

VILLAGE OF DOWNERS GROVE
Report for the Village
1/14/2020

SUBJECT:	SUBMITTED BY:
An ordinance amending the Class O liquor license	Enza Petrarca Village Attorney

SYNOPSIS

An ordinance has been prepared amending the Class “O” outdoor liquor license classification.

STRATEGIC PLAN ALIGNMENT

The goals for 2019-2021 include *Exceptional Municipal Services*.

FISCAL IMPACT

N/A

UPDATE & RECOMMENDATION

This item was discussed at the January 7, 2020 Village Council meeting. Staff recommends approval on the January 14, 2020 active agenda.

BACKGROUND

A request has been received from Goldfinger Brewery for an amendment to the Liquor Control Ordinance to allow for a Class BF (brewing facility) to obtain an O-1 Outdoor license. Currently, Class BF license classifications do not qualify for an outdoor license because the O-1 Outdoor liquor license requires that the principal operation of the outdoor area be for dining purposes only. Class BF license classifications are exempt from the food service provision requirements and do not provide food service; therefore, they do not qualify for an O-1 license.

A draft ordinance has been prepared amending the Class O license to allow Class BF establishments to qualify for an O-1 Outdoor license removing the requirement that the principal operation of the outdoor area be for dining purposes only.

The Liquor Commission discussed this matter on December 5, 2019. The Commission members voted 5:0 in favor of the amendment.

ATTACHMENTS

Ordinance

Minutes

VILLAGE OF DOWNERS GROVE COUNCIL ACTION SUMMARY

INITIATED: Village Attorney DATE: January 14, 2020
(Name)

RECOMMENDATION FROM: _____ FILE REF: _____
(Board or Department)

NATURE OF ACTION:

- Ordinance
- Resolution
- Motion
- Other

STEPS NEEDED TO IMPLEMENT ACTION:

Motion to Adopt "AN ORDINANCE AMENDING CLASS "O" OUTDOOR LIQUOR LICENSE PROVISIONS", as presented.



SUMMARY OF ITEM:

Adoption of the attached ordinance shall amend Class O outdoor liquor license provisions.

RECORD OF ACTION TAKEN:

Class O-Outdoor

ORDINANCE NO. _____

**AN ORDINANCE AMENDING
CLASS "O" OUTDOOR LIQUOR LICENSE 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 3.13 is hereby amended to read as follows:**3.13 Classification of licenses.**

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

* * *

Class "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:

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.

* * *

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, BF, BYO, C, H, P-O, REC, RF, R or WB license and shall be limited to the conditions of the respective license classification issued to the establishment. Except for Class BF and Class C, ~~The main and principal operation of the outdoor area 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.~~

* * *

6; Ord. No. 2735, § 1; Ord. No. 2945, § 1; Ord. No. 2996, § 1; Ord. No. 3050, § 1; Ord. No. 3164, § 2.)

Section 2. 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 liquor in an outdoor seating area may be permitted adjacent to premises licensed to sell alcoholic liquor for

Class O-Outdoor

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 "BF" Brew Facility and Class "C" Club licensees 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 in any way utilized to expand the number of seats that are allowed in the interior bar/lounge area.
- (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 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

I:\mw\Ord.19\Class O-Amend-short



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**COMMUNITY RESPONSE
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801 Burlington Avenue

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842 Curtiss Street

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December 16, 2019

The Honorable Robert T. Barnett
Mayor and Liquor Commissioner

Re: Proposed Ordinance - Class O Liquor License Amendment

Dear Mayor Barnett:

On Thursday, December 5, 2019 the Liquor Commission considered a draft ordinance concerning an amendment to the outdoor liquor license classification. The following finding was made:

MR. HEAFNER MOVED TO RECOMMEND TO FORWARD THE DRAFT ORDINANCE CONCERNING THE CLASS O LIQUOR LICENSE AMENDMENT TO THE VILLAGE COUNCIL FOR CONSIDERATION. MR. JOHNSON SECONDED.

VOTE:

Aye: Mr. Heafner, Mr. Johnson, Mr. Clary, Mr. Krusenoski,
Chairman Strelau

Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

Further discussion of this subject can be found in the December 5, 2019 minutes of the Liquor Commission (attached).

Very truly yours,

Alice Strelau, Chairman
Liquor Commission

VILLAGE OF DOWNERS GROVE

DRAFT

V. NEW BUSINESS

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

Ms. Kuchynka asked Mr. Beckmann to remain seated concerning the discussion of a liquor ordinance amendment.

