any church, school (other than an institution of higher learning), hospital, home for aged or indigent persons or for veterans, their spouses or children or any military or naval station. Provided:

(1) This prohibition shall not apply to the following establishments where sale of alcoholic liquors is not the principal business carried on in such place of business: hotels offering restaurant service, regularly organized clubs; or ~~to~~ restaurants.

(2) This prohibition shall not apply to the renewal of a license for the sale at retail of alcoholic liquor on premises within one hundred (100) feet of any church or school where such church or school has been established within such one hundred (100) feet since the issuance of the original license.

(3) Nothing in this section shall prohibit the issuance of a special events license to a church, organization or private school to sell at retail alcoholic liquor if any such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common objective other than the sale or consumption of alcoholic liquors.

(c) No liquor license shall be issued ~~to any person~~ for premises upon which an Adult Entertainment Establishment is located, as defined in the Downers Grove Adult Use Licensing Ordinance.

(d) No liquor license shall be issued ~~to any person~~ for premises upon which a men's or women's club is located.

(e) No liquor license shall be issued for any premises which includes the sale of gasoline.

(f) No liquor license shall be issued for any premises from which alcoholic liquor is sold at a drive-up or drive-through facility where the customer or purchaser may purchase or receive delivery of alcoholic liquor without exiting a motor vehicle or without entering such building where alcoholic liquor is sold. (Ord. No. 2489, § 2; Ord. No. 2735, § 1.)

NOTE: For similar state law, see ~~Ill. Comp. Stat., ch. 235, § ILCS 5/6-11.~~

Section 12. That Section 3.12. is hereby amended to read as follows:

3.12. Processing of applications.

(a) *Investigation.* Except as provided herein, on receipt of an application for any license authorized to be issued pursuant to this Chapter, the Local Liquor Commissioner shall cause a full investigation to be undertaken of the individual applicant, or of the principals of an applicant which is a corporation or a partnership. The investigation shall include a background check conducted by the Downers Grove Police Department and such other matters as the Local Liquor Commissioner deems appropriate. If the applicant is a corporation, background checks will be conducted of applicant's officers, directors, and any stockholder(s) owning in the aggregate more than fifteen percent (15%). If the applicant is a partnership, background checks will be conducted of all general partners, and any limited partner.

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(b) *Investigation/Liquor Manager.* Except as provided herein, on receipt of an application for any license authorized to be issued pursuant to this Chapter, the Local Liquor Commissioner shall cause a full investigation to be undertaken of the designated Liquor Manager. The investigation shall include a background check conducted by the Downers Grove Police Department and such other matters as the Local Liquor Commissioner deems appropriate. All designated Liquor Managers for licensed establishments shall file applications pursuant to this Chapter as if they were applicants for individual licenses and meet all pertinent licensing requirements of this Chapter and must be approved. The designated Liquor Manager shall submit his or her fingerprints to be used in completing the investigation. ~~Liquor Managers are required to present themselves for fingerprints to be taken by the Downers Grove Police Department.~~ The Local Liquor Commissioner may accept certified copies of fingerprints taken by other federal, state or local law enforcement agencies. The application, approval and qualification requirements for designated Liquor Managers shall be subject to conditions attached to the license of the business employing them. In the event a designated Liquor Manager does not meet such requirements or fails the requirements at any time, the licensee shall be notified, in writing, and the licensee shall designate another Liquor Manager who shall submit application to the Village.

(c) *Waiver of investigation.* ~~Unless it is determined that an applicant or their manager may have unreported convictions, the local Liquor Commissioner may waive the investigation.~~ The Local Liquor Commissioner may also waive the investigation if fingerprints have been submitted and/or investigations have been previously conducted. or for other good reason within his sole discretion.

(d) *Liquor Commission Hearing.* In addition to the requirements of subsection (a), the Local Liquor Commissioner ~~shall~~ may forward the application to the Local Liquor Commission for a public hearing. Provided, such investigation and/or hearing may be waived when the application is granted for issuance of a license to an existing licensee and/or for existing licensed premises, if, in the discretion of the Local Liquor Commissioner, it is determined that the investigation and/or public hearing is unnecessary and inappropriate. In such cases, the Local Liquor Commissioner shall request that the Village Council place such application on public file for a minimum of two (2) weeks prior to any final determination concerning such license. The following criteria shall be utilized to assist the Local Liquor Commissioner in determining whether a full investigation should be conducted, or whether the application should be forwarded to the Local Liquor Commission for a hearing:

(1) Any requested change in license classification for an existing licensee on existing licensed premises, or a change of personnel as defined in Section 3.17(a), or a change in the licensee's name, managers or owners for existing premises, whether there will be any substantial change as to the nature and focus of the local operation, the business name, the employee training program, or any change in the floor plan, the type and focus of advertising for the licensed business, or the ratio of alcohol sales to other activities on the premises.

(2) The previous record of the licensee as to liquor-related violations at the applied-for location or other locations operated by the licensee in the Village.

(e) *Grant or denial of license.* Within sixty (60) days after any hearing by the Local Liquor Commission, or ~~within twenty days~~ after the application is placed on public file by the Village Council, the Local Liquor Commissioner shall take one of the following actions:

(1) Forward such application to the appropriate Village department, Board or Commission for their recommendation as to granting or ~~refusing~~ denying such license. Such recommendation shall be presented in writing to the Local Liquor Commissioner. Such recommendation may be considered by the Local Liquor Commissioner and the Local Liquor Commissioner shall render in writing a decision to ~~refuse or grant or deny~~ any license authorized to be issued pursuant to this Chapter and as provided in subparagraph (2) hereof; or

(2) ~~Render a decision denying or granting such license in writing.~~ Any decision granting a license shall specifically confirm the expected date of occupancy, and no such decision shall be valid for more than ninety (90) days after the expected occupancy date without written permission from the Local Liquor Commissioner for a reasonable extension of time not to exceed ninety (90) additional days.

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Thereafter, if the applicant wishes to seek a liquor license, a new application shall be filed and such application shall be considered pursuant to the provisions of this ~~article~~ Chapter.

(3) The Local Liquor Commissioner may utilize any or all of the following criteria in making his/her decision, to grant or deny a liquor license ~~application~~:

(a) The length of time an applicant has been operating as an entity or business ~~in the Village~~.

(b) The experience or history of the applicant ~~with the Village~~, including the prevalence or lack of contacts with the Police Department, Fire Department, Community Development Department, or any other enforcement body of the federal, state or county governments.

(c) The applicant's previous experience with the handling of alcoholic liquor, including prior violations of liquor control laws or the absence thereof.

(d) The experience of the applicant's Liquor Manager, including prior violations of liquor control laws or the absence thereof.

(e) The comprehensiveness and detail of the applicant's liquor training program and handling manual.

(f) The length of time the applicant has been waiting for an available license.

(g) Recommendations from the Local Liquor Commission.

(h) ~~Recommendations from the Plan Commission.~~

~~(i) The neighborhood in which such licensed establishment is to operated.~~

~~(j) The geographical distribution of licenses in the Village.~~

~~(k) Other pending or proposed applications for licenses in the Village.~~

~~(l) Input from Village staff members as to the impact of the establishment in the community.~~

~~(m) The conformity of the establishment with the intents and purposes of Section 3.2 of the Municipal Code.~~

~~(n) The welfare of the Village as a whole.~~

~~(o) Any other factors which may be relevant to the issuance of such license.~~

(f) *Multiple applicants.* If more applications for a license of a particular classification are determined to meet all of the necessary criteria for issuance of a license, and an insufficient number of such licenses are available, the Local Liquor Commissioner shall have the authority to select the most qualified applicant or applicants to whom such license(s) will be granted.

(g) Upon making a determination, the Local Liquor Commissioner shall state the reasons such license has been ~~refused or granted~~ or denied and may specify in particular the findings as to the expected effect of granting such license on:

(1) The neighborhood in which such licensed establishment is to operated;

(2) The geographical distribution of licenses in the Village;

(3) Other pending or proposed applications for licenses in the Village; and

(4) The welfare of the Village as a whole.

(h) Any decision of the Local Liquor Commissioner to grant or deny a license authorized to be issued under this Chapter shall be conclusive.

(i) *False statements.* It shall be a violation of this ~~chapter~~ ordinance for any licensee or any officer, associate, member, representative, agent, or employee of any licensee to make a false statement of fact to the Local Liquor Commissioner or Local Liquor Commission in an application ~~or, at a~~ at public hearing or at any other time. An application may be denied or a license revoked when it is determined that the application, plans, or other supporting documents required by this ~~Ordinance~~ reflect a false statement or misrepresentation of a material fact. (Ord. No. 1741, § 22; Ord. No. 2246, § 3; Ord. No. 2388, § 10; Ord. No. 2735, § 1; Ord. No. 2847, § 3; Ord. No. 3182, § 3; Ord. No. 3295, § 1.)

Section 13. That Section 3.13 is hereby amended to read as follows:

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3.13 Classification of licenses.

Such licenses shall be, and are hereby, divided into the following classes:

Class "B" Brew Pub/Restaurant Licenses

"B-1" Brew pub/restaurant licenses shall authorize the retail sale of alcoholic liquor and beer produced on the premises for on-site consumption ~~and (The retail sale of beer in original packages, unopened only, produced on the licensed premises shall be allowed for off-premise consumption.~~

Class "BF" Brewing Facility Licenses

"BF" licenses shall authorize the on-premise consumption and retail sale of craft beer where the premises is that of a brewing facility as defined herein. The following provisions shall apply:

No more than a total of forty-eight (48) ounces of beer shall be served for the purpose of on-site consumption, whether by the glass or by the flight, to any customer in any one (1) day with a single serving not to exceed sixteen (16) ounces.

Product sampling shall be permitted in accordance with State law at no charge.

On-premise consumption shall be limited to the retail portion of the licensed premises except during supervised tours and private events. The retail portion shall not exceed 3,000 square feet.

Patrons under the age of twenty-one (21) shall be allowed on the premises when accompanied by an individual twenty-one (21) years of age or older, however, classes and seminars shall be limited to patrons twenty-one (21) years of age or older.

Live entertainment is prohibited.

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)~~ years of age or older 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 or older 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;

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

Packaged and on-site sales of alcoholic liquor is prohibited, unless as otherwise provided by a

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separate license classification validly held by the licensee;-

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

Class "E" Entertainment/Restaurant Facility Licenses

"E-1" 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, live entertainment or recreational activities. 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 twenty-one (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 (24) hour emergency contact information shall be provided to the Village's Police and Fire Departments.

