

COUNCIL WORKSHOP ITEM

ITEM: An Ordinance Amending Outdoor Liquor Sales Provisions
DATE: July 15, 2002
PREPARED BY: Carol Conforti, Liaison to the Liquor Commission
PURPOSE: To adopt an ordinance amending provisions of the Liquor Control Ordinance concerning outdoor sales

DISCUSSION:

At the workshop meeting of June 25, 2002, the Council discussed amendments to outdoor liquor sales provisions. From that discussion, Council recommended that the Liquor Commission review the proposed ordinance and come up with language to "tighten up" conditions contained in the original draft. At their meeting of July 11, 2002, the Downers Grove Liquor Commission re-addressed this matter. After discussion and agreement by the Commission on applying additional conditions, the group voted 5:0 in favor of an amendment to Section 3-30 which would allow direct access to outdoor seating areas.

The draft has been amended to require that outdoor access be limited through the licensed premises, or, if not practicable, through monitored entrances that are controlled by employees and/or that reasonable fencing of the outdoor area is available during all operating hours and/or while alcoholic liquor is being served.

ATTACHMENT:

July 11, 2002 LIQUOR COMMISSION MINUTES (RE: OUTDOOR SALES DISCUSISON)
AN ORDINANCE AMENDING OUTDOOR LIQUOR SALES

RECOMMENDATION:

It is requested that the Village Council reconsider this matter at the Workshop meeting of July 23, 2002 and place this matter on the Active Agenda for approval on August 6, 2002.

cc: Downers Grove Liquor Commission
Enza Petrarca, Acting Village Attorney

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**DOWNERS GROVE LIQUOR COMMISSION
VILLAGE HALL COUNCIL CHAMBERS
801 BURLINGTON AVENUE**

June 11, 2002

I. CALL TO ORDER

Chairman Mochel called the meeting to order at 6:35 p.m.

II. ROLL CALL

PRESENT: Ms. Gerloff, Mr. Kubes, Mr. Sandack, Ms. Summers, Chairman Mochel

ABSENT: None

STAFF: Acting Village Attorney Enza Petrarca, Liaison to the Liquor Commission Carol Conforti, Secretary Karen Mudra

OTHERS: None

III. APPROVAL OF MINUTES

MR. SANDACK MOVED TO APPROVE THE MINUTES OF THE JUNE 6, 2002 LIQUOR COMMISSION MEETING AS PRESENTED. MR. KUBES SECONDED.

VOTE: **Aye:** Mr. Sandack, Mr. Kubes, Ms. Gerloff, Ms. Summers,
Chairman Mochel

Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

Chairman Mochel said the first order of business is discussion of Outdoor Seating Ordinance provisions.

IV. DISCUSSION OF OUTDOOR SEATING ORDINANCE PROVISIONS

Ms. Conforti reminded the Commission that at a previous meeting they had discussed permitting access to outdoor seating area which would not require access through the licensed premises. As a result of that discussion, an ordinance was drafted and presented to the Village Council amending the provisions governing outdoor liquor sales to allow access to an outdoor seating area “through the licensed premises or through entrances that are controlled and monitored by employees of the licensed premises.” However, the Village Council had some concerns about the draft ordinance. Ms. Conforti said the Council members felt the ordinance should be “tightened up”. They suggested defining “controlled” and “monitored”. The Council asked that the Commission further discuss the requirement to have an attendant in the outdoor seating area. The Council asked the Commission’s opinion of requiring a gate as well as an attendant.

Ms. Conforti requested suggestions for an ordinance that would satisfy both the Liquor Commission and the Village Council. She asked for the Liquor Commission to consider the following options: 1. Keep the ordinance as it is, requiring access only through the licensed premises or to amend the ordinance to allow access through other entrances. She said staff favors tightening up the ordinance to address concerns about passing drinks out of the outdoor seating area and monitoring access to the area. Ms. Conforti said that some licensees with outdoor cafés located in front of the licensed premises will not be able to comply with the current ordinance.

Ms. Conforti asked the Commission’s feelings about allowing direct access to outdoor seating areas located at the rear of the licensed premises. She asked if the Commission felt access through a constantly monitored gated would be acceptable. She asked if the Commission felt direct access to a rear café should be prohibited under any circumstances. She asked if the Commission would be in favor of direct access to an outdoor café only when access through the licensed premises is not possible.

