

COUNCIL WORKSHOP ITEM

ITEM: An Ordinance Amending Policies on Liquor Violations
DATE: May 17, 2004
PREPARED BY: Carol Conforti, Liaison to the Liquor Commission
PURPOSE: Adopt an Ordinance Amending Violation Policies

DISCUSSION:

At their meeting of April 8, 2004, the Downers Grove Liquor Commission recommended that the Council consider amending certain liquor ordinance violation policies. Currently, the Liquor Commissioner has the authority to fine, suspend and charge administrative fees to cover the costs of a disciplinary hearing in the event a licensee violates the Liquor Control Ordinance. Fines are currently limited to \$1,000 for each offense (\$1,500 for a second violation within a 12-month period, and \$2,500.00 for a third or subsequent violation within a 12-month period) and shall not exceed \$10,000 per license year. The attached draft ordinance amends the fine structure. It is proposed that per violation fine caps be removed and maximum fines issued per year be raised to \$15,000.

In some circumstances, it may be necessary and/or desirable to fine a licensee in excess of \$1,000 per violation, depending upon the case. With the present caps, fining a licensee in excess of \$1,000 per violation is not an option for the Liquor Commissioner. By removing the cap limits, licensees would also have the option to request a higher fine in lieu of a suspension. Yearly fines up to \$15,000 per license year are in accordance with State statute.

The draft ordinance also adds a provision that the Liquor Commissioner may require mandatory training for licensee's staff, if he determines that the restaurant's internal training policies are insufficient.

It is hoped that the ability to increase fines for the establishment as well as the recent increase in fines to servers, together, will curb the recent increase in failed control buys.

ATTACHMENTS:

An Ordinance Amending Policies Concerning Liquor Violations
Liquor Commission Minutes of March 4, 2004, April 8, 2004, May 6, 2004
Miscellaneous Background Information

RECOMMENDATION:

It is requested that the Village Council consider this matter at their Workshop meeting of May 25, 2004.

cc: Enza Petrarca, Village Attorney
Beth Janicki-Clark, Village Prosecutor
Barbara Wysocki, Downers Grove Chamber of Commerce
Downers Grove Liquor Commission

ORDINANCE NO. _____

**AN ORDINANCE AMENDING POLICIES
CONCERNING LIQUOR VIOLATIONS**

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 3.39. is hereby amended to read as follows:

3.39. General.

Any person violating any provision of this Chapter shall be fined ~~not more than one thousand dollars (\$1,000)~~ for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues, such fine(s) shall not to exceed ten thousand fifteen thousand dollars ~~(\$10,000)~~15,000 over the course of a license year. In addition to any other penalty, a licensee convicted of violating any provision of this Chapter may be subject to having its license revoked, suspended or not renewed by the local Liquor Control Commissioner. (Ord. No. 2735, § 1.)

Section 2. That Section 3.40. is hereby amended to read as follows:

3.40. Revocation or suspension of local license--Notice; hearing.

(a) The local Liquor Commissioner may revoke or suspend any license issued and/or require mandatory certified training if the Commissioner determines that the licensee has violated any of the provisions of this Chapter or any state law pertaining to the sale of alcohol. In addition to or in lieu of suspension, the Commissioner may levy a fine on the licensee for such violations. ~~The fine imposed shall not exceed one thousand dollars (\$1,000.00) for a first violation within a 12 month period, one thousand five hundred dollars (\$1,500.00) for a second violation within a 12 month period, and two thousand five hundred (\$2,500.00) for a third or subsequent violation within a 12 month period, provided there shall be no maximum fine over the term of the license.~~ Each day on which a violation continues shall constitute a separate violation. However, no such license shall be so revoked or suspended, and no fine shall be imposed, except after a public hearing by the Commissioner with at least three days' prior written notice, to the licensee, as provided in Section 3-41, affording the licensee an opportunity to appear and defend. If the licensee fails to appear for such public hearing after receiving notice as provided in Section 3-41, a default judgment may be entered and the Commissioner may revoke or suspend the license, and/or impose a fine.

(b) If the Commissioner has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the community, the Commissioner may, upon the issuance of a written order stating the reason for such conclusion, and without notice or hearing, order the licensed premises closed for not more than seven days, giving the licensee an opportunity to be heard during that period. Provided, if such licensee shall also be engaged in the conduct of another business on the licensed premises, such order shall not be applicable to such other business.

