

COUNCIL WORKSHOP ITEM

ITEM: An Ordinance Concerning Liquor Service Extensions
DATE: August 9, 2004
PREPARED BY: Carol Conforti, Liaison to the Liquor Commission
PURPOSE: Adopt an Ordinance Amending Liquor Service Extensions

DISCUSSION:

At their meeting of June 4, 2004, the Downers Grove Liquor Commission recommended that the Council consider amending certain provisions concerning liquor serving hour extension requests.

Currently, licensees have the ability to request an extension of their liquor serving hours twice per calendar year. These requests are granted at the discretion of the Liquor Commissioner for such things as special events and/or holidays (i.e New Year's Eve, Easter, Mother's Day). The attached ordinance will increase the number of times per year that a licensee may request an extension of their liquor serving hours. In addition, the ordinance establishes a fee which will be charged to cover administrative costs in processing the request and establishes a time frame in which the request must be received in order to allow adequate time to process the necessary paperwork.

ATTACHMENTS:

AN ORDINANCE CONCERNING LIQUOR SERVICE EXTENSIONS
Liquor Commission Minutes of May 6, 2004 and June 4, 2004

RECOMMENDATION:

It is requested that the Village Council consider this matter at their Workshop meeting of August 24, 2004.

cc: Enza Petrarca, Village Attorney
Barbara Wysocki, Downers Grove Chamber of Commerce
Downers Grove Liquor Commission

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ORDINANCE NO. _____

AN ORDINANCE CONCERNING LIQUOR SERVICE EXTENSIONS

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

Section 1. That Section 3.31. is hereby amended to read as follows:

3.31. Hours of business.

(a) It shall be unlawful to sell or offer for sale at retail any alcoholic liquor in the Village between the hours of 1:00 A.M. and 8:00 A.M. on any day other than a Sunday, or between the hours of 2:00 A.M. and 12:00 Noon on any Sunday. Provided, the 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 ~~two~~eight dates in any one calendar year, ~~provided a fee in the amount of \$25.00 shall be submitted along with the extension requests.~~

(b) It shall be unlawful to keep open for business or to admit prospective customers to any premises having a Class "A", Class "B-2", Class "E-1" or Class "E-2" license during the hours within which the sale of alcoholic liquor is prohibited; provided, that in the case of:

(1) A Class "E-1" or Class "E-2" license for premises in which a restaurant, club, hotel, or recreational facility is operated, or

(2) A Class "A", "B-2", "E-1" or "E-2" 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.

(c) 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.

(d) 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 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.

Liquor Service Extension

Mayor

Passed:

Published:

Attest:

Village Clerk

Chairman Kubes

Nay: Ms. Dietrich

Abstain: None

MOTION CARRIED: 6:1:0

Mr. Durkin asked Ms. Conforti to contact Ms. Wysocki in order for their subcommittee to present information at the May 25th Village Council Workshop meeting. He also suggested asking the Chamber to provide a letter to the Liquor Commission addressing their concerns. Chairman Kubes also suggested the Chamber attend the next Liquor Commission meeting with any information.

Ms. Haider asked how the license holders would be notified if the ordinance passes Council's approval. Ms. Conforti replied that they would receive a newsletter. Ms. Haider said the proposed ordinance affords licensees an opportunity to negotiate time or money. She added that it's a positive proposal.

Advertising Provisions

Ms. Janicki-Clark said that the Village's sign ordinance is in the process of being reviewed. Mr. Durkin suggested looking into the sign ordinances of Darien, Burr Ridge and Oak Brook. Ms. Janicki-Clark said it would be a way to regulate the types of signs they have discussed. She said that she has done more research and is still concerned about proving a correlation between advertising and alcohol consumption. She said the Village will have to produce significant, factual foundations in order for the regulation to be upheld.

Mr. Barnett commented that the existing ordinance exhibits a disconnect logically. For example, you can't advertise a Miller beer, but it's permissible to advertise beer, in general.

Ms. Janicki-Clark said that the Plan Commission is currently working on the sign ordinance. She suggested waiting until the Plan Commission has a completed product. She added that she will discuss the Liquor Commission's concerns with them.

VI. NEW BUSINESS

Ms. Conforti said that Big Dogs was issued a liquor license. Sam's Wine & Spirits will receive their license on June 1st. Qdoba is in the process of opening and was issued a license on May 1st. Emmet's will receive their license on May 17th and plans to open on the Memorial Day weekend.

Ms. Conforti said that licensees can request extensions of liquor servicing hours. They are typically issued on holidays, etc. On occasion she receives requests for before-service hours. For example, some licensees would like to have champagne brunches.

minutes 5-6-04

Licenses can request an extension twice a year. One of the licenses has already used their limit and asked if the Commission would consider increasing the limit.