Chairman Mochel said he feels any direct access to an outdoor café should be monitored at all times. Ms. Conforti asked if he felt monitoring would be necessary with front outdoor cafés as well as in rear outdoor cafés. Chairman Mochel said he that he feels that all outdoor cafés, located in the front or rear of the licensed premises, should be monitored at all times.

Ms. Gerloff asked if the ordinance would distinguish between front and rear outdoor cafés or would the location of the café be discussed during the application hearing and decided on a case-by-case basis. Ms. Petrarca said she would rather not make a distinction between front and rear cafés in the Ordinance. She said she would like to keep the ordinance as simple as possible, both for the Village and the licensee. She said the ordinance could distinguish between outdoor seating areas and sidewalk cafés.

Chairman Mochel said the few licensees with rear outdoor cafés, have them completely enclosed and would not have a problem complying with an ordinance that requires monitoring the area. Ms. Conforti said some licensees have said they do not want to have direct access to their rear outdoor seating area.

She said she did not recall that any of the current licensees with rear outdoor seating areas having a problem complying with the requirement to permit access only through the licensed premises.

Mr. Sandack noted that the ordinance talks about outdoor sales. He said he feels outdoor sales is a desirable concept if it is properly controlled and monitored. He said the discussion and draft ordinance is in response to Isabella/Bambaleo's desire to have an outdoor seating area behind their licensed premises with direct access from Curtiss Street. Mr. Sandack pointed out that the proposed location is in an enclosed alleyway. He noted that the proposed ordinance does not mention the possible location of the café, i.e. sidewalks, rear areas, etc. He suggested working within the confines of the proposed ordinance.

Mr. Sandack said he feels that the proposed language in the draft ordinance is a good start.

Ms. Gerloff said that during discussion of the draft ordinance at a recent Council Workshop meeting, the several Commissioners expressed concern about the word "monitored" in Section 3-30-4 which states that "Access to the outdoor area shall be limited through...entrances that are controlled and monitored..."

Mr. Sandack said a phrase could be added to that section requiring that entrances to the outdoor seating area be monitored "during all operating hours or at any time when alcohol is being served."

Ms. Gerloff said the word "monitored" allows a lot of leeway. Mr. Sandack pointed out that the ordinance states that "entrances...are controlled *and* monitored." He said that the ordinance could include a definition for "controlled" stating that in this instance it means having persons over the age of 21 monitoring the service, entranceway, and/or patrons drinking alcoholic liquor." Mr. Sandack said that in his mind monitoring means having a live human being on the premises where alcohol is being served outside.

Chairman Mochel agreed that is a logical interpretation; however, he expressed concern that some licensees may interpret it differently. He said he would like the ordinance to define "monitoring" as having someone there at all times. Mr. Sandack agreed that there may be individuals who are trying to cut corners and who may attempt to interpret the ordinance differently. He suggested the following definition: "monitoring" means that someone is there all the time during operating hours or when alcoholic liquor is on the premises.

Ms. Gerloff said she feels there are two issues under consideration, permitting direct access to the outdoor seating area via an entrance gate (eliminating of the requirement to have the outdoor seating area enclosed) and determining who will staff the entrance gate. She added that the original ordinance required that the outdoor seating area be entirely enclosed. Only an emergency exit was permitted in the area and all other access and exit was through the licensed premises.

Ms. Gerloff noted that the Founders Hill café on Main Street, which is not enclosed and does not have a monitored entrance gate, is not in compliance with the current ordinance. She said she would like to have outdoor seating in a controlled area. She said she does not object to allowing access through a controlled gate, which is manned.

Mr. Sandack agreed and said he believes controls and monitoring are needed. He added that he feels requiring a gate is somewhat symbolic. He said he feels it is more important to require that the area be monitored with or without a gate. He said he feels it is more important to have a human being on the premises watching the access-way.

Chairman Mochel asked if ordinance differentiates between having a gate and monitoring the area. Ms. Conforti said it appears the Commission would like to have a gate and a monitor. Mr. Sandack replied no. He said with respect to Isabella's, he feels that putting two large planters in the alley to create any entryway, and blocking off other access, would be sufficient. He said he did not feel it was necessary to have an actual gate as long as the entryway was monitored.

Ms. Summers agreed that the entryway should be controlled.