(c) In determining the appropriate penalty for violating any of the provisions of this Chapter or any State law pertaining to the sale of alcohol, the Commissioner may consider such matters and information as the Commissioner deems are relevant including, but not limited to, the nature and circumstances surrounding the violation, the past record of the licensee and the penalties previously imposed by the Commissioner for similar violations. The past record shall include the record of the current licensee as well as the record of any other existing or prior licensee where there is, or was, not less than forty percent (40%) common identity between the owners of the current licensee and the owners of such other licensee. Such common identity shall be establish where persons holding an ownership interest of not less than 40% of the licensee under

Liquor Violation Terms

consideration also hold or held an ownership interest of not less than 40% of another existing or prior licensee. Where the licensee under consideration, or such other prior or existing licensee, is a business entity such as a corporation or partnership, the ownership interest includes the equity holdings of the stockholder or partner. The consideration of the past record of such other or prior licensee shall only include that time period when such common identity is found.

(d) The Commissioner shall, as promptly as practicable and in any event within thirty days after such hearing, if the Commissioner determines after such hearing that the license should be revoked or suspended, and/or a fine should be imposed, state the reasons for such determination in a written order of revocation or suspension, and/or a fine should be imposed and shall serve a copy of such order upon the licensee.

(e) Any licensee found guilty by the Downers Grove Liquor Commissioner for violating any provision of this Chapter, in addition to any other penalty which may be imposed, shall be assessed and required to pay to the Village an amount to cover administrative costs associated with the hearing, including, but not limited to, attorney's fees, investigation fees and court reporting fees. The Liquor Commissioner shall designate the amount of costs in his Findings and Order. Provided, such costs shall not exceed one thousand dollars (\$1,000.00) (Ord. No. 1741, § 27; Ord. No. 2388, § 13; Ord. No. 2450, § 4; Ord. No. 2541, § 11; Ord. No. 2735, § 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.

Mayor

Passed:

Published:

Attest: _____

Village Clerk

**DOWNERS GROVE LIQUOR
LICENSE SUSPENSION GUIDELINES**

Following is a summary of the procedures for prosecution of violations of the Downers Grove Liquor Control Ordinance. These are merely guidelines. Special circumstances in a particular case may warrant variations from these guidelines as determined by the Liquor Commissioner.

Number of days of suspension. When a liquor licensee is charged with violating any provision of the Downers Grove Liquor Control Ordinance, a hearing will be held before the Downers Grove Liquor Commission (Commission) unless otherwise provided herein. If the licensee is found guilty of the violation, the Village prosecutor will recommend that the liquor license be suspended for the following number of days:

<u>No. of violations within last 5 years</u>	<u>No. of days of suspension</u>
1	not less than 1 nor more than 3
2	not less than 2 nor more than 5
3	not less than 6 nor more than 14
4	not less than 18, but credit may be given for each successful control buy attempt

If there has been a change in ownership of the licensee in the last five years, the violation history of the prior licensee will be considered only if there is 40% or more common identity between the owners of the current licensee and the owners of the prior licensee. (D.G.M.C. Sec. 3-40(c))

Aggravating circumstances. In determining the actual number of days of license suspension to be served, the Liquor Commissioner may consider any aggravating circumstances. Aggravating circumstances include, but are not limited to, the following:

- 1) A red "Under 21" driver's license is displayed during the control buy;
- 2) A store or restaurant manager/owner or liquor manager was the person that sold the alcohol to the minor;
- 3) The violation occurred within one year of a prior violation.
- 4) An under 21 employee that cards the minor or takes the initial order of the minor without getting authorization from another employee over 21 to serve the minor.
- 5) A violation occurs within one year of the date of the license was issued.

An additional day of suspension may be ordered for each aggravating circumstance that exists. For example, a licensee may receive a one day suspension for a first violation if there are no aggravating

circumstances. The suspension will increase to two days if a red "Under 21" driver's license is displayed or a store/restaurant manager/owner or liquor manager is involved in the control buy. A first offense licensee could be subject to three days of suspension if both of these aggravating factors are present.

Credits. For the fourth violation, a credit may be given to the licensee for each passed control buy attempt. The eighteen day suspension may be decreased by one day for each control buy that was passed within the past five years. The same increase in the number of days of suspension for an aggravating circumstance would still apply.

Days of suspension. For first and second violations, the suspension may be imposed on a Monday, Tuesday, Wednesday or Thursday. For third or more violations, the days of suspension may be served in whole or in part on a Friday, Saturday or Sunday. The days of suspension will be served successively unless otherwise ordered by the Liquor Commissioner.

