

**VILLAGE OF DOWNERS GROVE**  
**REPORT FOR THE VILLAGE COUNCIL MEETING**  
**MAY 5, 2009 AGENDA**

SUBJECT:	TYPE:	SUBMITTED BY:
Ordinance Amendments: Liquor Provisions - Fees	Resolution ✓ Ordinance Motion Discussion Only	Enza I. Petrarca Village Attorney

**SYNOPSIS**

An ordinance has been prepared amending the annual liquor license fees and fines for violations of the liquor ordinance.

**STRATEGIC PLAN ALIGNMENT**

The Downers Grove Vision for 2021 provides for *Businesses to Thrive* and a principle for that vision is *Unique, Quality Restaurants Serving Residents and Corporations*.

**FISCAL IMPACT**

N/A

**UPDATE & RECOMMENDATION**

This item was discussed at the April 27, 2009 workshop. Staff recommends approval on the May 5, 2009 active agenda.

**BACKGROUND**

A cost center analysis was completed in 2009 which supports proposed increases for annual fees and fines throughout the attached draft ordinance. All liquor license administration cost centers have been reviewed and updated with current salary/benefit information. This document has been used as a reference to justify those fees charged for what it costs the Village to administer Alcohol Awareness Programs.

The last cost center analysis was completed in 2006. On average, salary figures have increased 11% over the course of three years, which justifies overall changes in annual fees. The Liquor Commission recommended additional monitoring of the entertainment and hotel licensees. Staff has discussed additional monitoring activities with the Police Department and has significantly increased fees in these license categories to cover additional monitoring costs.

The Liquor Commission is also recommending that the fines for selling alcohol to a minor when an Under 21 identification is shown be increased from \$250 to \$500. Currently the ordinance imposes a \$250 fine if alcohol is sold to a minor regardless of whether an Under 21 identification is shown. Staff concurs in this recommendation and recommends approval.

Finally, the Liquor Commission recommended the doubling of the annual liquor license fee in the event that a licensee is found guilty of a violation of the liquor ordinance within the twelve months prior to their renewal. Staff has some concern with this with this proposed amendment. The proposed amendment removes the discretion vested with the Liquor Commissioner by disguising fines as increased renewal fees and removes the Liquor Commissioner's ability to impose a penalty on a case-by-case basis.

The Liquor Commission discussed this matter at their meeting of April 16, 2009 and unanimously recommended that the ordinance be forwarded to the Council for their consideration and approval.

**ATTACHMENT**

An Ordinance Amending Liquor License Fees

**VILLAGE OF DOWNERS GROVE**  
**COUNCIL ACTION SUMMARY**

**INITIATED:** Village Attorney **DATE:** May 5, 2009  
(Name)

**RECOMMENDATION FROM:** Liquor Commission **FILE REF:** \_\_\_\_\_  
(Board or Department)

**NATURE OF ACTION:**

**STEPS NEEDED TO IMPLEMENT ACTION:**

- Ordinance
- Resolution
- Motion
- Other

Motion to Adopt "AN ORDINANCE AMENDING LIQUOR LICENSE FEES", as presented.

**SUMMARY OF ITEM:**

Adoption of the attached ordinance will amend liquor license fees.

**RECORD OF ACTION TAKEN:**

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Liquor Fees

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING LIQUOR LICENSE FEES**

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 1.16 is hereby amended to read as follows:**

**1.16 Citation and settlement in lieu of prosecution for certain offenses.**

(a) Whenever a person is observed violating certain provisions of this code as specified in this section, or there is reasonable suspicion to believe that such a violation has occurred and that a particular person is responsible, the Village may, in lieu of filing a complaint in court, issue to the alleged violator a citation which shall:

- (1) Advise said person that the same has violated a specified ordinance;
- (2) Direct said person to make payment in an amount applicable to said alleged violation as set forth in this section as settlement of said claim;
- (3) Advise said person, where applicable, to cease and/or abate said violation forthwith and to refrain from like violations in the future;
- (4) Inform said person that, upon failure to so settle the claim and to cease and/or abate said violations, a complaint will be filed in the Circuit Court of DuPage County.

(b) Except as provided below, citations as provided herein shall be personally served upon the person responsible for the violation, his agent, representative, independent contractor or employee. In the event the owner, occupant, contractor or other person responsible for the violation cannot be located the citation may be served by posting a copy at the property, structure or vehicle where the violation has occurred and sending a copy by United States mail to the last known address of such person.

(c) Any person served with a citation for violations of the following provisions of the Downers Grove Municipal Code and the Comprehensive Zoning Ordinance of the Village of Downers Grove may settle and compromise the matter in respect of such ordinance violation by ceasing and/or abating said violation and paying the sum of ten dollars (\$10.00) if paid within ten (10) days of service of the citation, or twenty-five (\$25.00) dollars if paid after such ten (10) day period but before filing of a complaint in the Circuit Court of DuPage County.

