

**VILLAGE OF DOWNERS GROVE**  
**Report for the Village Council Meeting**  
**7/19/2016**

<b>SUBJECT:</b>	<b>SUBMITTED BY:</b>
Ordinance amending Chapter 3 of the Municipal Code regarding Happy Hours and server training requirements	Enza Petrarca Village Attorney

**SYNOPSIS**

An ordinance has been prepared to amend the Village's Liquor Control Ordinance (Chapter 3 of the Municipal Code) regarding Happy Hour and server training requirement provisions.

**STRATEGIC PLAN ALIGNMENT**

The goals for 2015-2017 include *Strong, Diverse Local Economy*.

**FISCAL IMPACT**

N/A

**RECOMMENDATION**

Approval on the August 2, 2016 active agenda.

**BACKGROUND**

In July of 2015, Governor Rauner signed into law Public Act 99-0046, which amended the Illinois Liquor Control Act. Some of the amendments of this Public Act relate to Happy Hours and now allow "happy hours" and other drink packages/specials under certain conditions. The amendments also removed the prohibition of serving two (2) or more drinks to one person at a time.

State law was amended to allow Happy Hours (discounting any drink of alcoholic liquor during a specified time period) under the following conditions:

- (A) the price of the drink of alcoholic liquor is not changed during the time that it is discounted;
- (B) the period of time during which any drink of alcoholic liquor is discounted does not exceed 4 hours per day and 15 hours per week; however, this period of time is not required to be consecutive and may be divided by the licensee in any manner;
- (C) the drink of alcoholic liquor is not discounted between the hours of 10:00 p.m. and the licensed premises' closing hour; and
- (D) notice of the discount of the drink of alcoholic liquor during a specified time is posted on the licensed premises or on the licensee's publicly available website at least 7 days prior to the specified time.

This Public Act also now allows party packages if the licensee offers food in a dedicated event space, limits the party package to no more than 3 hours, distributes wristbands, lanyards, shirts, or any other such

wearable items to identify party package attendees so the attendees may be granted access to the dedicated event space, and excludes individuals not participating in the party package from the dedicated event space.

The Village's Municipal Code currently restricts these activities, as home rule municipalities have the right to enact ordinances that are more restrictive than State law. The Liquor Commission has discussed these amendments and recommended approval. The Commission felt that adopting the same regulations as the State would result in less confusion and easier enforcement. It would also allow Downers Grove businesses to remain competitive as surrounding communities are currently allowing Happy Hours.

Several licensees have contacted the Village regarding Happy Hours, and have all expressed support for the proposed amendments.

## **ATTACHMENTS**

Ordinance

Minutes

## Happy Hour

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

**AN ORDINANCE AMENDING  
THE SALE AND PROMOTION OF ALCOHOLIC LIQUOR**

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 3.33.1. 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 in conformance with this section.~~ Sell more than one (1) drink of alcoholic liquor for the price of one (1) drink of alcoholic liquor;

(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; or as part of a "party package" in accordance with the regulations set forth in Section 6-28.5 (235 ILCS 5/6-28.5) of the Illinois Liquor Control Act, as may be amended from time to time.

(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)~~ 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 tastings in accordance with State law;

(4) Offering room service to registered guests in hotels licensed for such service;

(5) Offering "Happy Hour" sales of alcoholic liquor in compliance with regulations set forth in the Illinois Liquor Control Act (235 ILCS 5/6-28.5), as may be amended from time to time.

~~(6) 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. Said container shall only be delivered to two (2) or more persons 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 twenty-one (21) years of age or older, at one time.

~~(c)~~ 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"; or "complimentary";

## Happy Hour

"open bar" or "unlimited drinks" in regard to alcoholic liquor.

(ed) It is intended that the service of alcohol is merely an adjunct to the meals offered at any restaurant and that the restaurant must not be advertised or otherwise held out to be a drinking establishment.

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

**Section 2. That Section 3.33.3. is hereby amended to read as follows:**

**3.33.3. Training Required.**

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

(bc) 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.