Mandatory training. When a liquor licensee is charged with violating a provision of the Downers Grove Liquor Control Ordinance, a hearing will be held before the Downers Grove Liquor Commission unless otherwise provided herein. If the licensee is found guilty of the violation, the Village Prosecutor may recommend and the Liquor Commissioner has the authority to order, that the liquor licensee provide certified training for all of employees involved in the sale/delivery of alcoholic liquor at their own expense. Licensee shall provide proof of certified training within sixty (60) days of the date the Order is entered.

Stipulation as to facts. A licensee can choose to sign a stipulation which sets forth the relevant facts in the case. The signed stipulation will be entered into the record at the hearing after which the licensee will be given the opportunity to present any mitigating evidence. If there is no signed stipulation, then a full hearing will be held.

Minor infractions. Minor infractions include, but are not limited to, the following if the licensee corrects the violation as soon as it is brought to it's attention: dram shop insurance requirement, signage requirements and prohibitions, displaying license. For minor infractions, the Liquor Commissioner may issue a written warning to the licensee concerning the violation in lieu of a hearing before the Liquor Commission.

Appeals. Pursuant to the Illinois Liquor Control Act, a licensee can appeal a liquor license suspension to the State Liquor Commission within twenty days of the date the order of suspension was received by the licensee.

APPROVED BY THE DOWNERS GROVE
LIQUOR COMMISSIONER: _____

EFFECTIVE: _____

Mr. Cullen said he hopes that patrons will enjoy the event and want to come again next year.

Mr. Barnett reminded them again to close off the alleyway to prohibit access and egress from the second floor stairway directly to Main Street. Mr. Cullen agreed.

MR. DURKIN MOVED TO FIND BALLYDOYLE, LLC D/B/A BALLYDOYLE IRISH PUB & RESTAURANT, 5157 MAIN STREET, QUALIFIED FOR A SPECIAL EVENT LIQUOR LICENSE MARCH 17 THROUGH MARCH 20, 2004. MR. BARNETT SECONDED.

VOTE: **Aye:** Mr. Durkin, Mr. Barnett, Ms. King, Mr. McInerney, Chairman Kubes

Nay: None


Abstain: None

MOTION CARRIED: 5:0:0

Chairman Kubes and the Commissioners wished Mr. Cullen and Mr. Butterfield well in the St. Patrick's Day celebration.

V. OLD BUSINESS

On March 2, 2004, Council passed an ordinance amending the Liquor Control Ordinance to eliminate the requirement for the 60/40 food versus alcohol split and to increase the amount of the fine to a server involved in a failed control buy. Ms. Conforti explained that elimination of the 60/40 split requirement was effective upon passage of the ordinance; however, there is a ten-day waiting period before amendments take effect for the fines. She said that she would notify licensees of the changes in the ordinance via the Liquor Newsletter and she would ask them to post the warning notice about the increase in the servers' fine.

 The Commission resumed their discussion of Mandatory Training Requirements and Suspension Guidelines. Ms. Conforti reviewed the revised Liquor Suspension Guidelines, which were included in the Commissioners' informational packets distributed prior to the meeting. She said a violation that occurs within one year of an establishment receiving their liquor license would now be considered as an aggravating circumstance in a control buy failure. However, she explained that before adding mandatory training requirements as a penalty option for a failed control buy, the Council must adopt an amendment changing the Ordinance.

Ms. Conforti distributed a copy of a draft ordinance amending Section 3-40 of the Downers Grove Liquor Control Ordinance, stating, "The Liquor Commissioner may revoke or suspend any license issued, *and/or require mandatory certified training*". Ms. Conforti said this ordinance would give the Liquor Commissioner the option to require

mandatory training if, after conducting a disciplinary hearing, it was recommended by the Liquor Commission.

Ms. Conforti said that mandatory training was being added as another penalty option, although it may not be a suitable penalty in all cases, e.g. establishments that already have a mandatory training program place. However, in cases where a licensee has not sent their employees for training and/or has not complied with their liquor-handling manual, recommending mandatory training would be a valid option.

Ms. Conforti said the Commission has also discussed raising the limit of the amount of fines an establishment could face for a violation. At times, licensees request a fine in lieu of a license suspension or vice versa. Ms. Conforti asked the Commission if they would be in favor of giving the Liquor Commissioner the option of issuing a monetary penalty. She asked the Commission for their feelings on an appropriate cap for the fine.