Ms. Conforti asked what would happen if the hostess assigned to the entrance was away from her station seating other guests. Chairman Mochel said as long as the hostess was still in the outdoor area, he felt she could adequately monitor the area. Chairman Mochel said he is not opposed to allowing an open area without a gate as long as an individual is present to monitor the area at all times.

Mr. Kubes said he does not believe that any good business owner would operate an outdoor seating area without monitoring the area at all times to prevent liquor violations and to prevent patrons from leaving the area before paying their bill.

Ms. Conforti asked what would happen if the licensee did not wish to have an employee in the outdoor seating area at all times. Chairman Mochel and the Commission agreed that under those circumstances, the only access permitted to the outdoor seating area would be through the licensed premises. Mr. Sandack agreed. He added that if an establishment has a separate entrance to an outdoor seating area, he did not feel it was a hardship to ask that they have an employee stationed in the area at all times to greet patrons, etc. Chairman Mochel agreed. He added that although the area must be staffed at all times, it need not be staffed by the same individual. However, a member of the wait staff or a host/hostess should be in the area at all times.

Ms. Conforti said it appears that access to and monitoring of an outdoor seating area should be reviewed on a case-by-case basis when a licensee submits an outdoor seating application.

Mr. Kubes noted that an establishment, such as Roundheads, would not need to have an employee assigned to their outdoor seating area because it is completely enclosed and only accessible through the

licensed premises. Ms. Conforti and Chairman Mochel agreed.

Ms. Gerloff said she did not understand how any licensee would want an open rear outdoor seating area that they could not see from their establishment. She said she felt it would be a liability not to have an employee, in addition to the servers, watching the area. Ms. Petrarca said she did not feel it would be a problem as she did not think any reliable establishment would leave such an area unattended. Mr. Kubes agreed. Ms. Gerloff acknowledged that most licensees would not; however, she added that she felt the ordinance should be specific and state all requirements to enable the Village to maintain control.

Ms. Gerloff recalled that when Pizza Capri/Vivaldi submitted an application for an outdoor seating area in the same alleyway, they presented a concept in which a moveable wrought iron fence with an emergency exit gate was placed across the entrance to the alley. She pointed out that over time the concept for this area has changed and may change again. For that reason, Ms. Gerloff said she feels that the ordinance should clearly state all expectations.

Chairman Mochel agreed that the requirements should be clearly stated in the ordinance to avoid any confusion or misinterpretation of the ordinance.

Mr. Kubes agreed. He added that at least three members of the Village Council requested stronger language for the ordinance.

Mr. Sandack recommended amending the draft ordinance to read: "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."

Mr. Kubes suggested adding "and/or while alcoholic liquor is being served." Mr. Sandack agreed. He clarified that he added the language "if not practicable" to allow for consideration of each application on a case-by-case basis.

Chairman Mochel asked if the ordinance should define what is "practicable". Mr. Sandack replied no. He said to do so would involve trying to anticipate future situations and scenarios, which he would not advise. Chairman Mochel asked who would decide whether or not access from the licensed premises is practicable. Mr. Sandack said the Liquor Commission could question the applicant about access to the outdoor seating area at the time of the application hearing. Chairman Mochel asked why wait to question the applicant and why not define the term in the ordinance. Mr. Sandack said the ordinance will never be airtight. Circumstances change and the ordinance may need to be amended in the future.

Ms. Gerloff asked Mr. Sandack to repeat his proposed revision to the ordinance. Mr. Sandack said, "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 operation hours or while alcoholic liquor is being served."

Ms. Conforti asked if that would allow a licensee, such as Founders Hill, to have an outdoor seating area without an attendant on duty at all times, if the area had an access gate that was closed when the attendant was not in the area. Mr. Sandack said yes. Chairman Mochel asked who would open the gate. Ms. Conforti said Founders Hill has a hostess inside the restaurant that would open the gate. Ms. Gerloff asked what would prevent an individual from walking in off the street and seating themselves in the outdoor area. Mr. Kubes said that type of situation could happen anywhere and establishments usually have an employee who watches the entrance and checks ID's. Ms. Gerloff said that an establishment should either enclose the outdoor seating area or have an employee on duty to monitor the area.

Mr. Kubes said that the language suggested by Mr. Sandack is right on the mark. It tightens up and strengthens the ordinance as the Village Council had requested.