This license shall be subject to any other additional conditions and/or restrictions imposed by the Local Liquor Commissioner either at the time of initial issuance or renewal of the license.

Class "G" Golf Course.

"G" Golf course 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.

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

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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 (30) 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 (6) 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 (30) 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 (6) months prior.

Class "O" On-Premise Consumption, Outdoor Licenses

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

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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, except that ~~wine~~ tastings shall be permitted on such premises in accordance with State law. Such licenses shall be only authorized in locations where the primary business is that of a ~~drug store~~, grocery store, wine shop or convenience store as defined herein.

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 alcoholic liquor, 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 alcoholic liquor 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.
- b. The seating/serving area for customers consuming alcohol on the premises shall not exceed twenty percent (20%) of the retail square footage area of the premises or three thousand (3,000) square feet, whichever is less.
- c. Consumption of alcoholic liquor 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~~ premises 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 "REC", Recreational Facility, On Premise Consumption Licenses

"REC-1" 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.

"REC-2" 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 herein.

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Class "R" Restaurant, On Premise Consumption, Indoor Licenses

"R-1" ~~R~~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.

"R-2" ~~R~~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.

Class "SRF" Retirement Facility Licenses

"RF"- Retirement ~~F~~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.

Class "S" Special Event Licenses

"S" ~~s~~Special ~~e~~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~~ 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 Local Liquor Commissioner may refer any application under this section to the Local Liquor Commission for review and comment. The application shall include such information as the Local Liquor 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

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Regulation entitled "User-Fee, License and Fine Schedule".

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

(e) Upon submittal of a properly completed application and payment of fee, the Local Liquor Commissioner may issue a special events license subject to such reasonable restrictions as the Local 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)~~ three (3) days, provided that ~~three (3)~~ two (2) 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 (2) persons ~~over the age of twenty-one~~ (21) years of age or older 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 Local 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 Local 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 Local Liquor 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 Local Liquor 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~~ an additional 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 "T" Theater.

"T" Theater 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~~ liquor shall be limited to contracted theater rentals and theater production/box office events.

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2. Alcoholic beverage ~~liquor~~ 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 (30) 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 (6) months prior. In addition, such report shall describe any planned events currently scheduled by the licensee.

Class "W" Wine Boutique.

"W-1" ~~Packaged liquor~~ **Wine Boutique** 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 (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 14. That Section 3.14 is hereby amended to read as follows:

3.14 Term - fees.

- (a) The term of each license issued hereunder shall be from July 1 to June 30.
- (b) Licenses shall be issued to new applicants and/or renewal applicants with satisfactory performance in the most recent year in which they held a license. The fee for the various classes of licenses shall be as

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set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule"!

(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 shall be set forth in Administrative Regulation entitled "User Fee, License and Fine Schedule". No licensee shall continue to engage in the business of selling alcoholic liquor unless such fee has been paid.~~

(f) All required fees shall be paid at the time of issuance of the license after approval by the Local Liquor Commissioner pursuant to Section 3.12 of this Chapter. All such fees shall be forthwith deposited with the Village Treasurer.

~~(g) Application fees are provided for in Section 3-9(e) of this Code.~~

~~(h) It is the intention of the Village to review and, if justified, adjust license fees annually based upon the costs and expenses incurred by the Village to administer this section. Provided, however, nothing herein shall require such review nor impair or prohibit any adjustment in fees as may from time to time, be approved by the Council.—(Ord. No. 244 §§ 5, 6; Ord. No. 279, § 1; Ord. No. 356, § 1; Ord. No. 634, § 1; Ord. No. 635, § 1; Ord. No. 1059, § 1; Ord. No. 1200, § 1; Ord. No. 1465, § 1; Ord. No. 1741, §§ 15 to 17; Ord. No. 2167, § 4; Ord. No. 2246, § 1; Ord. No. 2388, § 7; Ord. No. 2541, § 6; Ord. No. 2735, § 1; Ord. No. 3050, § 2; Ord. No. 3377, § 1.)~~

Section 15. That Section 3.15. is hereby amended to read as follows:

3.15. Limitation on number of licenses.

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

License Classification	Amount of licenses not to Exceed
"B-1" (Brew Pub)	1
"BF" (Brewing Facility)	2
"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)	3
"REC-1" (Recreational Facility - full)	3
"REC-2" (Recreational Facility - beer/wine)	1
"R-1" (Restaurant - full)	Unlimited
"R-2" (Restaurant - beer/wine)	Unlimited
"RF" (Retirement Facility - full)	Unlimited

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"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 16. That Section 3.16. is hereby amended to read as follows:

3.16. Renewal; effect of failure to renew.

(a) Subject to the restrictions established in Section 3.19 respecting nonconforming licenses, any licensee may make application to renew ~~his/her/the~~ license at the expiration thereof, provided ~~he/the applicant~~ is then entitled to receive a license and the premises for which such renewal license is sought are suitable for such purpose.

(b) Licensees applying for renewal shall either certify to the continued compliance of the premises with the conditions pursuant to which the license was initially granted, including the approved floor plan and dram shop insurance coverage, or shall submit a request for approval of certain changes in the licensed business pursuant to Section 3.18.1 of this Chapter. The renewal application shall be on forms provided by the Village and shall include the same information as provided for an original application to determine whether the licensee is, and will continue to be, qualified for a license. Provided, in lieu of new submittals, the renewal applicant may certify, on forms provided ~~for~~ by the Village, that some or all of the information previously provided by the applicant with any original or renewal application has not changed.

(c) Application for renewal along with the required license fee shall be filed with the Village no later than the second Friday of June each year. Applications for renewal filed after this deadline shall be considered a late filing but shall be accepted by the Village until June 30th of each year. Provided, any licensee submitting a late filing shall, in addition to the license fee, pay a late filing fee as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule". No application for renewal shall be accepted after June 30th of each year. Rather, any application filed after June 30th shall be treated as an application for an original license and processed as provided in Section 3.12.

(d) Applications for renewal shall be considered by the Local Liquor Commissioner and either approved or denied based upon the standards and qualifications for issuance as set forth in this Chapter and State laws. Provided, before reaching a final decision, the Local Liquor Commissioner may refer any renewal application, ~~and shall refer all renewal applications for which renewal may be denied,~~ to the Local Liquor Commission for a hearing. In such case, notice shall be given to the licensee and the Local Liquor Commission shall conduct a hearing, making a recommendation to the Local Liquor Commissioner regarding the renewal status or non-renewal of the license.

(e) Except for Class "S" special events licenses, any license issued pursuant to this Chapter shall terminate by operation of law at 11:59:59 P.M. of the June 30th following issuance. Any licensee who has filed an complete application shall be permitted to continue operation under the authority of the existing license, even after June 30th, until a final decision is made by the Local Liquor Commissioner as provided herein. Any licensee who fails to file a renewal application shall cease liquor operation on or before June 30th. (Ord. No. 244, § 10; Ord. No. 1200, § 1; Ord. No. 1741, § 19; Ord. No. 2388, § 8; Ord. No. 2735, § 1; Ord. No. 3050, § 4; Ord. No. 3343, § 1.)

Section 17. That Section 3.17. is hereby amended to read as follows:

3.17. Change in ownership; change in Liquor Manager.

(a) The occurrence of any one or more of the following events shall be deemed to constitute a

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change in ownership of licensed businesses for which a new license shall be required.

(1) With respect to any licensee that is a corporation, the replacement or addition of any shareholder owning directly or indirectly (including ownership by members of the same household) twenty percent (20%) or more of the outstanding shares of any class of the capital stock of said corporation; provided that any sale or exchange of stock which results in a change in controlling ownership under the bylaws of the corporation shall be deemed to be a change of ownership hereunder regardless of the percentage of actual sale or exchange.

(2) With respect to any licensee that is a general partnership, the replacement or addition of any general partner.

(3) With respect to any licensee that is a limited partnership, the replacement or addition of any general partner or of any limited partner holding directly or indirectly (including ownership by members of the same household) twenty percent (20%) or more interest in the earnings of said limited partnership.

(4) The operation of a licensed business by an unlicensed individual or corporation under a management agreement which permits such unlicensed individual or corporation to control and direct the operation of the business, to retain all or a majority of the profits derived from such business, and to utilize the privileges of the liquor license issued to another for such business for any period in excess of ninety (90) days. A management agreement shall not be deemed to include a contract for employment between a licensee and an individual manager or managers, who operate the licensed business on behalf of or at the discretion of the licensee.

(b) Prior to any of the events described in paragraph (a) hereof as constituting a change of ownership, the licensee shall apply for a new license pursuant to the requirements of Section 3.9(c) of this Chapter. The Local Liquor Commission and Local Liquor Commissioner shall act promptly thereon. Except as provided herein, the licensee shall not conduct its business following such change of ownership until a new license has been issued. The Local Liquor Commissioner may issue a temporary license to permit such ownership-transferee to continue operations pending processing of their application. At the time of submitting their application as required under this paragraph, the ownership-transferee may also apply for a temporary license with the Local Liquor Commissioner on such forms and with such information as the Local Liquor Commissioner may direct. ~~The Local Liquor Commissioner may issue such temporary license immediately upon receipt of application materials.~~ Provided, such issuance shall be within the sole discretion of the Local Liquor Commissioner and shall authorize the ownership-transferee to continue selling alcoholic liquor as permitted under the prior license as if no ownership transfer had occurred during the period in which the application is being processed, subject to such terms and restrictions as the Local Liquor Commissioner may impose, including but not limited to the following:

i. The location and operation where such alcoholic liquor was sold shall remain the same as under the prior license.

ii. The prior license shall have been valid and in compliance with all provisions of this Chapter at the time the application for transfer of ownership was filed.

(c) The occurrence of any one or more of the following events shall constitute a change in ownership of licensed businesses for which a new license shall be required, but shall not be subject to the application requirements established in Section 3.9(c) of this Chapter. Within five (5) business days following any change described below, licensee shall notify the Village Manager in writing describing the event in detail.

(1) With respect to any licensee that is a corporation, the replacement or addition of any officer or director of said corporation or any shareholder owning directly or indirectly (including ownership by members of the same household) more than five percent (5%) but less than twenty percent (20%) of the outstanding shares of any class of the capital stock of said corporation.

(2) With respect to any licensee that is a limited partnership, the replacement or addition of any limited partner holding directly or indirectly (including ownership of members of the same household) more than a five percent (5%) interest but less than a twenty percent (20%) interest in the earnings of said limited partnership.

