

**VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL MEETING
NOVEMBER 8, 2011 AGENDA**

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

SYNOPSIS

An ordinance has been prepared amending the Liquor Code to amend extension request provisions for liquor serving hours.

STRATEGIC PLAN ALIGNMENT

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

FISCAL IMPACT

N/A

UPDATE & RECOMMENDATION

This item was discussed at the November 1, 2011 Village Council meeting. Staff recommends approval on the November 8, 2011 Active Agenda.

BACKGROUND

Extensions of liquor serving hours have been permitted upon written request to the Liquor Commissioner up to a maximum of eight times per year. Historically, the requests were for New Year's Eve, the day before Thanksgiving, St. Patrick's Day and for morning brunches (i.e. Easter or Mother's Day). Within the last few years, the Village has amended Sunday morning alcohol sales hours to begin at 9AM and has recently extended Friday night alcohol sales hours to 2AM.

Based upon the above mentioned changes to the alcohol serving hours, it is recommended that the amount of extensions of service hours allowed per year be reduced from eight to four. Generally, extensions will not be granted past 2AM, however, may be allowed in unique circumstances at the discretion of the Mayor. The proposed ordinance also amends liquor service hours to allow sales until 2:00 a.m. for certain holidays (New Years Eve, St. Patrick's Day & Thanksgiving Eve), thereby eliminating the need for licensees to request extensions on those days.

The Liquor Commission discussed this matter at its meeting of September 8 and October 6, 2011 and recommended approval.

ATTACHMENTS

Ordinance

Minutes - September 8, 2011

Liquor Commission Recommendation & DRAFT Minutes - October 6, 2011

VILLAGE OF DOWNERS GROVE
COUNCIL ACTION SUMMARY

INITIATED: Village Attorney **DATE:** November 8, 2011
(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 PROVISIONS FOR THE EXTENSION OF LIQUOR SERVING HOURS", as presented.

SUMMARY OF ITEM:

Adoption of the attached ordinance shall amend provisions for the extension of liquor serving hours.

RECORD OF ACTION TAKEN:

Liquor Serving Extensions

ORDINANCE NO. _____

**AN ORDINANCE AMENDING PROVISIONS
FOR THE EXTENSION OF LIQUOR SERVING HOURS**

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 3.31. 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
<u>New Years Eve</u>	<u>8:00 a.m. to 2:00 a.m., the following day</u>
<u>St. Patrick's Day</u>	<u>8:00 a.m. to 2:00 a.m., the following day</u>
<u>Thanksgiving Eve</u>	<u>8:00 a.m. to 2:00 a.m., the following day</u>

(b) Hours during which sale is lawful may be extended by written order of the Local Liquor Commissioner for periods not to exceed three 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 ~~eight~~four 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 premises licensed under this Chapter later than one 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-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 2. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are

Liquor Serving Extensions

hereby repealed.

Section 3. 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

Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

The Motion carried.

Chairman Pro Tem Strelau requested a recommendation be made as to the fine and/or suspension for the violation.

MR. KING RECOMMENDED THAT THE LICENSE OF LAMEX CORP. D/B/A LAMEX FINE MEXICAN CUISINE LOCATED AT 500 W. 75TH STREET, DOWNERS GROVE, BE SUSPENDED FOR NOT LESS THAN TWO (2), NOR MORE THAN FIVE (5) DAYS; THAT THE LICENSEE BE FINED IN AN AMOUNT OF \$0.00 AND THAT THE LICENSEE PAY \$1,000.00 TO COVER ADMINISTRATIVE COSTS TO CONDUCT THIS HEARING. MR. KRUSENOSKI SECONDED.

VOTE:

Aye: Ms. King, Mr. Krusenoski, Mr. Austin, Ms. Fregeau, Chairman Pro Tem Strelau

Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

The Motion carried.

Chairman Pro Tem Strelau advised that their findings will go to the Liquor Commissioner who will make a final decision concerning the penalty.

VI. APPLICATION FOR LIQUOR LICENSE

Ms. Kuchynka advised the Commission that Ms. Jessica Ekstrom voluntarily withdrew her application for liquor license for Tropix, Inc. d/b/a Tropix located at 1211 B Butterfield Road.

VII. OLD BUSINESS

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

Liquor Serving Extensions

Ms. Kuchynka stated that with the recent passing of the Friday 2AM hours of service, the Commission desired to revisit liquor hour extension requests. She stated that licensees may submit requests for the extension of serving hours up to eight times per year, from 1-3 hours. She stated that a majority of

extension requests were on Friday to increase serving hours from 1AM to 2AM. She provided a draft ordinance which would remove the extension request provisions. She understood that the Commission was not in favor of allowing licensees the ability to serve past 2AM.