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

**Section 3.** That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**Section 4.** 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

October 10, 2015

**COMMUNITY RESPONSE  
CENTER**

630.434.CALL (2255)

**CIVIC CENTER**

801 Burlington Avenue  
Downers Grove  
Illinois 60515-4782  
630.434.5500  
TDD 630.434.5511  
FAX 630.434.5571

**FIRE DEPARTMENT  
ADMINISTRATION**

5420 Main Street  
Downers Grove  
Illinois 60515-4834  
630.434.5980  
FAX 630.434.5998

**POLICE DEPARTMENT**

825 Burlington Avenue  
Downers Grove  
Illinois 60515-4783  
630.434.5600  
FAX 630.434.5690

**PUBLIC WORKS  
DEPARTMENT**

5101 Walnut Avenue  
Downers Grove  
Illinois 60515-4046  
630.434.5460  
FAX 630.434.5495

The Honorable Martin T. Tully  
Mayor and Liquor Commissioner

Re: *Happy Hour Provisions*

Dear Mayor Tully:

On Thursday, October 1, 2015, at a regular meeting of the Downers Grove Liquor Commission, the members made a recommendation for staff to forward a draft ordinance for an amendment to happy hour provisions to the Village Council for consideration. The following finding was made:


**MR. JACOBSON MOVED TO ADOPT THE PROVISIONS OF PUBLIC ACT 99-46 CONCERNING HAPPY HOUR REGULATIONS. MS. KING SECONDED.**

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

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

Motion carried.

This motion can be found in the October 1, 2015 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-cl\happyhour-forward

## VI. OLD BUSINESS

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

Ms. Kuchynka stated that she forwarded the September month end report. She stated that the Mayor indicated his intent to issue licenses to Thai First, the Ogden Starbucks and Main Street Starbucks. She stated that Thai First license was recently issued and the owner was awaiting approval of the State license.

Chairman Pro Tem Krusenoski stated that there was an article in the paper concerning the various suburbs that Starbucks held licenses in, with the exception of Downers Grove. Ms. Kuchynka replied that they have not been issued but anticipated issuing the licenses by November.

Chairman Pro Tem Krusenoski asked about Mia's Cantina. Ms. Kuchynka replied that they broke ground for a larger watermain to service the building and fire suppression equipment. Ms. King asked if they were paying for the leased space while work is being done. Ms. Kuchynka replied that provision would be set out in the lease and noted some owners will not start charging rent until renovation is complete.

## VII. NEW BUSINESS

Ms. Petrarca stated that the State passed new legislation concerning amendments to the Liquor Control Act and requested discussion from the Commission.

Ms. Petrarca added that the State is now allowing happy hours. She stated that they will be allowed for 4 hours a day, not to exceed 15 hours per week and offer discounted drinks. She stated that the event needs to be posted in advance and are not allowed after 10 pm. She stated that home rule municipalities may be more restrictive than the State. She stated that the Village adopted the former regulations which prohibit happy hours. She stated that the Mayor requested discussion from the Commission on whether to continue to be more restrictive concerning happy hours or adopt State changes. She stated that there was also a request to discuss the one drink at-a-time rule and party package regulations. She asked the Commission if the Village should remain more restrictive or adopt the State changes.

Ms. Petrarca stated a draft ordinance was prepared which addressed party packages and advised that staff was in support of these changes. She stated that there have been issues in the past with Super Bowl and New Year's Eve parties. She stated that regulations have been developed that requires that ticket sales must be done in advance of the event, the event must be contained in a separate area of the facility, the event is limited to three hours and that food must be served.

Ms. Petrarca advised the Commission that Ms. Kuchynka conducted a survey of surrounding communities and a chart of who allows happy hours and party packages. She noted survey results were provided in their packet. She noted that Lombard and Westmont have taken the position that as they are non-home rule communities, they cannot be inconsistent with the State and will allow happy hours.

Mr. Clary asked about the party packages and if the establishment will be open to regular customers as well as those attending the event. Ms. Kuchynka replied yes and noted that participants of the party would have to obtain tickets prior to the event. Ms. Petrarca added that the party would have to be in a designated area separate from regular customers. Ms. Petrarca stated tickets must be purchased in advance. Ms. Kuchynka added that food must be served. Ms. Petrarca stated that the event cannot be more than three hours and participants must have a lanyard or wristband. Ms. Kuchynka advised that during this party, drinks are unlimited.

Mr. Jacobson stated that the laws on overconsumption have changed and noted DUI penalties are strict. Ms. Kuchynka stated that servers will be responsible for recognizing signs of intoxication, monitoring patrons' alcohol consumption and address the need to slow down or cut off service. She stated that the State is requiring

employees to obtain BASSETT training every three years for on-premise consumption licensees. She stated that the Village will continue to require the training for employees at off-premise license holders.

Ms. Petrarca asked for feedback from Commission for the happy hour provisions. She stated that licensees will not be able to offer two-for-one drinks, but will be able to have special drink prices during the day. Ms. Kuchynka stated that there cannot be a large reduction in the price, for example a \$.50 beer.