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Failure to give the notice required shall constitute a violation of this Chapter subjecting the licensee to the penalties for violation of this Chapter, as established in Article V hereof. No additional license fee shall be payable for a new license required by virtue of changes described in this paragraph and so long as an application therefor is pending and not yet acted upon by the Local Liquor Commissioner, the applicant may continue to conduct its business and operations under the license in effect immediately prior to such changes.

(d) Within ten (10) days of any change of Liquor Manager for the licensee, the licensee shall report such change to the Village and shall provide information concerning the new Liquor Manager as required in Sections 3.9 and 3.10 herein. (Ord. No. 244, § 3; Ord. No. 1741, § 10; Ord. No. 1749, § 2; Ord. No. 2388, § 5; Ord. No. 2450, § 3; Ord. No. 2541, §§ 4, 9; Ord. No. 2735, § 1; Ord. No. 2910, § 1; Ord. No. 3182, § 4.)

Section 18. That Section 3.18. is hereby amended to read as follows:

3.18. Change of location.

A retail liquor dealer's license shall permit the sale of alcoholic liquor only in the premises described in the application for the license. Any licensee requesting a change of location shall submit written application to the Local Liquor Commissioner for approval to make such location change. The Local Liquor Commissioner may refer such request to the Local Liquor Commission for review and recommendation at a public hearing. Such location may be changed only upon written permission to make such change issued by the Local Liquor Commissioner. No change of location shall be permitted unless the proposed new location is a proper one for the retail sale of alcoholic liquor under the laws of the State, and under ordinances of the Village. (Ord. No. 244, § 11; Ord. No. 1741, § 26; Ord. No. 2735, § 1.)

Section 19. That Section 3.19. is hereby amended to read as follows:

3.19. Change in floor plan or focus of operation.

(a) During the term of any license(s) a licensee shall not:

(i) make changes to the floor plan that would alter the seating, entertainment area or liquor service area, or

(ii) make changes to the theme, business plan or advertising for the licensed business from what was presented at the time the license was issued without the prior approval of the Local Liquor Commissioner.

(b) Upon receipt of a written request for approval of any of the changes as provided in paragraph (a) of this section, the Local Liquor Commissioner shall review such request and in his sole discretion may approve, deny or forward the request to the Local Liquor Commission for its review and recommendation.

(c) If approval of the proposed changes is granted, the licensee may proceed to implement such changes in accordance with the approval granted, and subject to any conditions which may be established as part of such approval. If approval is denied, licensee shall continue to operate its business in the manner approved at the time the license was initially granted.

(d) A licensee shall be subject to the penalties for violation of this Section, as established in Article V hereof, up to and including revocation of the license. (Ord. No. 3343, § 1.)

Section 20. That Section 3.20. is hereby amended to read as follows:

3.20. Cessation of business.

Any licensee who has ceased establishment that ceases to do business or closes his/her place of the business for a period of more than thirty (30) successive days without written permission from the Local Liquor Commissioner shall be subject to having its license declared forfeited and lapsed by order of the Local Liquor Commissioner. (Ord. No. 2735, § 1.)

Section 21. That Section 3.21. is hereby amended to read as follows:

3.21. License a personal privilege; not to be subject to attachment, transfer, devolution.

A license shall be purely a personal privilege, good for not to exceed one year after issuance, unless sooner revoked as provided in this Chapter ~~provided~~, and shall not constitute a property right, nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such license shall not descend by the laws of testate or intestate devolution, but it shall cease upon the death of the licensee; provided, that executors or administrators of the estate of any deceased licensee, and the trustee of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor may continue the business of the sale or manufacture of alcoholic liquor under order of the appropriate court, and may exercise the privileges of the deceased or insolvent or bankrupt licensee after the death of such decedent or such insolvency or bankruptcy until the expiration of such license, but not longer than six (6) months after the death, bankruptcy or insolvency of such licensee. ~~A refund shall be made of that portion of the license fees paid for any period in which the licensee shall be prevented from operating under such license in accordance with the provisions of this section.~~ (Ord. No. 244, § 10; Ord. No. 1741, § 23; Ord. No. 2388, § 12; Ord. No. 2735, § 1.)

NOTE: For similar state law, see Ill. Comp. Stat., ch. 235, § 5/6-0.

Section 22. That Section 3.22. is hereby amended to read as follows:

3.22. Records.

The Village Manager shall cause to be kept a complete record of all liquor licenses issued, which records shall be open to public inspection during regular business hours at the Village offices. (Ord. No. 244, § 9; Ord. No. 2541, § 10; Ord. No. 2735, § 1.)

Section 23. That Section 3.22.1. is hereby amended to read as follows:

3.22.1. Reserved.

Section 24. That Section 3.22.2. is hereby amended to read as follows:

3.22.2. Inspection Procedures.

Each ~~restaurant~~ licensee shall keep a complete set of books of account, invoices, copies of orders, shipping instructions, bills of lading, weigh bills, correspondence, training certificates and all other records necessary to show fully the business transactions of such licensee, all of which shall be open at all times during business hours for the inspection and examination of ~~said local licensing authority~~ by the Village or its duly authorized representatives. The Local Liquor Commissioner may require any licensee to furnish such information as it considers necessary for the proper administration of this article, and may require an audit to be made of such books of account and records on such occasions as it may consider necessary. The auditor to be selected by said Local Liquor Commissioner shall likewise have access to all books and records of such licensee, and the expense thereof shall be paid by said licensee.

Section 25. That Section 3.22SEC. is hereby amended to read as follows:

3.22SEC. Conduct of Licensees/Prohibited Campaign Contributions.

(a) Every licensee shall conduct his/her place of business in a decent and respectable manner and shall

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eject therefrom or refuse admittance thereto to all persons rendering themselves objectionable or undesirable by reason of undue noise or other acts disturbing the peace.

(b) Any person, applicant, liquor manager or entity listed on a Downers Grove liquor license application which has been approved or is currently pending is prohibited from directly or indirectly making campaign contributions as defined in Section 9.1.4 of the Election Code (10 ILCS 5/9-1.4) to elected officials of the Village of Downers Grove. Class "S" Special Event Licenses and Class "G" Golf Course (Park District) are excluded from this provision.

(i) Any person, applicant, liquor manager or entity found guilty of a violation of this section may cause the licensee to be subject to fines, suspension and/or revocation pursuant to Section 3.39 of this Code or may result in the non-issuance of a license to a pending applicant. Such penalties shall be as determined by the Local Liquor Commissioner or, in the case of a campaign contribution made to the Local Liquor Commissioner in violation of subsection (b), such penalties shall be as determined by the Deputy Local Liquor Commissioner.

(ii) Any violation of this Section shall be reported to the Local Liquor Commissioner and/or ~~Downers Grove~~ Local Liquor Commission. Said license shall not be revoked, suspended, imposed a fine or refused issuance, except after a public hearing held in accordance with Section 3.40.

(iii) In addition to any other fine or penalty, the licensee found guilty of a violation shall be responsible for hearing costs in accordance with Section 3.40(e) as determined by the Local Liquor Commissioner or his/her designee.

Section 26. That Section 3.23. is hereby amended to read as follows:

3.23. Display of license.

Any license issued under this ~~Article~~ Chapter and licenses issued by the State of Illinois shall be displayed by the licensee at the licensed establishment at all times in a conspicuous place where it is readily visible to an inspecting officer. (Ord. No. 2167, § 4; Ord. No. 2735, § 1.)

Section 27. That Section 3.24. is hereby amended to read as follows:

3.24. Responsibility for agents and employees.

Every act or omission of whatsoever nature, constituting a violation of any of the provisions of this Chapter by an officer, director, manager or other agent or employee of any licensee, if such act is committed or omission is made within the scope of such agency or employment or with the authorization, knowledge, or approval of the licensee, shall be deemed and held to be the act of such employer or licensee and such employer and licensee shall be punishable in the same manner as if such act or omission had been done or omitted by him personally. (Ord. No. 2735, § 1.)

Section 28. That Section 3.25. is hereby amended to read as follows:

3.25. Sale to certain persons prohibited.

(a) No licensee or other person shall sell, give or deliver alcoholic liquor, ~~including beer and wine,~~ to any person under the age of twenty-one (21) years, or to any intoxicated person. The fine for such a violation shall be set forth in Section 1.16 (i)(1)(i) .

(b) If a person under the age of twenty-one (21) years is in possession of alcoholic liquor on premises licensed to sell alcoholic liquor for consumption on such premises, it shall be presumed that the licensee sold, gave or delivered such alcoholic liquor to the minor in possession thereof.

(c) For the purpose of preventing the violation of this section, any licensee, or its agent or employee, may refuse to sell or serve alcoholic beverages to any person who is unable to produce adequate written evidence of identity and of the fact that he or she is ~~over the age of~~ twenty-one (21) years of age or

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older. (Ord. No. 244, § 15; Ord. No. 924, § 1; Ord. No. 1741, § 7; Ord. No. 2255, § 2; Ord. No. 2735, § 1.)

Section 29. That Section 3.25.1. is hereby amended to read as follows:

3.25.1. Delivery of samples of alcoholic liquor.

No licensee shall deliver ~~wine at a wine tasting, or any other~~ alcoholic liquor at a tasting pursuant to a Class "S" special event license issued by the Local Liquor Commissioner of this Chapter, unless an employee or agent of the licensee who is twenty-one (21) years of age or older ~~conducting the tasting is present in the display area where the wine or other alcoholic liquor is available for consumption on the premises.~~ It shall be the responsibility of such employee or agent, on behalf of the licensee, to demand presentation of positive identification showing proof of age if such employee or agent has reason to believe or should have reason to believe that any prospective recipient is underage.

Sample sizes shall be restricted as provided by Illinois State law. (Ord. No. 3182, § 5.)

Section 30. That Section 3.26. is hereby amended to read as follows:

3.26. Evidence of age of person attempting to purchase or receive alcoholic liquor.

(a) If a licensee or its agent or employee believes, has reason to believe, or should have reason to believe, that a sale or delivery of alcoholic liquor is prohibited because the prospective recipient is underage, then, before making such sale or delivery, the licensee or its agent or employee shall demand presentation of positive identification issued by a public officer in the performance of official duties, and containing proof of age and a picture of the holder thereof. A traffic citation shall not be accepted as identification or evidence of age.

(b) No person shall transfer, alter or deface an identification card issued by a federal, state, county or municipal government or subdivision or agency thereof, use the identification card of another, carry or use a false or forged identification card, or obtain an identification card by means of false identification.

(c) No person shall purchase, accept delivery or have possession of alcoholic liquor by the use of an altered, forged or defaced identification card or by the use of an identification card of another person.

(d) No person shall misrepresent his or her age for the purpose of purchasing or obtaining alcoholic liquor in any place in the Village where alcoholic liquor is sold at retail. (Ord. No. 2735, § 1.)