Ms. Kuchynka stated that she typically gets extension requests for and certain holidays such as New Years Eve, St. Patrick's Day and the Wednesday before Thanksgiving. She stated that these will fall on a week day in 2012, where licensees will only be able to serve until 1AM. She advised that the draft includes provisions for licensees to serve until 2AM on these holidays.

Ms. Kuchynka stated that if licensees are no longer allowed extensions, they may be able to apply for a Special Event License. She stated that they are allowed up to six special events per year which could be another avenue for licensees to serve later/earlier hours.

Ms. Kuchynka asked the Commission for their input on the draft ordinance.

Ms. Kuchynka asked if they would like to add more holidays.

Mr. Krusenoski asked if there was a fee for a special event. Ms. Kuchynka replied \$95. Ms. Kuchynka advised that extension requests were \$55 each.

Chairman Pro Tem Strelau asked about the special event license. Ms. Kuchynka stated it is a license class listed in Section 3.14. She stated that in some instances a public hearing is required for larger, first-time events, however, most are issued administratively by staff with the approval of the Mayor.

Chairman Pro Tem Strelau asked what kind of hours can an special event applicant ask for. Ms. Kuchynka replied hours have to be requested on the application and those would have to be approved by the Mayor.

Ms. Kuchynka recalled discussion that alcohol service not be allowed past 2AM in any instance. Chairman Pro Tem Strelau asked if the Liquor Commissioner was of that mind. Ms. Kuchynka replied she did not know. Ms. Petrarca stated that it would be a very rare occasion that staff would recommend late service under a special event license.

Chairman Pro Tem Strelau gave an example where an extension in the morning was issued to Ballydolye when a radio station did a promotion at 5:30AM. Mr. Austin gave an example of the World Cup, played over seas, where an establishment would watch the game live, but the game aired here would be at a very odd hour.

Chairman Pro Tem Strelau asked if special events were given in the past due to each event being unique and based on their needs. She asked if the Commission was concerned that the license is open ended with regard to sales hours and understood times where licensees wanted service very early.

Ms. Fregeau stated that she did not think it is the intent of the Village to being the "last call" community, where sales are extended past certain hours. She stated that DUI activity is almost all after midnight, and the later places are open, the more DUIs seem to appear. She stated that she would not be in favor of making Downers Grove a 3AM Village at any time a year.

Ms. Kuchynka stated that special event licenses issued in the past were never issued past Downers Grove legal serving hours. She stated that if the extension requests were removed, obtaining a special event license could be a potential way to be able to serve later on very special occasions.

Mr. Austin asked if a way to solve the 3AM issue was to say that extensions may only be taken on a weekday, rather than itemizing one holiday over the other.

Mr. Krusenoski asked why the ordinance cannot prohibit liquor to be served past 2AM.

Chairman Pro Tem Strelau stated that she liked options for special event licenses for the week. She asked if the license only be allowed Monday-Thursday, and not later than 2AM. Mr. Austin agreed with the hour restriction and would like to know the Liquor Commissioner's stance on the issue.

Ms. Kuchynka asked if the Commission would like to keep the holidays listed in the draft. The Commission agreed and that it would result in less administrative work for staff.

Ms. Petrarca asked the Commission if the point was to remove extensions. She stated if they allowed a special event, the Village will essentially have extensions, which will come in a different form.

Mr. Krusenoski stated that if certain holidays are included in the Code, extension requests should be virtually eliminated. He stated the Code would cut off any avenue, outside of the three holidays, to issue and extension unless a special event is issued as way to accommodate events.

Ms. Kuchynka stated that if extension requests are eliminated, a request for serving hours prior to 8AM would not be allowed, other than by obtaining a special event license.

Ms. Kuchynka stated that if a licensee requests liquor service, not exceeding 2AM, they can apply for a special event. Ms. Fregeau stated that it is the intent to manage the hours of events. Chairman Pro Tem Strelau stated that these license are not regularly given and are special by nature. Ms. Kuchynka advised that they can be denied by the Mayor.

Chairman Pro Tem Strelau stated that Mayor Sandack made it clear that liquor would not be served past 2AM. She stated that she wanted the current ordinance changed so that licensees could not tack on an extra hour of service after 2AM. She was fine with removing the extension requests, but agreed that licensees should have an opportunity to appeal and have a special event rather than be the norm.