Chairman Kubes asked if the State limits the amount of the fine, which the Village can assess. Ms. Conforti replied that the Liquor Commissioner is bound by the terms of the current Village Ordinance, which caps the fine at \$1,000. However, Ms. Conforti said because Downers Grove is a home rule community, it has the option to be more restrictive than the State.

Ms. Conforti presented a draft ordinance adding mandatory certified training as a penalty option for a violation. She said if the Commission wishes, the amendment could be revised to include increasing the current \$1,000 cap for the fine to an establishment involved in a violation.

Chairman Kubes asked if there is a limit on the amount the Village can charge for administrative costs. Ms. Conforti advised keeping the administrative fee at not more than \$1,000, because the fee is intended to cover the cost of the hearing and the Village should be able to justify the cost. Based on a recent cost center analysis the administrative costs are \$680.00.

Mr. McInerney said at the joint meeting of the Village Council and the Liquor Commission, they discussed increasing liquor license fees to cover additional uniform spot checks as another means to control the sale of alcohol to minors. Ms. Conforti said she had not yet discussed the feasibility of additional spot checks with the Police Department.

Chairman Kubes asked Ms. Conforti about Police Department costs associated with conducting control buys over the past 3 to 5 years. Ms. Conforti said that information is included in the Cost Center Analysis, which she provides to the Commission. She said the estimated cost per control buy is \$100.

Chairman Kubes confirmed that the Liquor Commissioner would have the option to assess a lesser fine than the cap set in the Ordinance. Ms. Conforti agreed. Chairman

Kubes asked the Commissioners for their recommendations on the amount of the cap for the fine.

Mr. Barnett said he would like to see the maximum fine doubled to give the Liquor Commissioner more flexibility in the penalty phase. He asked Ms. Clark and Ms. Conforti the amount at which other municipalities cap their fines. Ms. Clark said she worked in Cicero for five years and their cap was \$15,000. She explained that the Cicero Liquor Commissioner had the discretion to levy a fine up to \$15,000 based on the circumstances of each case. She added that in Cicero, a \$5,000 fine for a first violation was not uncommon. Mr. Barnett said he did not feel a \$1,000 fine was large enough to motivate licensees to comply with the Ordinance.

Ms. Conforti suggested that the Commission consider a cap for allowable fines over a one-year period. She said other municipalities' fines have been capped at \$15,000. She added that the Commission would still have the option to recommend a license suspension in the event that an establishment reached the cap during the license year.

Ms. King asked if there were caps for license suspensions. Ms. Conforti replied no. She said there are only guidelines for suspension.

Ms. Conforti emphasized that increasing the cap on the fine will give the Liquor Commissioner an additional monetary penalty leeway in certain circumstances. Ms. Clark said she would continue to make penalty and suspension recommendations for violations.

Chairman Kubes asked if other municipalities in the area have a similar ordinance. Ms. Conforti said Glen Dale Heights, Lisle, Lombard, Oak Brook and Oakbrook Terrace have a maximum fine of \$15,000. Villa Park, Bloomingdale, Darien and Clarendon Hills have a maximum fine of \$10,000. Naperville has a maximum fine of \$5,000.

Ms. Conforti asked the Commission for two recommendations. One to increase the amount of the maximum fine to an establishment in one year and the second to add the option to require mandatory certified training as part of the penalty for a failed control buy.

After a short discussion, all members of the Commission said they favored capping the fine to an establishment in a one-year time period at \$15,000. Mr. Barnett said the increased fine and the option to require mandatory training, in addition to the existing penalties would give the Liquor Commissioner the ability to tailor the most effective penalty for each violation. Mr. McInerney said he believed these ordinance changes would address the two major alcohol-related issues facing Downers Grove, DUI's and failed control buys.

MR. BARNETT MOVED THAT THE LIQUOR COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL CONCERNING A DRAFT ORDINANCE AMENDING SECTION 3-40 OF THE



www.downers.us

April 16, 2004

Governor's Hometown Award

2003 WINNER

The Honorable Brian J. Krajewski
Mayor and Liquor Commissioner

**COMMUNITY RESPONSE
CENTER**

Re: Fines and Penalties for Liquor Violations

630.434.CALL (2255)

Dear Mayor Krajewski

CIVIC CENTER

801 Burlington Avenue
Downers Grove
Illinois 60515-4776
630.434.5500
TDD 630.434.5511
FAX 630.434.5571

On Thursday, April 8, 2004, at a regular meeting of the Downers Grove Liquor Commission, the members made a recommendation concerning fines and penalties for liquor violations. The following recommendation was made:

MR. DURKIN MOVED TO PRESENT THE ORDINANCE AMENDING PENALTIES CONCERNING LIQUOR VIOLATIONS TO THE VILLAGE COUNCIL FOR CONSIDERATION. MS. HAIDER SECONDED

**FIRE DEPARTMENT
ADMINISTRATION**

6701 Main Street
Downers Grove
Illinois 60516-3426
630.434.5980
FAX 630.434.5998

VOTE: **Aye:** Mr. Durkin, Ms. Hiader, Mr. Barnett, Ms. Dietrich,
Ms. King, Chairman Kubes

Nay: None

Abstain: None

POLICE DEPARTMENT

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

MOTION CARRIED: 6:0:0

Further discussion of this subject can be found in the April 8, 2004 and March 4, 2004 minutes of the Liquor Commission (attached).

**PUBLIC WORKS
DEPARTMENT**

5101 Walnut Avenue
Downers Grove
Illinois 60515-4074
630.434.5460
FAX 630.434.5495

Very truly yours,

Michael Kubes, Chairman
Liquor Commission


VILLAGE OF DOWNERS GROVE

Attachment

**DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

842 Curtiss Street
Downers Grove
Illinois 60515-4761
630.434.5595
FAX 630.434.5599

a\liqcom-recommendations\fines&penalties

 Ms. Conforti said that pursuant to discussions at previous meetings, the Commission recommended that the Village Council authorize an increase in fines to licensees of up to \$15,000. This would allow the Liquor Commissioner flexibility to issue a fine in lieu of suspension. In addition, the draft ordinance would give the Liquor Commissioner the ability to require mandatory certified training as another form of punishment for a violation.

Ms. Conforti said that originally, she planned to place the ordinance on the May 11th Village Council agenda. However, she received a phone call from the Chamber a few weeks after the previous Liquor Commission meeting. Ms. Wysocki asked for clarification and discussion about the ordinance. Ms. Conforti explained that it would be used as a tool to allow the Liquor Commissioner more flexibility to issue fines in lieu of a suspension, should it be requested. She attended the Chamber Legislative Committee meeting on Tuesday morning and there was some concern with regard to the Liquor Commissioner's ability to potentially fine a licensee up to \$15,000. Ms. Conforti noted that would probably not be the case, unless circumstances warranted it. The Chamber indicated that they would like to review this issue further, perhaps with licensees. Ms. Conforti told the Chamber that she would again present this issue to the Liquor Commission before approaching the Village Council.

Ms. Conforti commented that fines typically are \$1,000. She said the intention may be to allow a licensee the ability to "buy back a suspension day" at the cost of perhaps \$1,000 each. Per Ordinance, a license can be suspended up to 30 days. A first violation is typically one to three days. Ms. Conforti said that Mr. Durkin also attended the Chamber meeting.

Ms. Haider asked where \$15,000 originated. Ms. Conforti replied that it is a State Statute.

Chairman Kubes said that the Commission decided to update the Ordinance in accordance with State Statute. Ms. Janicki-Clark said the Village's ordinance was most likely a form of self-regulation. She added that many communities follow the State Statute and have a \$15,000 cap. She also said it is not unreasonable to give the Liquor Commissioner this kind of authority.

Mr. Durkin said that the Legislative Committee of the Chamber discusses issues that pertain to its business members. Liquor changes were part of the agenda. Mr. Moore, the owner of Shanahan's Pint House, attended the meeting and presented the same case that the Liquor Commission heard the previous month. Mr. Durkin said the discussion was wrapped around the penalties and violations of Mr. Moore. Unfortunately, some of the information that led up to the penalty was not known by the Legislative Committee. Mr. Moore was asked by the Chamber to head another sub-committee consisting of other liquor license holders to come up with ideas. Mr. Moore told the Chamber that the Liquor Commission, in his opinion, is too eager to issue penalties. Mr. Durkin stated that he believes it's a privilege to hold a liquor license in the Village. He added that it should be taken seriously. He said that he is willing to wait for feedback from the Chamber.

However, the Commission worked for three months on the proposed ordinance and they shouldn't waiver because of one individual's penalty. He added that there should be a deadline for licensees' comment insofar as placing the ordinance on a Council agenda.

Mr. Durkin asked Ms. Conforti to inform the Mayor as to the discussion at the Chamber's Legislative Meeting. Ms. Conforti said that she believes the Mayor would welcome the flexibility. She added that Mr. Moore, for example, would probably have preferred to buy back the days of suspension.