Section 31. 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.

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 \$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 32. That Section 3.28. is hereby amended to read as follows:

3.28. Employment of underaged persons.

(a) It shall be unlawful for any licensee, or any officer, associate, member, representative, agent or employee of such licensee, to engage, employ or permit any person under the age of twenty-one (21) years to attend bar or to draw, pour or mix any alcoholic liquor or to verify or determine the age of each patron for any alcoholic liquor in any licensed premises; provided, that the provisions of this section shall not be construed to prevent the employment of persons who are at least nineteen (19) years of age or older as waiters or waitresses in restaurants, recreational facilities or hotels for the purpose of serving food and alcoholic liquor in the licensed retail premises.

(b) It shall be unlawful for any licensee or any agent or employee of any licensee holding a ~~retail~~ liquor license authorizing the sale of alcoholic liquor not for consumption on the premises to permit any employee under the age of twenty-one (21) years or any customer of any age to register, by mechanical or electronic means, the sale of any alcoholic liquor, ~~including beer and wine~~. (Ord. No. 924, § 1; Ord. No. 1741, § 3; Ord. No. 2255, § 1; Ord. No. 2735, § 1.)

Section 33. That Section 3.29. is hereby amended to read as follows:

3.29. Consumption on premises.

(a) Except as provided herein, it shall be unlawful for anyone holding an on-premise liquor license under this Chapter to allow customers to consume alcoholic liquor on the premises which was not purchased from the licensee unless the alcoholic liquor is provided and served by an off-site catering business holding a Class "K" catering license or Class "BYO" license under the provisions of this Chapter.

(1) However, at the licensee's discretion, wine brought onto the licensed premises by a patron and not purchased from the licensee may be consumed on the premises so long as it is served and controlled by the licensee.

(2) In no event shall open alcoholic liquor be removed from the licensed premises by a patron. However, bottles of wine purchased on the premises in conjunction with a meal may be removed from on-premise consumption licensed establishments, if properly re-sealed in accordance with State law.

(b) Except for ~~wine~~ tastings as authorized in Section 3.13(a) or (b)(2) and for Class "S" special event licenses as authorized by the Local Liquor Commissioner pursuant to Section 3.13, it shall be unlawful for anyone having a Class "P" packaged liquor license under this Chapter, which on its face limits sale of alcoholic liquor to original packages, unopened, not for consumption on the premises, to sell or offer for sale any alcoholic liquor for consumption on the licensed premises, or to permit alcoholic liquor to be consumed on such premises.

(c) Except for Class "S" special event licenses as authorized by the Local Liquor Commissioner pursuant to Section 3.13, it shall be unlawful for any person operating or employed by any establishment ~~club, retail store, hotel, men's or women's club, massage establishment, sexually oriented business, recreational facility or restaurant as defined in Section 3.3~~ which is not licensed to sell alcoholic liquor in the Village pursuant to the requirements of this Chapter, to permit alcoholic liquor to be consumed by any customers on the business premises. Provided, the provisions of this section shall not apply within hotel rooms as that term is defined in Article VI of Chapter 21 of the Downers Grove Municipal Code. (Ord. No. 244, § 8; Ord. No. 1200, § 1; Ord. No. 1741, § 2; Ord. No. 2541, § 2; Ord. No. 2735, § 1; Ord. No. 2847, § 4.)

Section 34. That Section 3.30. is hereby amended to read as follows:

3.30. Outdoor sales.

(a) Subject to receipt of a Class "O" outdoor license, the sale, service and consumption of alcoholic

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liquor in an outdoor seating area may be permitted adjacent to premises licensed to sell alcoholic liquor for consumption on the premises; subject to the following conditions:

- (1) The outdoor area is enclosed; and
 - (2) The outdoor area is owned or leased by the licensee, or the licensee has entered into a sidewalk cafe license agreement, as provided in Chapter 4 of the Downers Grove Municipal Code, which shall be required for any outdoor seating area conducted wholly or partially upon Village controlled property; and
 - (3) The outdoor area is included as part of the regular food service business located on the licensed premises with the exception of Class "C" Club licenses that do not provide regular food service; and
 - (4) Access to the outdoor area shall be limited through the licensed premises or, if not practicable, through monitored entrances that are controlled by employees and/or reasonable fencing of the licensed premises during all operating hours and/or while alcoholic liquor is being served.
 - (5) Seating in the outdoor area shall not be included in the overall seating calculation or by any way utilized to expand the number of seats that are allowed in the interior bar/lounge area.
 - ~~(6) A sidewalk cafe license as provided in Chapter 4 of the Downers Grove Municipal Code shall be required for any outdoor seating area conducted wholly or partially upon Village controlled property.~~
- (b) Applications for the establishment of an outdoor seating area, or the amendment of an existing outdoor seating area, shall be filed on such forms and with such information as may be directed by the Local Liquor Commissioner. The Local Liquor Commissioner may refer an outdoor seating area application to the Local Liquor Commission for review and comment. (Ord. No. 2735, § 1; Ord. No. 2945, § 2.)

Section 35. That Section 3.31. is hereby amended to read as follows:

3.31. Hours of business.

(a) Licensees may deliver, sell or offer for sale, alcoholic liquor between the following hours, unless otherwise provided:

Day	Hours
Monday through Thursday	8:00 a.m. to 1:00 a.m., the following day
Friday and Saturday	8:00 a.m. to 2:00 a.m., the following day
Sunday	9:00 a.m. to 1:00 a.m., the following day
New Years Eve	8:00 a.m. to 2:00 a.m., the following day
St. Patrick's Day	8:00 a.m. to 2:00 a.m., the following day
Thanksgiving Eve	8:00 a.m. to 2:00 a.m., the following day

(b) Hours during which sale is lawful may be extended by written order of the Local Liquor Commissioner for periods not to exceed three (3) hours upon written application by the licensee stating the reasons for the requested extension and the date or dates for which the extension is sought. The request shall be forwarded to the Village in writing no later than two (2) weeks prior to the date the extension is requested or the request shall automatically be denied. No licensee shall be granted such extension for more than four (4) dates in any one calendar year, provided a fee as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule" shall be submitted for each day of requested extension. Generally, extensions shall not be granted for liquor serving hours past 2:00 a.m.

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

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

(d) It shall be unlawful for any licensee to suffer or permit any person to consume alcoholic liquor on

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premises licensed under this Chapter later than one (1) hour after the applicable closing time determined under paragraph (a) of this Section 3.31.

(e) It shall be unlawful for any licensee holding a license for on-premise consumption, to sell or offer for sale any alcoholic liquor at any time when the regular food service in such licensed premises is not in actual operation, except that such sales may be made during a one (1) hour period immediately following the close of regular food service operations in such premises, subject to the provisions of paragraph (a) of this Section 3.31. (Ord. No. 2450, § 2; Ord. No. 2735, § 1; Ord. No. 3050, § 6; Ord. No. 3075, § 1.)

Section 36. That Section 3.32. is hereby amended to read as follows:

3.32. Restrictions on club licenses.

It shall be unlawful for any licensee holding a Class "C" license to sell or offer for sale any alcoholic liquor for any event which is open to the general public, except as follows:

(1) Private party rentals, or an event open to the public which is for the benefit of a not-for-profit or charitable organization and which is sponsored by a member of the club shall be permitted.

(2) Private party rentals shall be permitted in an outdoor seating area and alcoholic liquor may be served in conjunction therewith, provided that food service is made available and the area is appropriately monitored. The licensee shall submit a report to the Village within thirty (30) days following each July 1 and January 1 setting forth the date, time and type of any private party rentals 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 private party rentals at the Club during the six (6) months prior.

(3) An event open to the public which is not for the benefit of a not-for-profit or charitable organization or which is not sponsored by a member of the club may be held as a special event, subject to the restrictions of Class "S" liquor licenses.

(4) An event open to the public held for the purpose of charitable gaming as provided in Section 15.13. (Ord. No. 2586, § 1; Ord. No. 2735, § 1.)

Section 37. Section 3.32.1. is hereby repealed in its entirety

3.32.1. Repealed.

Restrictions on licenses for Recreational Facilities.

~~(a) It shall be unlawful for any licensee holding a license for a recreational facility to permit any direct access from the outside of the premises to the area of the premises in which service of food and alcohol is provided. All access to such area shall be through the area of the premises in which the recreational portion of the business is located.~~

~~(b) In addition to the requirements of Section 3.31(a) of this Chapter concerning hours during which sale of alcoholic liquor is prohibited, it shall be unlawful for any licensee holding a license for a recreational facility to sell or offer for sale at retail, any alcoholic liquor on such premises at any time when the regular and complete business of the recreational facility is not staffed, in actual operation, and open to the public for business, except that such sales may be made during a one (1) hour period immediately following the close of regular recreational facility operations in such premises. (Ord. No. 3064, § 2.)~~

Section 38. That Section 3.33. is hereby amended to read as follows:

3.33. Prohibited activities on licensed premises.

(a) Gambling. It shall be unlawful to permit any gambling or video gaming on any premises licensed to

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sell alcoholic liquor except in accordance with the provisions of Section 15.13.

(b) Solicitation. It shall be unlawful for any licensee, its manager or other person in charge of any licensed premises where alcoholic liquor is sold or offered for sale for consumption thereon to engage, employ or permit the engagement or employment of any person, nor shall any person be permitted to remain on said premises, who shall solicit any patron or customer thereof to purchase alcoholic or nonalcoholic liquor for said person, or any other person therein; nor shall any person, whether or not such person impersonates or presents the appearance of one of the opposite sex, and whether or not such person is an employee or entertainer, solicit any patron or customer therein to purchase alcoholic or nonalcoholic liquor for himself or herself or any other person therein; provided, however, that nothing herein contained shall prohibit any ~~adult~~ manager, bartender or waitress who shall be regularly employed therein from accepting and serving the order of a patron or customer in the regular course of employment as such manager or waitress.

(c) It shall be unlawful for any licensee, its manager, or other person in charge of premises licensed to sell alcoholic liquor to permit ~~the following kinds of conduct;~~ or books, magazines, coin-operated motion picture devices, films, or movies depicting, describing or relating to the following kinds of conduct on such premises:

(1) The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

(2) The actual or simulated touching, caressing or fondling of the breast, buttocks, anus or genitals.

(3) The actual or simulated displaying of the breasts, pubic hair, anus, vulva or genitals.