Ms. Summers said there are some low planters in the alley behind Isabella's. She asked if those are the planters they intend to use to create the entryway to the outdoor seating area. Ms. Petrarca and Ms. Conforti replied no. Ms. Summers asked if applicants would have to appear before the Liquor Commission for a hearing on a case-by-case basis before an outdoor seating license was issued. Ms. Conforti replied yes. Mr. Sandack added that any licensee who wanted to have an outdoor seating area would have to go through the process. Ms. Conforti clarified that in this case, Isabella/Bambaleo was found qualified for an outdoor seating area a couple of years ago. Ms. Gerloff and Mr. Sandack pointed out that the original application that was submitted presented a much different concept. Ms. Gerloff added that the Mayor has also the option to approve an application. Ms. Conforti clarified that the Mayor can approve certain applications or amendments to a previously approved application without a hearing before the Liquor Commission.

Ms. Conforti said she believed that there were problems with the originally planned fencing for the outdoor seating area for Isabella/Bambaleo blocking access/egress from other businesses that had doors opening into the alley.

Ms. Conforti summarized that the Commission has decided to allow access to an outdoor seating area if it is monitored by an individual, if it is not monitored by an individual, access must be through the licensed premises. Chairman Mochel clarified that monitored means someone is there all the time. Mr. Kubes said that it seems adequate.

Ms. Petrarca asked if the Commission was recommending language requiring the area to be "controlled by an employee and/or fencing". Mr. Sandack recommended the ordinance state "reasonable fencing". Chairman Mochel clarified that if the area is enclosed and there is not access other than through the licensed premises, then it is not required to have an employee monitoring the area at all times. Mr. Sandack said that by stating that the area be controlled by an employee "and/or" fencing, it provides an added measure of assurance that the area will be properly controlled. Some licensees may have decorative fencing, rather than security fencing, that would not be adequate to control the area and in

those cases it would be necessary to require that the licensee also have an employee in the area. Ms. Petrarca clarified that the Commission wished to keep the language requiring that the outdoor seating area be controlled by an employee “and/or” fencing. The Commission members agreed.

Chairman Mochel asked if the Commission should be concerned about the height of the fencing. In the past the Commission has required the fencing to be high enough to prevent alcohol from being passed out of the enclosed area. Mr. Sandack said the height of the fencing could be reviewed at the application hearing. If an applicant submits a plan with what appears to be inadequate fencing, the Commission can question how the licensee intends to control the area.

Ms. Conforti said in some instances there is a good reason to use a lower fence. With regard to the rather low fencing around the Main Street Café in front of Founders Hill, she explained that a higher fence in that location would obstruct the view of on-coming traffic.

Mr. Kubes repeated his belief that any good business owner would take adequate precautions to monitor or secure an outdoor seating area in some way.

Ms. Conforti asked if the Commission felt it was necessary to have a hostess or another specific employee assigned to the outdoor area at all times or if they felt any server working in the area could provide the required control. Mr. Sandack said he felt it was important to have an employee on duty at all times, he did not care if the employee was called a bouncer, a greeter, etc. Ms. Conforti asked if the Commission wanted the area to be monitored by someone over and above an individual server. Mr. Sandack replied yes. Chairman Mochel said he would not have a problem with a member of the wait staff watching the area while the hostess was temporarily away from her station. He added that the waitperson should not leave the area unattended. They should remain until the hostess returns. Ms. Conforti clarified that the Commission is requesting that at least one employee, either a member of the wait staff or a host/hostess, should be on duty in the outdoor seating area at all times. The Commission members agreed.

Chairman Mochel asked what would happen if a licensee fails to comply with the requirements for an outdoor seating area. Ms. Conforti said it would be a violation of the ordinance and the licensee would be ticketed. Chairman Mochel asked if the penalty for violation of this ordinance could be more than for other violations of the ordinance, i.e. selling alcohol to a minor. Ms. Petrarca said the fine could be up to \$1,000.

Ms. Gerloff wondered if Founders Hill is being penalized in any way for operating an outdoor seating area that does not comply with the ordinance. Chairman Mochel asked why the Village Council allowed Founders Hill to open an outdoor seating area in violation of an existing ordinance. Ms. Petrarca said the Village Council thought that the Liquor Commission had approved it. Chairman Mochel asked how the Village Council could think that the Liquor Commission would approve a seating area that would violate an existing ordinance.