Chairman Kubes said that a day's suspension costs more than just one day of liquor sales because it causes bad publicity. He added that fines and penalties are only for violators. He said that he could understand all the liquor licensees getting together because of increased fees. However, the proposed ordinance only affects violators. Chairman Kubes noted that many of the 70 liquor license holders have never failed a controlled buy. He agreed with Mr. Durkin insofar as setting a deadline to present the ordinance to the Village Council.

Mr. Barnett said that he is interested in the Chamber's input beyond fines. However, he is not interested in revisiting the \$15,000 cap. He suggested sending letters to licensees when changes occur. Mr. Durkin said that the newsletter sent by Ms. Conforti is specifically for liquor. Ms. Conforti said the newsletter is addressed directly to the Liquor Manager regarding ordinance changes, etc.

Mr. McInerney said that although he could not attend the previous meeting, he supports the motion to amend the ordinance. He agreed that he welcomed feedback from the business community. He said, however, that it is important to change the ordinance because of repeat offenders. He feels the issue should be discussed at a Workshop of a Village Council meeting in order to air opinions at a public forum.

Ms. Conforti noted that part of the Findings and Order process allows the violator to appeal the decision to the Illinois Liquor Control Commission.

Ms. King commented that one of the Village's licensees was selling the business when they appeared before the Liquor Commission for a violation. The Commission had no way to discipline them, except for fines.

Ms. Dietrich agreed, however, for the sake of good public relations, suggested that it may be prudent to wait to speak to the Chamber. Chairman Kubes said businesses are choosing Downers Grove because it's a thriving community. He noted that the Liquor Commission strives to be pro-business, for example, they granted a known violator a license because he promised to take his license seriously. Also, the Liquor Commission decided to withdraw the mandatory training option because it might be detrimental to business owners. Ms. Conforti said the Liquor Commission has demonstrated it is pro-business. For example, Mr. Moore suggested eliminating the 60/40 food/alcohol split. The Liquor Commission did eliminate it, based in part by Mr. Moore's request. Chairman Kubes welcomed Mr. Kopis and Ms. Wysocki to appear before the Liquor

DRAFT

Commission in order to get their thoughts. He asked if they were aware of the Commission's viewpoint. He added that the Liquor Commission's goal is to stop violators.

Mr. McNerney recommended not waiting for the Chamber to come before the Liquor Commission, but suggested their attendance at a Village Council Workshop. He said there is no reason to delay. He added that all Commission members are supportive of the motion and the intent of the ordinance change.

Chairman Kubes said that he would like to know the Council's opinion. He added that the ordinance follows State Statutes. Mr. Barnett said the Liquor Commission spent the last three months discussing the ordinance and agree on its substance. He is inclined to present the ordinance to Council and not delay.

Mr. Durkin said that he is a member of the Chamber's Legislative Committee. He said there was no official motion or direction from the Chamber to do what Mr. Moore suggests. He said he agrees with the Commission members. They have done their job and made a recommendation and feels that it should proceed to Village Council. After further discussion, the Commission members agreed that the revised ordinance offers opportunities for an element of negotiations for licensees.

Ms. King asked what procedure Ms. Conforti will utilize. Ms. Conforti said that she plans to call Ms. Wysocki and explain what occurred at this evening's meeting. She will then forward Ms. Wysocki the completed minutes. She will place the ordinance on the Council agenda for May 25th. She will invite Ms. Wysocki to that meeting.

Ms. Dietrich suggested tabling the issue for another month in order to provide the Chamber with some time. Ms. Conforti said that if the Village Council has any doubts about the ordinance, they would most likely send it back to the Liquor Commission. Mr. McNerney said that the Liquor Commission has a responsibility to the citizens to make decisions and recommendations. The process is there to continue the discussion in a public forum, such as the Village Council Workshop. Chairman Kubes added that the Commission is not preventing businesses from moving into town. The Commission is trying to prevent current businesses from committing violations.

Mr. Barnett said there might be value for setting a tone and precedent for interaction with the Chamber. Ms. Conforti said that one of the goals of the Liquor Commission was to reconsider fines. She said there has been ample opportunity for licensees to discuss this issue. She stated that any opposition could still occur at the Council level.