(d) It shall be unlawful for any licensee, its manager, or other person in charge of premises licensed to sell alcoholic liquor to permit any entertainment, fashion show, presentation or performance which may include any person in a nude or semi-nude state, including, but not limited to, servers, hosts, hostesses, dancers, singers, models or other performance artists, or to permit role playing interactions. (Ord. No. 2489, § 1; Ord. No. 2735, § 1.)

Section 39. That Section 3.33.1. is hereby amended to read as follows:

3.33.1. Limitations on the sale and promotion of alcoholic liquor on licensed premises.

(a) It shall be unlawful for any licensee, or any employee or agent of any licensee, on licensed premises where alcoholic liquor is sold or offered for sale for consumption thereon, to engage in any of the following practices:

(1) Deliver two (2) or more drinks to any one person at one time, except ~~sale or delivery of~~ in conformance with this section:

~~(i) wine by the bottle or carafe;~~

(2) Sell, offer for sale, or deliver to any person an unlimited number of drinks during any set period of time for a fixed price, except at private functions not open to the public;

(3) Sell, offer for sale, or deliver drinks to any person or group of persons on any one day at prices less than those charged the general public on that entire day, except at private functions not open to the public;

(4) Increase the volume of alcoholic liquor contained in a drink without a proportionate increase in the price charged for such drink as compared to prices during the same calendar week;

(5) Encourage or permit on the licensed premises any game or contest which involves drinking or the awarding of drinks as prizes.

(6) Sell, offer for sale, or deliver to any person or group of persons a bottle of distilled spirits.

(b) No licensee shall advertise or promote in any way, whether within or outside of the licensed premises, any of the practices prohibited under this section. Specifically, no licensee shall advertise or promote in any way, whether on or off-licensed premises, any of the practices prohibited under subsections (2) and (3) of this Section. This includes but is not limited to, advertisements using the words "free", "complimentary", "open bar" or "unlimited drinks" in regard to alcoholic liquor.

(c) It is intended that the service of alcohol is merely an adjunct to the meals offered at any restaurant

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and that the restaurant must not be advertised or otherwise held out to be a drinking establishment.

(d) Nothing contained in this section shall prohibit a licensee from engaging in any of the following practices:

- (1) Offering free food or entertainment at any time;
- (2) Offering a drink as part of a meal or hotel services package;
- (3) Offering free wine tastings in accordance with State law;
- (4) Offering room service to registered guests in hotels licensed for such service.
- (5) Selling or delivering any container (including, but not limited to buckets, pitchers, carafes or bottles) of alcoholic liquor provided:

a. Containers shall not exceed sixty-four (64) ounces of beer, 750 ml of wine, or no more than two (2) types of spirits combined with non-alcoholic beverages or mixers (i.e. margaritas) in a sixty-four (64) ounce container shall be served in the single container for on-premise consumption, and said container shall only be delivered to two (2) or more persons over the age of twenty-one (21) years of age or older, at one time.

b. A single container shall not exceed ninety-six (96) ounces of beer for on-premise consumption and shall be delivered to four (4) or more persons over the age of twenty-one (21) years of age or older, at one time.

~~c. Nothing herein shall prohibit a Class "B" license holder from offering the sale of beer produced on the licensed premises for off-premise consumption.~~

(Ord. No. 3089, § 1; Ord. No. 3290, § 1.)

Section 40. That Section 3.33.2. is hereby amended to read as follows:

3.33.2. Liquor product identification signs.

Liquor product identification signs shall not be permitted as an interior or exterior window sign, or as any form of exterior sign, such as patio umbrellas at any premises establishment holding a license for consumption on premises.

Section 41. That Section 3.33.3. is hereby amended to read as follows:

3.33.3. Training Required.

(a) Liquor license holders shall be required to have all employees who serve, sell or distribute alcoholic liquor successfully complete a certified training program and maintain a current effective certification from said program upon hire.

(b) Proof of Educational Training Compliance. Prior to license issuance or upon application for liquor license renewal, the licensee shall supply the Village a list of all employees and a copy of course completion certificate(s) of the certified training program.

(c) ~~Failure to comply with the provisions of this Chapter Section may subject the licensee to the penalties for violation of this Section, as established in Article V hereof, up to and including revocation of the license.~~

Section 42. That Section 3.33.4. is hereby amended to read as follows:

3.33.4. Delivery Service.

Alcoholic ~~beverages~~ liquor delivered to any address located within the Village of Downers Grove which does not hold a valid liquor license is subject to the following restrictions:

(a) Alcoholic liquor must be delivered by an individual be at least twenty-one (21) years of age or older.

(b) Deliveries must be during prescribed hours as set forth in Section 3.31(a).

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(c) The express company, common carrier or contract carrier or agent of a liquor license holder that carries or transports alcoholic liquor into or within the Village shall not deliver or leave such deliveries without requiring a signature of an ~~adult of at least~~ individual twenty-one (21) years of age or older.

(d) Adequate evidence for proof of age should be produced to the delivery agent in all instances of delivery.

(e) A record shall be kept by the express company, common carrier or contract carrier or agent of a liquor license holder who delivers alcoholic liquor into or within the Village indicating the purchaser's name, address, driver's license/state identification number, time, date and place of delivery and the individual deliver's identity.

Section 43. That Section 3.33.5. is hereby amended to read as follows:

3.33.5. Sale of Kegs.

For the purpose of regulating the sale of kegs in the Village of Downers Grove:

(a) A ~~liquor license holder~~ who sells kegs shall affix to each keg sold a tag, furnished by the Local Liquor Commissioner, containing an identification number enabling the purchaser to be identified.

The tag shall read substantially as follows:

Village of Downers Grove

Keg Tag Identification Program

LI (licensee number identifier)-YR (year)-Number (0-200)

(b) The ~~liquor license holder~~ shall keep a logbook of all kegs sold, showing the identification number on the tag affixed to each keg, and the purchaser's name, address, telephone number, driver's license/state identification number, description of second ~~from form~~ of identification if required, date of birth, and signature of party purchasing keg. The logbook shall be available for inspection by the Police Department during normal business hours.

(c) The ~~liquor license holder~~ shall require the purchaser, at the time of the sale, to sign a form to be provided by the Local Liquor Commissioner, setting forth the provisions of this section and informing the purchaser that the deposit will be forfeited if the keg is not returned with the tag properly affixed. The licensee shall retain this form for ninety (90) days after the sale.

(d) It shall be unlawful to possess a keg within the Village which does not have a proper tag affixed or, if the keg was purchased outside the Village, without proof of purchase for the keg, including the name and address of the seller.

Section 44. That Section 3.34. is hereby amended to read as follows:

3.34. Unlawful possession and consumption by persons under age.

(a) No person under the age of twenty-one (21) years shall possess, consume, purchase, attempt to purchase or accept delivery of alcoholic liquor within the Village; provided the possession and dispensing, or consumption by a person under the age of twenty-one (21) years of alcoholic liquor in the performance of a religious service or ceremony, the consumption by a person under the age of twenty-one (21) years under the direct supervision and approval of the parent or guardian of such underage person in the privacy of the parent's or guardian's home, or the possession and delivery of, or attempt to purchase alcoholic liquors in pursuance of a person's lawful employment is not prohibited and shall not be construed as a violation of this section. That person found guilty of such an offense shall be fined not less than seventy-five dollars (\$75.00), nor more than seven hundred fifty dollars (\$750.00).

(b) No person after purchasing or otherwise obtaining alcoholic liquor shall sell, give or deliver such alcoholic liquor to another person under the age of twenty-one (21) years, except as allowed under subparagraph (a) of this section. (Ord. No. 2302, § 1; Ord. No. 2735, § 1; Ord. No. 2766, § 2; Ord. No. 2882, § 2.)

Section 45. That Section 3.35. is hereby amended to read as follows:

3.35. Responsibility of persons twenty-one (21) years of age and older.

It shall be unlawful for any person to knowingly suffer or permit any person under the age of twenty-one (21) to violate any provision of this Chapter. Failure to comply with the provisions of this Chapter may subject the person to the penalties for violation of this Ordinance, as established in this Chapter. (Ord. No. 2735, § 1.)

Section 46. That Section 3.36. is hereby amended to read as follows:

3.36. License Limited to Single Business.

All licenses issued pursuant to this Chapter shall be limited to a single business establishment. Provided, adjoining business establishments located in the DB Downtown Business District, ~~as defined by the Comprehensive Zoning Ordinance,~~ that have 100% common ownership may operate under a single license, provided that the Local Liquor Commissioner determines that such adjoining businesses are functionally conducted as a combined operation. No licensee shall operate, advertise or otherwise represent that it is operating a liquor establishment or business except as expressly designated on the face of the license.

Section 47. That Section 3.37. is hereby amended to read as follows:

3.37. Peddling prohibited.

It shall be unlawful to peddle alcoholic liquor in the Village. (Ord. No. 244, § 12; Ord. No. 1741, § 8; Ord. No. 2735, § 1.)

Section 48. That Section 3.38. is hereby amended to read as follows:

3.38. Reserved.

(Ord. No. 2246, § 4; Ord. No. 2586, § 2; Ord. No. 2735, § 1.)

Section 49. That Section 3.38.1. is hereby amended to read as follows:

3.38.1. Dram shop insurance required.

(a) No licensee shall sell alcoholic liquor within the Village without obtaining and maintaining in force at all times dram shop insurance in an amount sufficient to satisfy all statutory limits. The Local Liquor Commissioner may, at any time, request a licensee to produce evidence of its dram shop insurance coverage.

(b) If a licensee's dram shop insurance coverage lapses, or is revoked, terminated, cancelled or suspended, the licensee shall immediately notify the Village. Failure to provide such notification may subject the licensee to revocation or suspension of its license and/or imposition ~~to~~ of a fine pursuant to Section 3.40. Upon notification that a licensee's dram shop insurance coverage has lapsed, or been revoked, terminated, cancelled or suspended, the Local Liquor Commissioner may proceed to revoke or suspend the license pursuant to Section 3.40 if proof of renewal of the previously held insurance policy, or proof of reinsurance under the terms of a new policy, is not provided immediately.

Section 50. That Section 3.39. is hereby amended to read as follows:

3.39. General.

Any person or entity violating any provision of this Chapter shall be fined for each offense, and a

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separate offense shall be deemed committed on each day during or on which a violation occurs or continues, such fine(s) shall not ~~to~~ exceed fifteen thousand dollars (\$15,000) over the course of a license year. In addition to any other penalty, licensees convicted of violating any provision of this Chapter may be subject to having their license revoked, suspended or not renewed by the Local Liquor Commissioner. (Ord. No. 2735, § 1.)