Chairman Mochel recalled that when Founders Hill originally presented their plans for an outdoor seating area to the Liquor Commission, it was comprised of two outdoor cafés, one on Grove Street and one on Main Street with access provided through the restaurant's side door on Grove Street. Later the Grove Street café was eliminated; however, Chairman Mochel did not recall that the Commission was ever informed that the Main Street café would not be accessed through the licensed premises. Ms. Conforti acknowledged that in the floor plan for the outdoor seating areas, which Founders Hill submitted, it appears that the fence abuts the building. However, Ms. Conforti said she did not believe that Mr. Montesantos said that access to the Main Street café would be through the licensed premises. Referring to the minutes from the application hearing, she said Mr. Montesantos informed the Commission that to be seated in the Main Street café customers would be required to go to the hostess station inside the front door of the restaurant and wait to be seated. Patrons would enter the restaurant through the front door and return through the front door with the hostess, who would seat them in the Main Street café. Ms. Conforti said the new plan still requests that patrons, who desire to be seated in the Main Street café, check in with the hostess inside the restaurant and wait to be seated.

Chairman Mochel recalled that when the Liquor Commission approved the Founders Hill outdoor seating area the only access was through the side door of the licensed premises.

Ms. Petrarca said the draft ordinance will be on the July 23, 2002 Village Council Workshop Agenda. Ms. Conforti said she would send the Commission members a copy of the revised draft ordinance.

Ms. Gerloff asked that as a courtesy, before Ms. Conforti presents anything from the Liquor Commission to the Village Council, she send a copy to the Liquor Commission members. She suggested that Ms. Conforti hyper-link her Council presentation to the members of the Liquor Commission once it is on-line. Ms. Conforti agreed.

Mr. Kubes noted that there are ten other licensees that currently have approval for outdoor seating areas. He asked if they will be informed about the ordinance change. Ms. Conforti said she includes any relevant ordinance changes in the Liquor Newsletter, which is mailed to all licensees. She added that those licensees who are interested typically contact her.

Mr. Kubes said he agrees with the Village Council that Downers Grove needs to encourage outdoor cafés. He said he hopes licensees will view this amendment as one that is in their best interest.

Chairman Mochel asked if there is a "grandfathering" issue associated with this ordinance change. Ms. Conforti replied not necessarily. She explained that if a licensee wants to change the way they operate their outdoor seating area, it would be treated as a change in floor plan. She said the licensee would be required to appear before the Commission to explain the proposed change.

Ms. Conforti said some municipalities issue two separate liquor licenses, one for indoor sales and one

for outdoor sales. However, Downers Grove issues only one license per establishment and the licensee has the option to request approval of an outdoor seating area. She said the Commission may want to consider having separate licenses for indoor and outdoor sales as a method of control. It would give the Village the option to revoke an outdoor seating license if the licensee was not in compliance with the provisions of the outdoor seating ordinance, without affecting their ability to continue indoor alcohol sales.

Chairman Mochel asked if having only one license gave more strength to the ordinance in that any violation of the provisions of the outdoor seating ordinance could result in the loss of an establishment's entire liquor license. Ms. Conforti and Ms. Petrarca agreed.

Mr. Kubes asked if communities that issue two separate licenses also conduct separate control buys. Ms. Conforti said she was not sure.

Ms. Gerloff said if the Village Council approves the draft ordinance, who will monitor licensees for compliance with the ordinance and who will enforce it. She noted it is known that an establishment is currently operating in violation of the ordinance and it appears that nothing is being done. She asked who monitors this type of violation.

Ms. Petrarca explained that the Village deals with ordinance violations on a reactive basis. We usually react to complaints when they are received. Ms. Gerloff noted that Ms. Petrarca has mentioned the existing on-going license violation to the Village Council. Ms. Petrarca said that the licensee has been advised of the issue and that it is being permitted to continue operating the outdoor café in question while the Village is in the process of resolving the issue. Mr. Kubes agreed that a license was issued and it would be inappropriate to require the café to close until the Village resolves the issue of how it wishes to handle outdoor cafés.

Chairman Mochel called for a motion on the revised draft ordinance.