Chairman Kubes said he feels this is a good idea and is pro-business. He said that it's not abused by anyone. He said that he is fully in favor of increasing the limit to 4 or 5. Ms. Conforti suggested 2 late night extensions and 2 early extensions. Chairman Kubes asked if it is currently free. Ms. Conforti replied yes. However, a fee for the additional extensions could be added. She said that extensions are granted at the discretion of the Liquor Commissioner. Ms. Conforti said licenses can serve 3 hours prior to or 1 hour after regular serving hours.

Mr. McNerney said that he welcomes additional opportunities for liquor licenses, but at a fee. Mr. Barnett said that he would prefer not to segregate the morning and evening hours. Chairman Kubes stated that the first 2 extensions should be free, but additional extensions should be at a fee. Ms. Conforti said that she will present a recommendation to the Commission at the next meeting.

Mr. Durkin asked if any problems were experienced at Balleydoyle's on St. Patrick's Day. Ms. Conforti said that she spoke to the Police Department and the Fire Prevention Department and there were no problems, except for one DUI.

Mr. McNerney proposed that Ms. Conforti check into the enforcement of kitchen service prior to one hour before closing, since the elimination of the 60/40 ordinance. He said the recommendation is pro-business, but he's concerned about coming up with a system to determine if licenses are consistent with the change in the ordinance. He said that he's been at establishments where the kitchen is closed.

VII. COMMENTS FROM THE PUBLIC

There was none.

VIII. ADJOURNMENT

MR. DURKIN MOVED TO ADJOURN THE MEETING. MR. McINERNEY SECONDED.

The meeting was adjourned by acclamation at 8:26 p.m.



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The Honorable Brian J. Krajewski
Mayor and Liquor Commissioner

Re: Proposed Ordinance Change - Extension of Liquor Serving Hours

Dear Mayor Krajewski:

On June 4, 2004 the Liquor Commission considered changing the ordinance concerning extension of liquor serving hours. The following finding was made:

MS. DIETRICH MOVED TO AMEND SECTION 3.31 TO READ AS FOLLOWS: ...THE REQUEST SHALL BE FORWARDED TO THE VILLAGE IN WRITING NO LATER THAN TWO (2) WEEKS PRIOR TO THE DATE OF THE EXTENSION IS REQUESTED OR THE REQUEST SHALL BE AUTOMATICALLY DENIED. NO LICENSEE SHALL BE GRANTED SUCH EXTENSION FOR MORE THAN EIGHT (8) DATES IN ANY ONE CALENDAR YEAR, PROVIDED A FEE IN THE AMOUNT OF \$25.00 SHALL BE SUBMITTED ALONG WITH THE EXTENSION REQUESTS. MS. HAIDER SECONDED.

Aye: Ms. Dietrich, Ms. Haider, Mr. McInerney, Ms. King, Mr. Barnett, Chairman Kubes

Nay: None

Motion Carried: 6:0:0

Further discussion of this subject can be found on Pages 4 through 6 of the June 4, 2004 minutes of the Liquor Commission (attached).

Very truly yours,

Michael Kubes, Chairman
Liquor Commission

VILLAGE OF DOWNERS GROVE

MOTION CARRIED: 6:0:0

Chairman Kubes asked Mr. Cullen if he would remain in order to provide a licensee's viewpoint on a few issues. Mr. Cullen replied yes.

V. OLD BUSINESS**Liquor Fines**

Ms. Conforti said that the Village Council adopted the proposed change in fines. This will eliminate the \$1,000 cap, raise the maximum fine to \$15,000 and require mandatory training. This will be more of an aid to licensees in requesting a higher fine in lieu of suspension. Ms. Conforti noted that it takes 10 days for the ordinance to go into effect after adoption, which was June 1. Chairman Kubes said he was very pleased with the presentation to the Village Council.

Mr. Barnett asked Ms. Conforti for clarification about the suspension guidelines insofar as it being a part of the ordinance. She replied that it is strictly a guideline. Mr. Barnett asked if licensees could obtain a copy. Ms. Conforti said it is primarily for the Attorneys and it is not passed out to licensees. ~~Mr. Barnett said that he would forward comments regarding the guidelines to Ms. Conforti.~~

Ordinance re: Extension of Liquor Serving Hours

Ms. Conforti said that last month she approached the Commission about requests for the extension of liquor servicing hours. On occasions such as holidays, licensees have the opportunity to place a request for the extension of liquor serving hours. Currently, it can be up to three hours of an extension either before or after regular serving hours. For example, a licensee can request liquor service to begin at 9:00 a.m. for a champagne brunch on Mother's Day. After hours requests are typically granted for one hour. The guideline being that food will be served during any extra hours. Ms. Conforti added that typical requests have been for holidays or special occasions. The proposed ordinance will increase the amount of times that licensees can request an extension. Currently, licensees are allowed 2 dates for an extension. The amended ordinance would allow for four requests. A proposed fee of \$25 will cover administrative costs associated with processing these requests. Ms. Conforti stated that the granting of the extension would remain at the discretion of the Mayor. She noted that requests must be submitted one week prior to the date of extension.