Section 51. That Section 3.40. is hereby amended to read as follows:

3.40. Revocation or suspension of local license--Notice; hearing.

(a) The Local Liquor Commissioner may revoke or suspend any license issued, ~~and/or~~ require mandatory certified training or impose any additional conditions if the Local Liquor Commissioner determines that the licensee has violated any of the provisions of this Chapter or any ~~s~~ State law pertaining to the sale of alcoholic liquor. In addition to or in lieu of suspension, the Local Liquor Commissioner may levy a fine on the licensee for such violations. Each day on which a violation continues shall constitute a separate violation. However, no such license shall be ~~se~~ revoked or suspended, and no fine shall be imposed, except after a public hearing by the Local Liquor Commissioner with at least three (3) days' prior written notice, to the licensee, as provided in Section 3.41, affording the licensee an opportunity to appear and defend. If the licensee fails to appear for such public hearing after receiving notice as provided in Section 3.41, a default judgment may be entered and the Local Liquor Commissioner may revoke or suspend the license, and/or impose a fine.

(b) If the Local Liquor Commissioner has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the community, the Local Liquor Commissioner may, upon the issuance of a written order stating the reason for such conclusion, and without notice or hearing, order the licensed premises closed for not more than seven (7) days, giving the licensee an opportunity to be heard during that period. Provided, if such licensee shall also be engaged in the conduct of another business on the licensed premises, such order shall not be applicable to such other business.

(c) In determining the appropriate penalty for violating any of the provisions of this Chapter or any State law pertaining to the sale of alcoholic liquor, the Local Liquor Commissioner may consider such matters and information as the Local Liquor Commissioner deems ~~are~~ relevant including, but not limited to, the nature and circumstances surrounding the violation, the past record of the licensee and the penalties previously imposed by the Local Liquor Commissioner for similar violations. The past record shall include the record of the current licensee as well as the record of any other existing or prior licensee where there is, or was, not less than forty percent (40%) common identity between the owners of the current licensee and the owners of such other licensee. Such common identity shall be established where persons holding an ownership interest of not less than forty percent (40%) of the licensee under consideration also hold or held an ownership interest of not less than forty percent (40%) of another existing or prior licensee. Where the licensee under consideration, or such other prior or existing licensee, is a business entity such as a corporation or partnership, the ownership interest includes the equity holdings of the stockholder or partner. The consideration of the past record of such other or prior licensee shall only include that time period when such common identity is found.

(d) The Local Liquor Commissioner shall, as promptly as practicable and in any event within thirty (30) days after such hearing, if the Local Liquor Commissioner determines after such hearing that the license should be revoked or suspended, and/or a fine should be imposed, state the reasons for such determination in a written order of revocation or suspension, and/or a fine should be imposed and shall serve a copy of such order upon the licensee.

(e) Any licensee found guilty by the Local Liquor Commissioner for violating any provision of this Chapter, in addition to any other penalty which may be imposed, shall be assessed and required to pay to the Village an amount to cover administrative costs associated with the hearing, including, but not limited to, attorney's fees, investigation fees and court reporting fees. The Local Liquor Commissioner shall designate the amount of costs in his/her Findings and Order. Provided, such costs shall not exceed one thousand

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dollars (\$1,000.00).

(f) Any license may be denied or revoked when it is determined that the application, plans, or other supporting documents required by this Ordinance reflect a false statement or misrepresentation of a material fact. (Ord. No. 1741, § 27; Ord. No. 2388, § 13; Ord. No. 2450, § 4; Ord. No. 2541, § 11; Ord. No. 2735, § 1.)

Section 52. That Section 3.41. is hereby amended to read as follows:

3.41. Method of notice.

All notices herein required shall be in writing. The notice will be effective upon service by hand delivery of the notice personally or to any agent of a licensee on the licensed premises ~~and/or~~ by mailing the notice by certified mail, return receipt requested, to the individual, owner, if the licensee is an individual, to a partner, if the licensee is a partnership, or to the registered agent of the licensee, if the licensee is a corporation. (Ord. No. 2388, § 14; Ord. No. 2735, § 1.)

Section 53. That Section 3.42. is hereby amended to read as follows:

3.42. Appeal.

In the event of an appeal from an order or action of the Local Liquor Commissioner to the State Liquor Commission, the appeal shall be limited to a review of the official records of the proceedings of the Local Liquor Commissioner. (Ord. No. 2246, § 4; Ord. No. 2735, § 1.)

Section 54. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 55. That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

Mayor

Passed:
Published:
Attest: _____
Village Clerk



www.downers.us

March 25, 2014

The Honorable Martin T. Tully
Mayor and Liquor Commissioner

Re: *Creation of a Brewing 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 for staff to prepare a draft ordinance for the creation of a brewing facility liquor license. The following finding was made:

THE COMMISSION MOVED TO RECOMMEND THAT STAFF PREPARE A DRAFT ORDINANCE TO BE CONSIDERED BY THE COMMISSION AT ITS NEXT MEETING FOR A CRAFT BREWING FACILITY. MR. JACOBSON SECONDED.

VOTE: **Aye:** Mr. Austin, Mr. Jacobson, Mr. Clary, Chairman Pro Tem Krusenoski

Nay: None

Abstain: None

MOTION CARRIED: 4:0:0

Motion carried.

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

a\recommend.1-c\brew-draft

**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

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.

Ms. Kuchynka stated that Mad Ape is not proposing to offer food service. She stated that they are requesting a license for beer consumption on the premises and retail sales. She stated that the current code requires all on-premise license holders to offer food service

Ms. Kuchynka asked representatives of Mad Ape to explain their request.

Mr. Yob stated that Mad Ape is a start-up production craft brewing facility. He stated that they are residents of DuPage County and felt the neighborhood would be a great place to set up their business.

Mr. Yob stated that they will have a tasting room for on-premise consumption and tastings. He stated that they will not operate as a bar. He stated that patrons will be allowed three drinks. Ms. Kuchynka noted that the three drink maximum will be the equivalent of 48 ounces per person, per day.

Mr. Yob noted that certain brews with a higher alcohol content will be poured into smaller glasses.

Mr. Kosanovich noted that they will not operate as a bar. He stated that the tasting room is a tool for them to introduce their product to customers. He stated that their goal is to make money distributing beer, not selling beer in the tasting room. He stated that they will not operate as a restaurant.

Mr. Yob stated that their long range plan would be to establish a brew pub in an area more conducive to restaurants. He stated that this brewing facility would not have food preparation or service on the site.

Chairman Pro Tem Krusenoski asked if they are locating in a commercial vs. residential site. Mr. Yob replied they are a production facility locating in Ellsworth Industrial Park. He stated that they are in the process of negotiating a lease and need to secure a liquor license classification to apply for.

Ms. Kuchynka distributed a picture of the 5400 Janes Avenue property. She stated that it is in an industrial area of the Village which lends itself to not being a restaurant.

Chairman Pro Tem Krusenoski stated it was as though they are modeling their operation with that of Solemn Oath in Naperville. He stated customers are allowed to bring in their own food. Mr. Yob stated that the Solemn Oath model is about as close to how they expect to operate.

Mr. Yob stated that they could have menus from local restaurants on site for customers to order from. Ms. Kuchynka noted that Solemn Oath has food trucks, however, Downers Grove does not allow food trucks. She did not object to them having area restaurant menus available on site.

Mr. Yob stated that they could provide pretzels, popcorn or snacks. Ms. Kuchynka stated that they should check with the Health Department about offering any type of food.

Ms. Kuchynka stated that a number of communities have brewing facilities. She stated that some have food requirements and some do not. She mentioned that Urban Legend (Westmont), Only Child (Northbrook), Buckledown (Lyons) and Solemn Oath (Naperville) do not have a food service requirement. She mentioned those with food service requirements are more geared toward restaurant service, such as Two Brothers (Warrenville) and Nevins (Plainfield). She stated Temperance (Evanston) has snacks and allows patrons to bring in their own food.

Ms. Kuchynka stated that the ordinances from other communities can be used to model a new classification based on what Mad Ape is proposing to do. She stated that she did not want them to come back in six months to modify the class if they find they cannot comply with burdensome provisions.

Mr. Clary asked if there were any other liquor licenses in the industrial area. Ms. Kuchynka replied no.

Mr. Jacobson stated that he liked the concept. He asked what the hours of operation will be. Mr. Yob replied initially there will be limited hours, Thursday through Saturday, in order to establish production. He stated tap room hours will eventually expand from 12 noon until 11 p.m., daily.

Chairman Pro Tem Krusenoski asked if they will have televisions in the tasting room. Mr. Yob replied no, but perhaps some sort of screens. Mr. Kosanovich noted that they may have entertainment, such as a guitar player on occasion.

Mr. Austin was familiar with the brew facility model. He stated the drink maximum seems to work. He noted that some facilities serve items other than beer and asked if they intend to serve soft drinks. Mr. Hedrick stated that they would like to offer non-alcoholic beverages such as creme sodas.

Mr. Austin liked the idea and did not have a problem with the classification they are asking for. He noted that there is a concern about the three drink maximum and the passing of drinks and asked how it could be monitored. Mr. Hedrick replied that credit cards are taken and put on file and each drink is counted against the card. He stated that punch cards could also be issued. Mr. Yob stated that they are still trying to work out those details. He stated that staff will be fully trained in TIPS or BASSET and will be taught to recognize signs of intoxication. He stated that the sharing of punch cards would be something they have to deal with. Mr. Kosanovich noted that some things are out of their control, but they will not let it happen to the best of their ability. He stated that it goes back to their notion that they do not want to operate a bar. He stated that they hope the tasting room will be a small aspect of the business and that the distribution will become the major aspect of the business.

Chairman Pro Tem Krusenoski asked if they have distribution outside other than the retail clients that will come in to buy it. Mr. Yob stated that their plan is to get past self distribution levels of 7,500 barrels per year and have multiple distribution relationships throughout the State and outside the State. Mr. Yob added that they hope to also distribute to local restaurants.

Ms. Kuchynka noted that a State distributor's license is required in addition to the State retailer's license. She stated that the Village will not regulate any aspect of their distribution. She stated the local license will allow brewing on the facility, along with on-premise consumption and off-premise sales to the general public.

Ms. Kuchynka advised that they will be allowed to sell "growlers" which are 64-ounce containers. She stated that a growler can be purchased to be filled and capped. She stated that retail sales will consist of 22-ounce bottles, which have been filled and capped. She stated that neither will be allowed to be consumed on site. Mr. Yob stated that they would like to sell 5-gallon and half barrel kegs to go. He added that he was aware of the Village's keg tag program.