MR. SANDACK MOVED THAT SECTION 3-30 OF THE LIQUOR CONTROL ORDINANCE BE REVISED AS FOLLOWS: 3-30(a)(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 DURING SERVICE OF ALCOHOL LIQUOR". MR. KUBES SECONDED.

VOTE: **Aye:** Mr. Sandack, Mr. Kubes, Ms. Gerloff, Ms. Summers, Chairman Mochel

Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

V. OLD BUSINESS

Ms. Gerloff pointed out a typographical error in the Downers Grove Liquor Commission Report for June 2002. Under the section titled "Findings of the Liquor Commissioner:" it was stated that Fuddruckers license was suspended for three (3) days. Ms. Gerloff said Fuddruckers license was suspended for eleven (11) days. She asked that the report be corrected. Ms. Conforti agreed.

Ms. Gerloff referred to a letter in the informational packet, from Ms. Petrarca to Mr. Brian Sweeney, owner of North Beach, in which Ms. Petrarca requests a meeting with Mr. Sweeney to discuss steps that can be taken in an effort to reduce the amount of criminal incidents and excessive DUI's at North Beach. Ms. Gerloff asked if Ms. Petrarca has met with Mr. Sweeney. Ms. Petrarca replied yes.

Mr. Kubes asked if, when recommending a penalty for an ordinance violation, the Commission could specify the date on which a suspension is to be served and whether or not it is to be served on consecutive or non-consecutive days. Ms. Petrarca and Chairman Mochel said the Commission could recommend specific dates; however, the final decision on the dates the penalty is served rests with the Liquor Commissioner.

Mr. Kubes said he felt that requiring a suspension to be served on consecutive days might make the penalty more effective, while not causing an undue hardship on the establishment. Mr. Kubes said he feels that requiring a suspension to be served on consecutive days would send a stronger message to licensees that Downers Grove is serious about alcohol violations. Ms. Petrarca said that in the past some license suspensions were required to be served on consecutive days.

VI. NEW BUSINESS

Ms. Conforti said the next meeting is tentatively scheduled for August 1, 2002; although there is nothing definite on the agenda at this time.

VII. COMMENTS FROM THE PUBLIC

None

VIII. ADJOURNMENT

DRAFT

Liquor Commission Minutes

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July 11, 2002

MR. SANDACK MOVED TO ADJOURN THE MEETING. MR. KUBES SECONDED.

The meeting was adjourned by acclamation at 7:34 p.m.

VILLAGE OF DOWNERS GROVE
COUNCIL ACTION SUMMARY

INITIATED: Liaison to the Liquor Commission **DATE:** August 6, 2002
(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
OUTDOOR LIQUOR SALES", as presented.



SUMMARY OF ITEM:

Adoption of the attached ordinance will amend the provisions of the Liquor Control Ordinance concerning outdoor sales restrictions.

RECORD OF ACTION TAKEN:

ORDINANCE NO. _____

AN ORDINANCE AMENDING OUTDOOR LIQUOR SALES

BE IT ORDAINED by the Council of the Village of Downers Grove, in DuPage County, Illinois, as follows: (Additions are indicated by shading; deletions by ~~strikeout~~.)

SECTION 1. That Section 3-30 of the Downers Grove Municipal Code is hereby amended as follows:

3-30. Outdoor sales.

(a) Subject to the approval of the Liquor Commissioner, 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 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; and
- (3) The outdoor area is included as part of the regular food service business located on the licensed premises; and
- (4) Access to the outdoor area ~~is shall be limited~~ through the licensed premises, ~~and no is no direct entrance to or exit from such area is available other than emergency exits~~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 alcohol is being served.

(54) Seating in the outdoor area shall not be included to meet the required guest seating capacity for any license classification as established in Section 3-13 of this Chapter.

(65) A sidewalk cafe license as provided in Chapter 19 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 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 Liquor Commissioner. The fee for such application shall be four hundred twenty-five dollars (\$425.00). Provided, in the event an outdoor seating area application is filed and processed in conjunction with an application for issuance of a liquor license under Section 3-9, the outdoor seating area application fee shall be two hundred fifteen dollars \$215.00. The Liquor Commissioner may refer an outdoor seating area application to the Liquor Commission for review and comment. (Ord. No. 2735, § 1; Ord. No. 2945, § 2.)

SECTION 2. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are 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

[liq-out]