**MR. McINERNEY MOVED TO PRESENT THE AMENDED ORDINANCE WITH PENALTIES, AS DISCUSSED AT THE APRIL 8TH LIQUOR COMMISSION MEETING, TO COUNCIL FOR CONSIDERATION.
MR. DURKIN SECONDED.**

VOTE: Aye: Mr. McNerney, Mr. Durkin, Mr. Barnett, Ms. Haider, Ms. King,

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. Emmett'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.



February 17, 2004

Village of Downers Grove
801 Burlington Avenue
Downers Grove IL 60515
Attn: Carol Conforti

RE: Liquor License Survey

Dear Carol:

Thank you for your time and effort to participate in the recent Village of Glendale Heights liquor license survey.

With your assistance and that of several other DuPage County municipalities, I was able to compile the data in a format that provided a concise and easily read overview. This information allowed me to update our Village's ordinances to bring us in line with that of our surrounding communities. As requested, attached are the survey results for your review and file which also include the amendments to the Village of Glendale Heights liquor license ordinances that resulted from the survey.

Again, your time and effort are much appreciated.

Sincerely,

Linda Jackson
Mayor
Village of Glendale Heights

LKJ/jc

Liquor License Survey - January 2004

Municipality	Number of Liquor License Classifications	Cost range for Liquor Licenses	Fines Imposed for Violations Minimum	Maximum	Additional Notes
Glendale Heights	15	\$25 - \$5500		1st offense - \$750 \$15,000	2/05/04-Changes to ordinances: \$300 non refundable application fee, fine structure increased to be consistent w/ State law. In addition to fines, Liquor Commissioner may assess payment of VOGH expenses for hearings. After August 1, cost of license is one half annual license fee.
Addison	15	\$25 - \$3000	\$250	\$5,000	Restaurant/retail - 6 month licenses
Bloomngdale	20	\$0 - \$5000	\$	\$10,000	No charge for temporary liquor sales
Clarendon Hills	10	\$0 - \$3000	\$	\$10,000	No charge for outdoor service area permits.
Darien	11	\$50-\$2500	\$20	\$10,000	\$50/person processing fee
Downers Grove	23	\$450 - \$2770	\$	\$1,000	Admin fees up to \$1000 for hearings
Hinsdale	9	\$250-\$3000	no information	no information	\$250 Admin hearing fee
Lisle	16	\$13-\$4500	\$150	\$15,000	Most licenses have an initial fee of \$425-4500 in addition to annual fee.
Lombard	29	\$250-\$2500	*	\$15,000	*up to \$1,000 for first violation. Non refundable \$500 application fee for liquor license. All semi-annual.
Naperville	17	\$25-\$3100	\$100	\$5,000	
Oak Brook	8	\$0-\$4,500	\$25	\$15,000	
Oak Brook Terrace	10	\$110 - \$5500	*	\$15,000	With exception of class C, (\$110), initial license fee of \$8800. *Fine schedule per number of offenses annually, not to exceed \$15,000.
Villa Park	18	\$10 - \$2000	\$	\$10,000	
Westmont	14	\$100-\$10,000	information not received.		Initial license fee required ranging from \$2,000-\$20,000, renewal fee in range indicated..
Winfield	6	\$20-\$1625	*\$100	*\$750	*per offense

235 ILCS 5/7-5



Formerly cited as IL ST CH 43 ¶ 149

West's Smith-hurd Illinois Compiled Statutes Annotated Currentness

Chapter 235. Liquor

Act 5. Liquor Control Act of 1934 (Refs & Annos)

Article VII. Licenses

→ 5/7-5. Revocation or suspension of local license; fines; notice; hearing; appeal

§ 7-5. The local liquor control commissioner may revoke or suspend any license issued by him if he determines that the licensee has violated any of the provisions of this Act or of any valid ordinance or resolution enacted by the particular city council, president, or board of trustees or county board (as the case may be) or any applicable rule or regulations established by the local liquor control commissioner or the State commission which is not inconsistent with law. Upon notification by the Illinois Department of Revenue, the State Commission shall revoke any license issued by it if the licensee has violated the provisions of Section 3 of the Retailers' Occupation Tax Act. [FN1] In addition to the suspension, the local liquor control commissioner in any county or municipality may levy a fine on the licensee for such violations. The fine imposed shall not exceed \$1000 for a first violation within a 12-month period, \$1,500 for a second violation within a 12-month period, and \$2,500 for a third or subsequent violation within a 12-month period. Each day on which a violation continues shall constitute a separate violation. Not more than \$15,000 in fines under this Section may be imposed against any licensee during the period of his license. Proceeds from such fines shall be paid into the general corporate fund of the county or municipal treasury, as the case may be.