Mr. Clary asked who would monitor the events. Ms. Petrarca replied the Village will. She stated that she would respond to any complaints. Chairman Pro Tem Krusenoski noted that people will call Ms. Kuchynka if they see an illegal advertisement. Ms. Kuchynka replied yes.

Chairman Pro Tem Krusenoski noted that the Village survey information from surrounding communities and whether they allow happy hours or party packages is all over the board. Ms. Petrarca replied that the happy hour regulations are new. She stated that the State is going around to the municipalities for training on the law. Ms. Kuchynka stated that there is a lot of confusion interpreting the law.

Mr. Jacobson stated it is a good idea for the Village. Ms. Petrarca asked if they would be willing to adopt the State law. Mr. Clary agreed. Chairman Pro Tem Krusenoski stated that it is good for a license holder not to run afoul if the Village ordinance matches the State. He stated that there will be confusion if the Village adopts something different.

Ms. Petrarca stated that licensees cannot offer happy hours between the hours of 10 p.m. and closing. She stated that the happy hour cannot exceed 4 hours at a time or exceed 15 hours per week and has to be posted at the establishment 7 days in advance or on their public website. Mr. Clary asked if the hours have to be consecutive. Ms. Petrarca replied yes.

Ms. Petrarca stated that only a handful of licensees have contacted the Village about allowing happy hours. She noted that they can offer specials on drinks now, but have to offer it all day and stated that they will now be able to limit it.

Mr. Jacobson stated that allowing happy hour will be good for business.

Ms. King liked that the State will not allow two-for-one drinks.

Ms. Petrarca stated that she would like feedback from the Commission concerning the restriction of serving only one drink at a time. She stated this provision comes up mostly with festivals. She stated that the State removed this regulation. She stated that the regulation was loosely enforced. Chairman Pro Tem Krusenoski asked what the limit is on delivery of drinks. Ms. Petrarca replied there is no limit.

Chairman Pro Tem Krusenoski asked Ms. Kuchynka if she drafted an ordinance. Ms. Kuchynka replied yes. Ms. Petrarca noted that the ordinance included in their packet includes party package provisions. She stated that staff did not address the happy hour or delivery of drinks, as they wanted Commission feedback. She stated that they will re-draft the ordinance to reference the State law, but will not reference particulars of the law, as some may change over the course of time. She stated that it will be a general reference to the section of the law.

Ms. Kuchynka asked if they would be willing to allow the delivery of more than one drink. Ms. Petrarca stated that the State has stricken the rule that "no licensees shall serve two or more drinks at one time to one person" and replaced the language with "licensees may not sell more than one drink of alcoholic liquor for the price of one drink". She stated that particular provision will regulate two-for-one. Mr. Clary asked if a customer will be able to order five shots and take it back to the table. Ms. Kuchynka replied yes. Chairman Pro Tem Krusenoski noted that the one drink per person rule is most frustrating at festivals. Ms. Kuchynka stated that the licensee will still be responsible for monitoring their guests and put a stop to adults sharing drinks with minors.

Mr. Jacobson was in favor of reflecting the State law and stated that the establishment will be responsible for monitoring. Mr. Clary agreed and felt that allowing establishments to give a patron more than one drink will lead to that patron giving it to a minor.

Ms. Kuchynka stated that the delivery of more than one drink is the most violated State law. She stated that sporting and music venues for years have handed out more than one drink at a time. Ms. Petrarca noted that the State loosely enforces that provision.

Chairman Pro Tem Krusenoski asked if there was any comment from the public.

Mr. Bentley replied that he agreed with all that the Commission was saying. Mrs. Jacobson agreed.

Ms. Petrarca requested a motion from the Commission.

**MR. JACOBSON MOVED TO ADOPT THE PROVISIONS OF PUBLIC ACT 99-46 CONCERNING HAPPY HOUR REGULATIONS. MS. KING SECONDED.**

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

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

Ms. Kuchynka stated that staff will place the revised ordinance on a future Village Council agenda for consideration. Ms. Petrarca stated that staff may hold off until they attend the State conferences and be certain that no further changes are pending.

Chairman Pro Tem Krusenoski asked staff if there will be a November meeting. Ms. Kuchynka stated that she did not have any applications on file but was uncertain if there will be a November meeting.

**VIII. COMMENTS FROM THE PUBLIC**

There were none.

**IX. ADJOURNMENT**

Concluding business for the evening, Chairman Pro Tem Krusenoski called for a motion to adjourn.

Ms. King moved to adjourn the October 1, 2015 meeting. The meeting was adjourned by acclimation at 7:05 p.m.