1. DOWNERS GROVE MUNICIPAL CODE

- (i) Section 5-12; Dog, Horse or Pony Running at Large.
- (ii) Section 5-12.1; Disposal of Dog Excrement.
- (iii) Section 13-43; Storage of Refuse.
- (iv) Section 13-49.1; Placing Garbage on the Parkway for Scavenger Removal.

2. COMPREHENSIVE ZONING ORDINANCE

- (i) Section 28-1404; Regulating Off-Street Parking.

(d) Any person served with a citation for violations of the following provisions of the Downers Grove Municipal Code, and such other Codes adopted therein, may settle and compromise the matter in respect of such ordinance violation by ceasing and/or abating said violation and paying the sum of twenty-five dollars (\$25.00) if paid within ten (10) days of service of the citation, or fifty dollars (\$50.00) if paid after such ten (10) day period but before filing of a complaint in the Circuit Court of DuPage County.

1. DOWNERS GROVE MUNICIPAL CODE

- (i) Section 25-11; Use of Public Hydrants.
- (ii) Section 15-8; Drinking in Public.

## Liquor Fees

License.

- (iii) Section 8-99(a)(7); Requirements for Display of Massage Establishment
- (iv) Section 14-74; Pedestrian's Duties at Railroad Grade Crossings.
- (v) Section 15-5.1; Noise Regulations.
- (vi) Section 19-21.1; Depositing Snow on Paved Streets.
- (vii) Section 13-49.2; Discarding Refuse and Compostable Materials in Streets,

etc., prohibited.

2. NATIONAL FIRE PROTECTION ASSOCIATION LIFE SAFETY CODE (As adopted in Section 7-29)

- (i) Section 1-3.13.1; Building Equipment Maintenance.
- (ii) Section 1-3.13.2; Building Fire Equipment and Systems Maintained in Proper Operating Condition.

3. BUILDING OFFICIALS & CODE ADMINISTRATOR NATIONAL FIRE PREVENTION CODE (As adopted in Section 17-43)

- (i) Section F-310.4; Multi-Plug Adaptors.
- (ii) Section F-310.5; Extension Cords.
- (iii) Section F-518; Portable Fire Extinguishers.

4. COMPREHENSIVE ZONING ORDINANCE

- (i) Section 28-1408; Parking of Recreational Vehicles and Recreation Equipment in Residence District.

(e) Any person served with a citation for violations of the following provisions of the Downers Grove Municipal Code, may settle and compromise the matter in respect of such ordinance violation by ceasing and/or abating said violation and paying the sum of fifty dollars (\$50.00) if paid within ten (10) days of service of the citation, or one hundred dollars (\$100.00) if paid after such ten (10) day period but before filing of a complaint in the Circuit Court of DuPage County.

1. DOWNERS GROVE MUNICIPAL CODE

- (i) Section 13-35; Open Burning Prohibited.
- (ii) Section 15.23; Truancy
- (iii) Section 15-28.3; Possession of Telecommunications Devices on Public School Property Prohibited.

- (iv) Section 17-45; Parking in Fire Lane.

- (v) Section 25-5; Regulations for Water Conservation.

2. DOWNERS GROVE PARK DISTRICT GENERAL USE ORDINANCE (pursuant to an intergovernmental agreement with the Downers Grove Park District)

(f) Any person served with a citation for violations of the following provisions of the Downers Grove Municipal Code, may settle and compromise the matter in respect of such ordinance violation by ceasing and/or abating said violation and paying the sum of seventy-five dollars (\$75.00) if paid within ten (10) days of service of the citation, or one hundred and fifty dollars (\$150.00) if paid after such ten (10) day period but before filing of a complaint in the Circuit Court of DuPage County.

1. DOWNERS GROVE MUNICIPAL CODE

- (i) Section 15-23.1; Possession of Tobacco Products by Minors.
- (ii) Any provision of Chapter 6, Bicycles.
- (iii) Section 19-15.1; Skateboarding, Roller Skating or In-Line Skating in a

Business District.

- (iv) Section 28-1501.04(8) Real Estate Signs.

- (v) Section 28-1501.04(10) Garage/Rummage Sale Signs.

2. NATIONAL FIRE PROTECTION ASSOCIATION LIFE SAFETY CODE (As adopted in Section 7-29)

- (i) Section 2-4; Obstructing Building Exits.

(g) Any person served with a citation for violations of the following provisions of the Downers

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Grove Municipal Code, may settle and compromise the matter in respect of such ordinance violation by ceasing and/or abating said violation and paying the sum of one hundred dollars (\$100.00) if paid within ten (10) days of service of the citation, or two hundred fifty dollars (\$250.00) if paid after such ten (10) day period but before filing of a complaint in the Circuit Court of DuPage County.