However, no such license shall be so revoked or suspended and no licensee shall be fined except after a public hearing by the local liquor control commissioner with a 3 day written notice to the licensee affording the licensee an opportunity to appear and defend. All such hearings shall be open to the public and the local liquor control commissioner shall reduce all evidence to writing and shall maintain an official record of the proceedings. If the local liquor control commissioner has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the community he may, upon the issuance of a written order stating the reason for such conclusion and without notice or hearing order the licensed premises closed for not more than 7 days, giving the licensee an opportunity to be heard during that period, except that if such licensee shall also be engaged in the conduct of another business or businesses on the licensed premises such order shall not be applicable to such other business or businesses.

The local liquor control commissioner shall within 5 days after such hearing, if he determines after such hearing that the license should be revoked or suspended or that the licensee should be fined, state the reason or reasons for such determination in a written order, and either the amount of the fine, the period of suspension, or that the license has been revoked, and shall serve a copy of such order within the 5 days upon the licensee.

If the premises for which the license was issued are located outside of a city, village or incorporated town having a population of 500,000 or more inhabitants, the licensee after the receipt of such order of suspension or revocation shall have the privilege within a period of 20 days after the receipt of such order of suspension or revocation of

Shanahan's

*2009 Ogden Avenue
Downers Grove, IL 60515*

May 4, 2004

The Honorable Brian Krajewski
Mayor of Downers Grove
801 Burlington
Downers Grove, IL 60515

Dear Mayor Krajewski:

I am deeply concerned that the Village of Downers Grove is considering increasing the fine for first offense for failure of an underage compliance operation to \$15,000.00

The Downers Grove retail business community does not condone underage consumption of alcohol, and we work very hard to prevent sales of alcohol to underage persons. If there are truly businesses that are knowingly selling alcohol to minors – then those businesses should lose their liquor licenses. It is fully within your authority as Liquor Commissioner to do this.

Please keep in mind that the vast majority of retail businesses in Downers Grove (I sincerely hope it is all businesses) do not sell alcohol to minors and work diligently to prevent such sales. However, employees do make honest mistakes, regardless of the safeguards put in place. Is it really in the best interest of Downers Grove to impose a fine for first-time failure of an underage compliance operation that is 15 times greater than that allowed by state statute in the Illinois Liquor Control Act?

While a case can be made that Downers Grove can do this under their home rule authority, is this really the prudent course? Home rule authority exists to provide local governments the means to address and solve problems that are uniquely pressing in their communities. To my knowledge, retail sales of alcohol to minors is not a systemic problem in Downers Grove. None of the 313 specific problems cited by residents in the 2003 Citizen Survey was on underage drinking.

The Illinois Liquor Control Commission has determined that the reasonable and prudent fine that should be levied against a retail business for a first-time underage compliance operation failure is \$500. What is different about Downers Grove that warrants a \$15,000 fine?

An underage compliance operation is a tool used by law enforcement to keep the retail business community in check in regards to the sale of alcohol to minors. This is an important tool that is supported by the business community. We do not desire to have underage sales anymore than our elected officials do.

We are making progress -- underage consumption is down 29 percent in the last 20 years; however, underage drinking is still a problem in our society. The business community is working diligently to keep alcohol out of the hands of minors and desires to work with government officials to continue this progress.

A majority of today's youth that consume alcohol get their alcohol from family and friends -- not from retailers. According to a nationwide study conducted by the Century Council, the following represents the source of alcohol for minors:

Family and Friends: 65 percent

Retail Purchase 7 percent

*Other Sources 28 percent

- Other sources include asking strangers to make the purchase for them, use of high-quality fake ID's, etc.

This study clearly shows the retail business community is doing a good job keeping alcohol out of the hands of kids. We know that much more needs to be done -- particularly with changing societal attitudes on providing alcohol to underage family members and friends.

We welcome the opportunity to sit down with you and members of the Council to develop a comprehensive plan to reduce underage consumption of alcohol in our community. Please consider this approach, rather than simply imposing a huge fine that could literally bankrupt a struggling business that made an honest mistake.

Downers Grove eating and drinking businesses annually provide over \$1.2 million directly to the Village in sales taxes alone. We do not believe this proposal is simply a means to generate additional revenue for the Village. Let's work together to reduce underage drinking in Downers Grove.

The business owners in my sector of commerce and I look forward to working with you and the Council on this issue.

Sincerely,



Rich Moore