Ms. Petrarca stated that she would talk to the Liquor Commissioner. She stated that he can deny all extension requests and special events and this may not even be an issue. She stated that they can put in the existing extension language that liquor cannot be served past 2AM under any circumstances and still allow extensions and not issue a special event.

Mr. Austin asked if special event licensing creates an administrative burden. Ms. Kuchynka replied yes, as there is more work involved than issuing extensions. She stated that the Mayor signs the approval, the licensee gets a letter and the Police Department is notified.

Ms. Kuchynka stated that it was her understanding that the Commission wanted the verbage taken out that allows extensions since the Friday late night hours changed. Chairman Pro Tem Strelau replied yes. Ms. Petrarca confirmed that they did not want liquor service until 3AM. Chairman Pro Tem Strelau replied yes. Chairman Pro Tem Strelau asked if staff knew where the new Mayor stood on the issue and because there has been a change, they need to understand his feelings.

Chairman Pro Tem Strelau liked having the holidays in the ordinance. Ms. Petrarca stated that if holidays are added, she would recommend reducing the number of extensions. Ms. Fregeau thought there were too many and suggested the number of extensions allowed be cut in half. Chairman Pro Tem Strelau

stated that some of them were allowed for Mother's Day and Easter, which are addressed by early morning Sunday serving hours.

Ms. Kuchynka advised that the DoubleTree had a wedding over the Labor Day weekend on Sunday. She noted that they requested an extra hour of service on Sunday which the Mayor granted.

Mr. Austin stated that he understood the concern with capping liquor serving hours to 2AM, but they need to trust the Mayor's discretion and the importance of allowing him some flexibility.

Ms. Fregeau asked about section (d) wording which is made to sound as though it is ok to serve alcohol without food. Ms. Kuchynka clarified stated that licensees are allowed to let patrons finish their drinks one hour prior to close.

Ms. Kuchynka stated that the draft ordinance be revised to: include the three holiday extensions and minimize the number of extension requests. She will confirm that the Liquor Commissioner is in agreement with no liquor sales past 2AM.

Ms. Fregeau asked how many licensees have used all eight extensions. Ms. Kuchynka replied Rita's. She noted that the DoubleTree requests a few over the course of the year.

Ms. Fregeau wondered what prompted requests to be set at eight times per year. Ms. Petrarca replied that there were eight allowed to accommodate some earlier in the morning, like Mother's Day and Easter. Ms. Kuchynka stated that when they amended Sunday serving hours, the number of extensions could have been reduced.

Ms. Kuchynka stated that the Mayor always has discretion in the matter and extensions are not guaranteed. She stated that the Mayor may deny an extension if there was a problem with any previous events, if the nature of the event is questionable or the licensee has a questionable DUI history.

Ms. Fregeau stated that she was concerned about resources and the additional monitoring of licensees between 12-2AM. Ms. Kuchynka replied that the Police Department is notified of every special event and is informed of extensions.

Mr. Austin stated that he's seen licensees given a different category of license after midnight in other communities.

Ms. Petrarca stated that she would contact the Mayor and report back next month.

Chairman Pro Tem Strelau asked if there was any comment from the public on the issue. There was none.

~~BYO~~

~~Ms. Kuchynka stated that the Mayor had received requests for "BYO" which would allow patrons to bring in their own beer/wine into a restaurant. Staff preferred a license be required. She provided the Commission with a draft ordinance creating a BYO license.~~

~~Ms. Kuchynka provided information to the Commission with the regulations of surrounding communities in the past. She reviewed regulations of those communities and included those provisions in the terms of the~~



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October 11, 2011

The Honorable Martin T. Tully
Mayor and Liquor Commissioner

Re: *Extension of Liquor Serving Hours*

Dear Mayor Tully:

On Thursday, October 6, 2011, at a regular meeting of the Downers Grove Liquor Commission, the members made a recommendation to forward a draft ordinance to the Council which would amend provisions for the extension of liquor serving hours. The following finding was made:

MS. FREGEAU MOVED TO FORWARD AN ORDINANCE AMENDING PROVISIONS FOR THE EXTENSION OF LIQUOR SERVING HOURS TO THE VILLAGE COUNCIL FOR CONSIDERATION. MR. CLARY SECONDED.

VOTE:

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

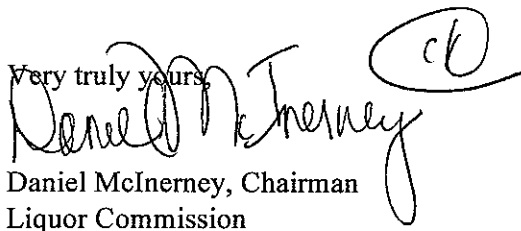
Nay: None

Abstain: None

MOTION CARRIED: 6:0:0

The Motion carried.