Discussion ensued regarding a reasonable number of days for extensions. Ms. Conforti said that most often licensees request New Year's Eve. Most recently, St. Patrick's Day has been requested and Mother's Day Champagne Brunch is becoming a popular activity. Chairman Kubes said that allowing 4 days of extensions throughout the year does not seem like enough. Ms. Conforti said she discussed with the Mayor the possibility of an additional "brunch" license. She added that some licensees indicated that they offer brunches, but they offer a reduced rate for brunch served before noon. Ms. Conforti said

that the Mayor has been to various brunches in Lisle and other communities. He added that it would be good to bring that revenue into the Village. Chairman Kubes asked if this issue could be brought up under New Business and for Ms. Conforti to contact Ms. Wysocki to check with the business owners.

Mr. Cullen commented that there are 4 typical possibilities for extensions which are: New Year's Eve, St. Patrick's Day, Mother's Day and Easter. Chairman Kubes asked if it would be worth Mr. Cullen's while to be open every Sunday during the year for a brunch in anticipation of customers. Mr. Cullen replied that he would market it, if he planned to do it. Chairman Kubes said he appreciates Mr. Cullen's input as a business owner.

Mr. Barnett said he prefers 8 days as the possible number of times a year for extensions. He said the staff should be notified two weeks prior to the extension. He added that the extension should be either at no charge or \$250. He said it's hardly worth taking the time to charge \$25.00. He added that there's a point where it's silly to collect fees. However, if people are asking special permission under an existing license, there should be a cost. Ms. Conforti said that the Village should recoup at least the Administrative costs. She suggested that a fee similar to a Special Event Liquor License could be charged. Chairman Kubes noted that a Special Event License is for a full day, as opposed to a one-hour extension. Ms. Conforti stated she typically receives a total of 3 to 5 requests for extensions per year. Chairman Kubes said that the change in the ordinance is in anticipation of future usage. Ms. Conforti agreed that the number of requests would most likely increase.

Mr. Butterfield suggested the possibility of purchasing a block of time, specifically during sports events. Chairman Kubes said that could be considered.

Mr. Barnett said the two-week time period adds to the professionalism associated with requests.

Ms. Haider questioned whether a licensee should be allowed to use consecutive dates. Ms. Conforti said a guideline exists for a Special Event Liquor License and suggested a limit of two consecutive days. Chairman Kubes said that a problem doesn't exist for utilizing consecutive days, as long as they pay for each day. He is concerned, however, with a limit of 4 consecutive days.

Ms. Dietrich said there is not a lot of pressure for the increase and suggested choosing a number of days, which can be changed in the future, should licensees desire more.

Mr. McInerney said he supports increasing the number of days, but suggested a graduated scale for costs. Chairman Kubes said he also would favor a graduated scale.

Mr. Cullen stated that neither Naperville nor Lisle charge anything for a brunch license. He said that brunches are a family-oriented event. If the fee is graduated, then it discourages business owners from having brunches.

Mr. McInerney said the idea of an extension is for a special event and goes strictly to the Liquor Commissioner for consideration. He added that a brunch license should be available all year.

Ms. Conforti stated that there is a process to issue extensions. First, she has to notify the Mayor about the request and get his decision about the granting or denial of the request. In addition, she has to notify the licensee of approval and also the Police Department. She said that separate notifications have to be sent a few days prior to the actual event.

MS. DIETRICH MOVED TO AMEND SECTION 3.31 TO READ AS FOLLOWS: 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 BE AUTOMATICALLY DENIED. NO LICENSEE SHALL BE GRANTED SUCH EXTENSION FOR MORE THAN EIGHT (8) DATES IN ANY ONE CALENDAR YEAR, PROVIDED A FEE IN THE AMOUNT OF \$25.00 SHALL BE SUBMITTED ALONG WITH THE EXTENSION REQUESTS. SECONDED BY MS. HAIDER.

VOTE: Aye: Ms. Dietrich, Ms. Haider, Mr. McInerney, Ms. King, Mr. Barnett, Chairman Kubes

Nay: None

Abstain: None

MOTION CARRIED: 6:0:0

MR. MCINERNEY MOVED FOR SECTION 3.31 TO BE AMENDED AS NOTED ABOVE, WITH THE EXCEPTION OF THE EXTENSION NOT TO BE ON CONSECUTIVE DATES.

Motion failed for lack of a second.

Mr. Barnett asked about signage. Ms. Conforti said both the Village Attorney and Prosecuting Attorney are working with the Planning Department at staff level to draft changes to the sign ordinance. There is a sign moratorium throughout the Village, which was adopted a few weeks ago for a period of three months. No permits for signs are being issued, except for very special circumstances. Staff will present the draft ordinance to the Plan Commission.

Mr. Barnett asked if there were any reaction to his e-mail regarding the existing ordinance change to not comment on signs. Ms. Conforti said that the Liquor Commission has nothing to do insofar as sign requirements or physical aspects of signs. She said the Commission is technically concerned with liquor product identification signs. She stated that a non-licensee has no restriction from placing a Miller Draft or