Ms. Kuchynka stated that they will have a few ways in which to serve on-site. She stated that samples will be allowed at no charge, when given in accordance with State law. She stated that they will charge for "flights" which is a tasting of 4, four-ounce samples of a variety of beers. She stated that they will also sell 16-ounce glasses of beer for consumption on the premises. Ms. Kuchynka noted that any combination of the above, per person, per day, shall not exceed 48 ounces.

Ms. Kuchynka stated that Naperville originally required customers to be 21 and over. She stated that has since been amended to allow under 21 year olds in the facility. She stated that it was done in an effort for parents to be able to go into the store to pick up beverages. She planned to allow under 21 year olds in this facility if they are accompanied by an adult. Mr. Austin asked if we have a 21+ restriction on existing licensees. Ms. Kuchynka replied yes. She stated that Gnarly J's, Rita's and Q Billiards are 21 and over.

Mr. Austin asked how many people the 103' x 30' tasting room will hold. Mr. Kosanovich stated that the tasting room will be 2-3,000 square feet, which could hold 50-100 people. He did not believe there would be 100 people in the tap room at any given time. He stated that there will be a counter area, high-top barrel tables, chairs - all of which will depend on what type of layout is allowed.

Mr. Austin asked what is the proposed volume of beer sales. Mr. Yob replied about 70% of revenue will be from the tasting room early on, and then selling off-site and distribution will overtake that percentage. Chairman Pro Tem Krusenowski stated that they will pull demand by having locals taste it, see it on a local menu. Mr. Yob stated that they would prefer to mass produce and distribute. Mr. Hedrick stated that it will focus on retail and eventually like to offer their craft brews at Binny's.

Ms. Kuchynka stated that she discussed events with Mad Ape. She stated that they are allowed up to six special event licenses per year for activities which are out of the normal day to day operations of the facility. She stated that if they wish to have a brew fest or hold an event outside, they can apply for a special event license.

Mr. Kosanovich stated in addition to brewing beer they want customers to know how to brew beer. He stated that they would like to be able to offer classes for home brewers to perfect their craft. Ms. Kuchynka replied that staff can incorporate brewing on the facility, tours, classes, on-premise and off-premise consumption into the draft ordinance to allow them some flexibility.

Mr. Kosanovich asked about private events. He asked if customers could bring in food if someone rented the space out and where the 48 ounce drink limit would not apply. Ms. Kuchynka stated that if they hold such events, the facility must be completely shut down to the general public in order to be considered a private function. She would ask for some information or invite with the date and time of the event, so the Village is aware of the private function. She had no issue with food being brought in. She stated that as the license is limited to beer/wine produced on the premises, and no other alcohol would be allowed in.

Staff asked for a recommendation from the Commission whether to create a brewing facility liquor license classification.

MR. AUSTIN MOVED TO RECOMMEND THAT STAFF PREPARE A DRAFT ORDINANCE FOR THE CREATION OF A BREW FACILITY FOR VILLAGE COUNCIL CONSIDERATION.

Staff requested that the first draft of an ordinance be considered by the Commission at their next meeting. The motion was amended as follows:

THE COMMISSION MOVED TO RECOMMEND THAT STAFF PREPARE A DRAFT ORDINANCE TO BE CONSIDERED BY THE COMMISSION AT ITS NEXT MEETING FOR A CRAFT BREWING FACILITY. MR. JACOBSON SECONDED.

VOTE: **Aye:** Mr. Austin, Mr. Jacobson, Mr. Clary, Chairman Pro Tem Krusenowski

Nay: None

Abstain: None

MOTION CARRIED: 4:0:0

Motion carried.



www.downers.us

April 15, 2014

The Honorable Martin T. Tully
Mayor and Liquor Commissioner

Re: *Creation of a Brewing Facility Liquor License*

Dear Mayor Tully:

On Thursday, April 3, 2014, at a regular meeting of the Downers Grove Liquor Commission, the members made a recommendation for staff to forward a draft ordinance for the creation of a brewing facility liquor license to the Village Council for consideration. The following finding was made:

MS. FREGEAU MOVED TO FORWARD THE PROPOSED ORDINANCE CREATING A BREWING FACILITY LICENSE TO THE COUNCIL FOR CONSIDERATION AS PRESENTED.

The motion failed for lack of a second.

Mr. Jacobson moved to amend the motion.

MR. JACOBSON MOVED TO AMEND THE ORDINANCE CREATING A BREWING FACILITY LICENSE TO ALLOW THOSE UNDER 21 TO ATTENDED CLASSES, SEMINARS OR FACILITY TOURS AND TO FORWARD THE AMENDED DRAFT TO THE COUNCIL FOR CONSIDERATION. MR. AUSTIN SECONDED.

Chairman Strelau asked if there was any discussion on the motion. There was none.

VOTE: **Aye:** Mr. Jacobson, Mr. Austin, Chairman Strelau

Nay: Ms. Fregeau

Abstain: None

MOTION CARRIED: 3:1:0

Motion carried.

This motion can be found in the April 3, 2014 (draft) minutes of the Liquor Commission (attached).

Very truly yours,

Alice Strelau, Chairman
Liquor Commission

VILLAGE OF DOWNERS GROVE

Attachments

cc: April Holden, Village Clerk

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

V. OLD BUSINESS

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

Ms. Kuchynka stated she included a draft ordinance in the packet concerning the establishment of a brew facility liquor license. She stated that Mad Ape Brewing Company representatives were present as a follow up to the March meeting discussion.

Ms. Kuchynka asked individual(s) representing Mad Ape to 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. Pete Kosanovich and Mr. Mark Hedrick were sworn in by the court reporter. Mr. Kosanovich introduced himself as co-founder of Mad Ape Brewing Company. Mr. Hedrick introduced himself as a partner of Mad Ape Brewing Company.

Ms. Kuchynka stated that staff drafted an ordinance creating a brew facility license. She stated that she based the draft upon other municipalities ordinances and input from Mad Ape at last month's meeting discussion.

Chairman Strelau asked Mad Ape representatives if they have had a chance to review the draft ordinance. Mr. Kosanovich replied yes. He thanked the Commission for considering their request. He asked for further revision to the draft to allow under 21 year olds on the premises when accompanied by an adult over 21. Ms. Kuchynka noted that the proposed draft allows for under 21 year olds on the premises, however, not allowed during tours, in classes or seminars. Ms. Kuchynka stated that Mad Ape would like to allow under 21 year olds on tours. Mr. Kosanovich replied not allowing it would not be a deal breaker.

Ms. Fregeau asked for clarification. She stated, as written, the draft ordinance would not allow for under 21 year olds on tours, at classes or seminars. Mr. Kosanovich stated that minors can come in accompanied by adults who are picking up products and would be allowed in the Tap Room.

Ms. Kuchynka advised that Naperville drafted their ordinance to not allow under 21 year olds on the premises until Solemn Oath petitioned to allow adult patrons to bring in children when picking up product. She stated that Naperville amended the ordinance to allow under 21 year olds in when accompanied by an adult.

Ms. Kuchynka stated that in the event Mad Ape gets a number of requests to allow minors on tours, the Village can consider amending the ordinance. Ms. Kuchynka noted that staff was in support of having tours, classes and seminars limited to those 21 and over. Chairman Strelau noted that this classification is different in that they will not be serving food and there may be no other reason for an under 21 year old to be in the facility other than when a child is with an adult.

Mr. Kosanovich stated he wanted to make it abundantly clear that they will not be a bar. He stated that they are not a restaurant. He stated that they were interested in having underage people come in for the tour if they are showing a home brewer who is a parent and allow an under 21 year old to watch and learn the brewing process. Mr. Hedrick added that he did not want to turn away business.

Mr. Hedrick stated that it is their hope to expose customers to their product.

Mr. Kosanovich stated that seeing the equipment and brewing process in terms of science and the magic of the brewery. He understood that they would not be allowed to bring in school tours. He stated that the facility is unique and different from any other type of license. He stated that the Tap Room will be an area for them to market their beer and noted over time the Tap Room will drop off of importance when the distribution and production of the craft brew becomes more prominent.

Mr. Austin asked staff if under 21 year olds are prohibited from entering liquor stores. Ms. Kuchynka replied no.

Mr. Austin noted that Mad Ape discussed brewing craft soda as well. He understood why staff questioned under 21 year olds touring the facility. He noted that the limitation may not be warranted as the law prohibits them from serving beer to someone under 21 and noted the severe repercussions if they do. He agreed that the facility is a place of industry and science. He stated they may wish to consider allowing under 21 year olds in for the tours.

Chairman Strelau asked staff about Naperville restrictions and asked if they allow tours. Ms. Kuchynka believed that they allowed tours, however, was unsure if they limited them to patrons 21 years of age and older. She stated that the only issue she was aware of was Naperville changing the code to allow parents into the facility with children.

Chairman Strelau asked the name of who the liquor license will be under. Ms. Kuchynka replied Mad Ape, LLC with Mr. Kosanovich, Mr. Hedrick and Mr. Yob as owners.

Chairman Strelau asked Mr. Kosanovich and Mr. Hedrick if they have liquor handling experience and if either has held a liquor license. Mr. Hedrick stated that he had worked in liquor stores and bars since he was thirteen. Mr. Kosanovich replied that none of them have held a liquor license. Mr. Kosanovich stated that he has worked in bars and restaurants between the age of 18-23. He stated that he has been a server, bartender and bouncer.

Mr. Kosanovich stated that they do not want customers getting drunk. He stated that they do not want to have a bar. He stated that the Tap Room is for patrons to come in, try different beers, talk with the brew master and get an understanding of craft brews. He stated that the Tap Room is a marketing tool for them. Mr. Hedrick added that it is a way to expose customers to their product.

Chairman Strelau noted that their goal was to sell more product through distribution than just to a person who is stopping by.

Chairman Strelau asked if they were interested in selling kegs. Mr. Hedrick replied yes. Chairman Strelau advised them that the Village has a Keg Tag Program.

Chairman Strelau noted that in order to make this a viable effort, they will also need to be distributing the product. She asked if there will be as much interest in customers who wish to tour the facility once the mass distribution gets underway. Mr. Hedrick expected a lot of people will visit the Tap Room.

Mr. Hedrick stated that Solemn Oath has a three beer limit. He stated that they have been open for 22 months and are planning to double in size as they are having problems keeping up with demand in the Tap Room and distribution. He stated that the Mad Ape core profit will come through the Tap Room. He stated that patrons are rarely in the Tap Room more than an hour, but they can be crowded. He noted that the retail profit they get for a pint of beer in the Tap Room is larger than what they are able to get for the distributed product.