This motion can be found in the October 6, 2011, minutes of the Liquor Commission (attached).

Very truly yours,

Daniel McInerney, Chairman
Liquor Commission

VILLAGE OF DOWNERS GROVE

Attachments

cc: April Holden, Village Clerk

a\recommend.l-cl-exts

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

Chairman McInerney suggested that they maintain adequate visibility of the outdoor area.

Ms. Fregeau suggested that they contact the State of Illinois for free materials, signs and training guides for the store.

Hearing the testimony given in this case, Chairman Pro Tem Strelau asked for a recommendation from the Commission concerning its finding of "qualified" or "not qualified" with respect to the applicant with regard to the Class "P-2" liquor license application.

MS. STRELAU MOVED TO FIND FAIRVIEW MART, INC. D/B/A FAIRVIEW MART LOCATED AT 402 W. 75th STREET, QUALIFIED FOR A CLASS "P-2", BEER AND WINE ONLY, OFF-PREMISE CONSUMPTION LIQUOR LICENSE. MR. KRUSENOSKI SECONDED.

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

Nay: None

Abstain: None

MOTION CARRIED: 6:0:0

The motion carried.

V OLD BUSINESS

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

Ms. Kuchynka advised that the BYO ordinance was amended based on Council discussion at their meeting of October 4th. She provided a final version of the ordinance to the Commission. She stated that the Council requested that language be amended to clarify provisions for licensees re-sealing any unconsumed portion of wine.

Ms. Kuchynka provided a copy of the Liquor Commissioner's Findings and Order for the LaMex violation. She stated that the Mayor suspended the licensee for two days and ordered them to pay \$1,000 in hearing costs.

Ms. Kuchynka provided a copy of the Order of Forfeiture for Fairview Mart in their monthly packet and provided an Order of Forfeiture of Michael's Fresh Market. Ms. King asked if liquor sales ceased. Ms. Kuchynka replied that the entire establishment was closed for business.

Liquor Serving Extensions

Ms. Kuchynka stated that Commission discussed further revisions to liquor hour extension requests at last month's meeting. She provided a final version of the ordinance to the Commission based upon that discussion.

Ms. Kuchynka stated that staff had the opportunity to confirm with the Mayor that he would generally not approve liquor sales exceeding 2AM, however, he would like to have discretion in issuing extensions if unique events comes up. She stated that language about extensions generally not exceeding 2AM was also added to the draft ordinance.

Ms. Kuchynka advised that the ordinance had been revised to reduce the number of extension requests from eight to four, since some holiday hours were added.

Ms. Kuchynka asked the Commission for further discussion and requested a motion to forward the item to the Village Council for consideration.

Chairman McInerney stated that the ordinance changes were reasonable and he was fine with giving the Liquor Commissioner latitude in making decisions for unique requests. He felt that language about liquor extensions generally not being allowed past 2AM would be a good deterrent for requests past then. He felt that language clarifies the intent of the Commissioner.

Chairman McInerney asked if there were any comments from the public on the issue. There were none.

Chairman McInerney requested a motion.

MS. FREGEAU MOVED TO FORWARD AN ORDINANCE AMENDING PROVISIONS FOR THE EXTENSION OF LIQUOR SERVING HOURS TO THE VILLAGE COUNCIL FOR CONSIDERATION. MR. CLARY SECONDED.

VOTE:

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

Nay: None

Abstain: None

MOTION CARRIED: 6:0:0

The Motion carried.

~~Ms. Kuchynka advised that the Mayor administratively approved a location change for the Downers Grove Wine Shop. She stated that they will have off-premise beer and wine sales only and will not have on-site consumption as the former boutique. She stated that the new site is significantly smaller and located across the parking lot. She stated that the wine shop has no violation history.~~

~~Ms. Strelau asked if the Commission will be discussing Suspension Guidelines. Ms. Kuchynka stated that they will discuss the issue at a future meeting. She stated that LaMex was the first violation that the Mayor experienced and he was unfamiliar with the process. She stated that he was given an overview of the past history and will review those materials with the Village Attorney about what direction to take.~~

~~Ms. Fregeau asked if free courses are offered to municipalities for BASSETT training. She asked if staff could explore the possibility of the Commission to go through the training. Ms. Kuchynka stated that BASSETT training is generally quite expensive, however, there are some reasonable on-line courses that~~