Ms. Kuchynka provided the Commission with a draft ordinance concerning an amendment to the Class O outdoor liquor license related to the Class BF license classification. She stated that Class BF brew facilities are currently not allowed to qualify for an outdoor liquor license and operate as a beer garden.

Ms. Kuchynka stated that the original building permit plans for Goldfinger included an outdoor patio and noted that Mr. Beckmann expressed interest in allowing an outdoor seating area in addition to the brewery. She stated that Class O licenses are issued to those establishments where the principal operation of the outdoor area is for dining purposes. She stated that without food service, Goldfinger cannot qualify for the license class as written. She stated that the draft ordinance would allow Class BF holders the ability to have an outdoor seating area and bring Class C club licensees (non-profit, fraternal organizations) into better compliance.

Ms. Kuchynka stated that food service requirements will remain unchanged for all other Class O license holders.

Ms. Kuchynka asked Mr. Beckmann to discuss his request for an amendment to the code with the Commission.

Mr. Beckmann stated that the Fairview Avenue corridor area could benefit from new businesses and an outdoor area would bring something more attractive for pedestrians. He stated that their location has good visibility from Maple Avenue and the Metra line. He hoped to install a greenery laden patio area and that would make the look of the manufacturing area more pleasing.

Mr. Krusenoski asked where the patio would be located. Mr. Beckmann replied in the parking lot area on the eastern side of the building adjacent to their main entrance. He stated that they plan to pour a concrete pad and enclose the patio seating area. He stated that access to the patio will be through the game room area which would have garage doors that open and close. He stated that would create better ambiance and let in natural light to the facility. He added that he would like to offer patrons the ability to sit outdoors during nice weather. He stated they are in close proximity to Doggie Depo and would give dog owners the option to swing in with their pets and sit outside.

Mr. Krusenoski stated that, in principle, he had no objection to outdoor dining at brew pubs.

Ms. Kuchynka noted that the outdoor area, like all others, will need to remain enclosed.

Ms. Kuchynka stated that if and when the amendment is approved, Mr. Beckmann would need to apply for the Class O and appear before the Commission for the application hearing.

Mr. Krusenoski asked if Alter was the only other Class BF license holder. Ms. Kuchynka replied yes. She stated that Alter has inquired about this license class, however, due to constraints, including but not limited to, greenspace requirements, parking and fire lane issues, they do not have the room for an outdoor seating area.

Mr. Johnson asked Mr. Beckmann how the barrier will function pragmatically and esthetically for the location. Mr. Beckmann replied that he did not have a copy of the original plans for the outdoor area with him. He advised that there would be German style communal picnic tables with umbrellas planned. He stated that they planned to enclose the area with a wooden fence to accent the exterior area of the building.

Attorney Petrarca wanted to advise the Commission that they are not considering plans for the layout at this time and were looking simply to amend the ordinance. She added that Mr. Beckmann will be required to come back should the ordinance be amended.

Mr. Clary stated he thought the ordinance was fine and had no objections to the outdoor license change.

Chairman Strelau asked if there are any size restrictions for outdoor seating areas. Ms. Kuchynka replied no. She informed the Commission that in this instance a Temporary Use License from Community Development would be required. She stated that is a separate annual license from the Village that they will need to obtain in addition to the Class O liquor license. She stated that inspections are required annually. Attorney Petrarca noted that the temporary use ordinance limits use of the café from March 15th through November 15th.

Chairman Strelau stated that the Village does not allow “beer gardens” and asked how the Village defines a beer garden. Ms. Kuchynka replied the principal operation being for dining purposes and bars/portable beer tubs not being allowed. Attorney Petrarca added that as they only serve beer, the outdoor area would essentially serve as a “beer garden”.

Chairman Strelau stated that if the licensee follows liquor rules inside, there should be no difference in allowing them to do the same practice on the outside.

Attorney Petrarca asked for a motion from the Commission to forward the ordinance to the Village Council for consideration.

MR. HEAFNER MOVED TO RECOMMEND TO FORWARD THE DRAFT ORDINANCE CONCERNING THE CLASS O LIQUOR LICENSE AMENDMENT TO THE VILLAGE COUNCIL FOR CONSIDERATION. MR. JOHNSON SECONDED.

VOTE:

Aye: Mr. Heafner, Mr. Johnson, Mr. Clary, Mr. Krusenoski, Chairman Strelau

Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

Ms. Kuchynka advised that she will forward the ordinance draft to the Village Council sometime in early 2020. She added that if and when the change is approved, Mr. Beckmann will have the opportunity to return to the Commission and apply for the Class O license.