Mr. Hedrick stated that they would like to build their brand by having robust Tap Room sales and through marketing. He stated that they would like to get product out to local retailers or potentially expand and have their own craft brew restaurant. Mr. Austin recalled them stating at the last meeting they hoped to move the Tap Room or open a separate business.

Chairman Strelau believed the brewing facilities are becoming a very popular concept. She stated that her unease was if she would want underage kids in the Tap Room. She stated that there will be no food but they may offer non-alcoholic beverages. She stated it may not be an environment that lends itself to underage customers. She stated that she was not suggesting that they have food, but if they did have food, it would make more sense if under aged children were in the facility. She stated that the billiard hall and a few other facilities do not allow under 21 year olds in the facility. She did not have a problem with them coming in with parents who come in to run an errand and grab something to go.

Mr. Kosanovich asked if it were possible to allow specific dates or times that someone under age could take the tours with a parent. Chairman Strelau stated that was an administrative issue, a question for staff and their ability to monitor it. Ms. Kuchynka replied that administratively, it should be allowed at all times or not allowed at all. She stated that they could have the option to apply for a Special Event License.

Ms. Fregeau liked the brew facility concept and that they were seeking to locate in Downers Grove. She stated that, in their own words, they explained they want to "expose customers to their product", "stimulate interest", "use the Tap Room as a marketing tool to build our brand". She stated those statements are quite contrary to the spirit and intent of local ordinance which attempts to de-emphasizes liquor sales and marketing programs to minors.

Ms. Fregeau stated that she did not anticipate 18 year olds attempting to make beer at home after taking a tour of their facility. She wanted to be cautious about marketing to underage kids and how cool it is to brew beer and get them excited about how beer is made. She was glad that the issue was not a deal breaker if under 21 year olds are not allowed to take the tours.

Ms. Fregeau stated that she read through the minutes and liked the fact that they will limit drinks to three per person. She stated that she did not have any issue with off premise sales.

Mr. Hedrick stated that they did not plan to advertise or encourage patrons to bring their kids in, but did not want to turn down potential business.

Ms. Fregeau asked if someone under 21 would be allowed in the facility by themselves. Mr. Hedrick replied no and that they must be accompanied by an adult. He stated that he recently visited Two Brothers and he took kids aged 4-16 on their tour. He stated that they were able to see the process from grain to glass. He stated is it a process, science and art. He stated that if they are responsible operators they should not have to turn away customers with minors. He stated that if they did not allow kids on the tour at Two Brothers, they would not have stayed and took their business elsewhere.

Ms. Fregeau stated that the last thing anyone wants is to stifle business.

Mr. Hedrick stated that patrons of craft breweries spend money. He stated it is not a college-age type of drinking establishment. He stated it is a responsible facility where patrons learn about beer they love.

Mr. Kosanovich stated that the Tap Room and brewing areas will be set apart. He stated that of age tour patrons might sample beer. He stated that patrons can leave after the brewery tour or stop in at the Tap Room. He stated that they do not want to limit people from seeing the brewery and the beauty of seeing how things are made.

Ms. Fregeau stated that they cannot predict what customers will walk in with a minor.

Ms. Fregeau asked about the physical layout. She asked if the tour would be set up to end up in the Tap Room area for samples. Mr. Kosanovich replied that patrons will go through the brewery, see how it is made and end up in the Tap Room.

Mr. Austin asked about craft brewery and how fast the industry is growing. Mr. Hedrick replied that market share for craft breweries in 2009 was 5-6% and is now approaching 9%. He felt that there will be a point where the market may get saturated and felt it was good idea to stay in the Midwest. He stated that there is a lot of competition for shelf space and tap handles but wanted to keep the brews as fresh as possible and keep the product local.

Mr. Kosanovich stated that the craft brewing industry is one of the fastest growing industries in the United States. He stated in the first half of 2011 dollar growth was up 15%. He stated that a Brewer's Association Chicago Tribune article dated April 2, 2011, stated that Chicagoland was the seventh largest craft beer market with store sales of craft beer up to \$22.5 million dollars.

Mr. Austin asked that what sort of investment is involved. Mr. Kosanovich replied equipment alone will be \$250,000. Mr. Hedrick estimated \$1.2 to \$1.5 million total.

Mr. Jacobson stated that he did not see a problem with young people taking the tour or a class to see how its done. He stated that it seemed very interesting due to the physics and chemistry involved in the process.

Mr. Jacobson stated that there may be some youngsters in the Tap Room if parents run in and want to taste something. He did not see a problem with a kid going to the class, seminar or tour if they are seeing the science behind the making.

Mr. Jacobson stated that brew facilities are popping up all over the Midwest.

Chairman Strelau stated staff drafted an ordinance narrowing the under 21 year olds out of the tours. Ms. Kuchynka stated that staff's position was why allow them to go through the tour if they are not old enough to drink. She stated that marketing to underage kids is something the Village tries to avoid through the code. She stated under 21 year olds are not allowed in Rita's, Gnarly J's and the billiard hall.

Mr. Jacobson stated that if there is a violation, the punishment for this facility would not be the same as for a restaurant. Ms. Kuchynka agreed. She stated that they would have to be closed to the public for retail sales and on-site consumption, as only alcohol will be sold from the facility. Ms. Kuchynka added that the Village will only regulate retail sales. She stated that distribution and manufacture is regulated by the State. She stated that if they were to violate the local ordinance, the Village would not make them cease manufacture or distribution, but they would need to be closed for on-site sales.

Mr. Jacobson asked if anyone would oversee the tours. Ms. Kuchynka replied if there is a cost for the tour, class or seminar, the Village may have jurisdiction to monitor them.

Chairman Strelau asked staff what they require from the Commission. Ms. Kuchynka replied that staff is requesting a motion that the draft ordinance be forwarded to the Village Council for consideration.

Chairman Strelau asked Mad Ape representatives if they were comfortable with the draft ordinance with the exception that under 21 year olds would be allowed on tours. Mr. Kosanovich replied yes. Chairman

Strelau asked if they can properly operate under all other provisions listed in the draft ordinance. Mr. Kosanovich replied yes.

Chairman Strelau noted that in some instances individuals come in for a license request, tell the Commission how they are going to operate and then operate as something else. She wanted to be sure that the Commission understands exactly how Mad Ape will be operating and what are important issues to them. She stated that the only issue they have is the 21 year old allowed on the tour. Mr. Kosanovich replied yes.

Mr. Austin stated that two members did not see a problem with the under 21 and two members did. He asked if they should postpone so the entire Commission could vote on the issue.

Chairman Strelau stated that they could have staff go back and revisit the draft and bring Mad Ape back again or move forward and keep the process going. She stated that the ordinance should keep moving. She stated that the Liquor Commission is an advisory board only and that there have been some times when Council votes independent of their recommendation.

Ms. Kuchynka stated that the Council will be provided with minutes of the Commission's discussion and make their own decision on the matter. She stated that the Council sometimes adopts provisions other than what is proposed by boards or commissions. Staff preferred to keep the process moving.

Mr. Austin asked if the petitioner had a time frame in which they needed the process complete. Mr. Kosanovich replied that they would like to have the license classification adopted so they could apply within the next few months. He stated that everything they are trying to do is based upon the creation of the license. He stated they are in the final stages of negotiating the building and cannot do anything further without the creation of the license.

Chairman Strelau wanted to keep the process moving.

Ms. Fregeau stated that she wanted to clarify her position. She stated that she did not have an issue with adults who bring in children when they are purchasing product to go. She stated that she had an issue with the tours and felt that children may be influenced when they see how beer is made. She stated that she was in the advertising business and recognizes the value of marketing to potential customers. She noted that it was against the spirit and intent of the Ordinance which prohibits selling to minors. She did not believe it was in the Village's interest to encourage marketing to potential customers.

Ms. Fregeau stated that she wanted Mad Ape to succeed and hoped they do well. She did not believe that they were trying to send kids down the wrong path. She liked their concept but the only issue she had concern with is the minors at the tours.

Mr. Kosanovich asked if the process could proceed with their request for the Mayor and Council to consider their change. Ms. Strelau stated that the Liquor Commission is only a recommending body and under 21 year olds on tours may not be of concern to the Council. She stated that the Council will appreciate the thoughtful discussion and debate by the Commission and that their discussion helps them find their way through the process.

Ms. Didier stated that staff will present the item and include minutes and background discussion for their consideration.

Mr. Hedrick asked if minors will be able to work in the facility. Ms. Kuchynka replied yes, so long as they are not involved in the selling or delivery process. Chairman Strelau stated that any stocking or odd jobs that do not involve the handling of liquor may be held by those under 21.

Chairman Strelau requested a motion from the Commission.

MS. FREGEAU MOVED TO FORWARD THE PROPOSED ORDINANCE CREATING A BREWING FACILITY LICENSE TO THE COUNCIL FOR CONSIDERATION AS PRESENTED.

The motion failed for lack of a second.

Mr. Jacobson moved to amend the motion.

MR. JACOBSON MOVED TO AMEND THE ORDINANCE CREATING A BREWING FACILITY LICENSE TO ALLOW THOSE UNDER 21 TO ATTENDED CLASSES, SEMINARS OR FACILITY TOURS AND TO FORWARD THE AMENDED DRAFT TO THE COUNCIL FOR CONSIDERATION. MR. AUSTIN SECONDED.

Chairman Strelau asked if there was any discussion on the motion. There was none.

VOTE: **Aye:** Mr. Jacobson, Mr. Austin, Chairman Strelau
 Nay: Ms. Fregeau
 Abstain: None

MOTION CARRIED: 3:1:0

Motion carried.

Ms. Kuchynka stated that she will provide a draft ordinance to the Village Council for consideration with the amendment including the provisions of under 21 year olds participating in classes, seminars and facility tours.

Ms. Didier advised Mad Ape representatives that the Council may opt to further amend that provision.

Ms. Kuchynka stated that she will request that the Brew Facility ordinance draft be placed on the Council agenda of May 6th. She recommended that Mad Ape representatives attend that meeting. She stated she would contact them about the upcoming agenda date and if she needed additional items from them to present.

Mr. Kosanovich thanked the Commission for their time.

VI. NEW BUSINESS

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

Ms. Kuchynka stated that she left craft brewing materials for the Commission. She stated that it is an up and coming industry. Chairman Strelau stated that it is a completely different ordinance classification from what has been drafted in the past. Ms. Fregeau stated that she liked the concept, but felt the under 21 issue goes against what is portrayed in the ordinance.

Ms. Kuchynka stated that the amendment to the Class P-O grocery store license to allow for on-site and off-site consumption was presented to the Village Council on April 1st. She stated that the ordinance was