### 1. DOWNERS GROVE MUNICIPAL CODE

(i) Section 13.38; A person who smokes in an area where smoking is prohibited under the Smoke Free Illinois Act.

(ii) Section 15-20(b); Sale of Tobacco to a Minor.

(h) Any person served with a citation for violations of the following provisions of the Downers Grove Municipal Code, may settle and compromise the matter in respect of such ordinance violation by ceasing and/or abating said violation and paying the sum of two hundred fifty dollars (\$250.00) if paid within ten (10) days of service of the citation, or five hundred dollars (\$500.00) if paid after such ten (10) day period but before filing of a complaint in the Circuit Court of DuPage County.

### 1. DOWNERS GROVE MUNICIPAL CODE

(i) Section 3-25; Sale of Liquor to Certain Persons Prohibited.

(ii) Section 7-11.1 (a), (d), (e), (f) (g), (i), (k), (o), (p); Demolition/Construction Site Management.

(i) Any person served with a citation for violations of the following provisions of the Downers Grove Municipal Code, may settle and compromise the matter in respect of such ordinance violation by ceasing and/or abating said violation and paying the sum of five hundred dollars (\$500.00) if paid within ten (10) days of service of the citation, or five hundred dollars (\$1,000.00) if paid after such ten (10) day period but before filing of a complaint in the Circuit Court of DuPage County.

### 1. DOWNERS GROVE MUNICIPAL CODE

(i) Section 3-25; Sale of Liquor to Certain Persons Prohibited - if Red Under 21 Identification Shown.

(~~j~~) Payment of the citation shall be made at the window at Village Hall, or by depositing payment in the Village drop box or United States mail.

(~~k~~) In the event that payment is not made within the time prescribed and a complaint has been filed in the Circuit Court of DuPage County, any person convicted of violating any of the provisions of this code shall be punished by a fine as determined under Section 1-15(a).

(~~l~~) The issuance of a citation under this section shall not be deemed a waiver of the power of the Village of Downers Grove to suspend, revoke or refuse to renew any license or permit for cause.

(~~m~~) The following Village personnel shall have the authority to issue citations under this section: police officers, fire department inspectors, community development officers, and such other persons as designated by the Village Manager; provided that fire department inspectors shall only write citations for violations of the Life Safety or BOCA Fire Prevention Code, and that the Village Manager, by administrative regulation, may limit the jurisdictional powers of other persons he designates as authorized to issue citations. (Ord. No. 2261, § 4)

## **Section 2. That Section 3.9. is hereby amended to read as follows:**

### **3.9. Application.**

(a) *Letter of request.* Any person who wishes to apply for a license required by Section 3-8 shall submit to the Local Liquor Commissioner a letter of request containing information related to the identity, current and past business experience (including, but not limited to, handling of liquor) of the prospective applicant; the class of license desired; the location and nature of the business proposed; and any additional information relevant to his/her qualifications for a retail liquor dealer's license. Upon such written request, the prospective applicant shall be provided with information concerning the availability of licenses of the requested classification and the application procedure.

(b) *Availability of license.* If no license of the requested classification is available at the time a

## Liquor Fees

written request is received, the name of the person shall be placed on a list of persons interested in a license of such classification. Any person placed on such list shall be obligated to inform the Village Manager in writing on or before December 31 of each year of a desire to remain on such list for the next year. Failure to do so will result in removal of such person's name from the list. Persons whose names appear on such list at the time a license of the requested classification becomes available shall be so informed, and may then, at their option, proceed to apply for a liquor license.

(c) *Application for license.* Following the initial letter of request, and the Village's response to it, a person wishing to file an application for a license may obtain from the Village an application form as prescribed by the Village Manager for the purpose of providing reasonable information respecting the applicant. Such application shall be filed with the Local Liquor Commissioner and shall include:

(1) A manual outlining the applicant's program for training its employees to properly handle the sale of alcoholic liquor;

(2) A floor plan:

(a) for any premises to be licensed for sale of alcoholic liquor for off premise consumption drawn to scale, with sufficient detail to depict design features and depicting the total square footage of the establishment and the retail square footage area devoted to products sold from the premises.

(b) for any premises to be licensed for sale of alcoholic liquor for on-premise consumption, drawn to scale, with sufficient detail to depict the number and location of dining tables and booths, the location of any bar(s), if applicable, the establishment design features, including but not limited to, entrances/exits and hostess areas. This plan should also include the maximum occupancy of the establishment.

(3) A valid lease in the name of the licensee which authorizes the sale, service and/or delivery of alcoholic beverages in effect for the entire license period. Such lease shall include terms of the lease as well as a contact person as agent of the property.

(4) Menu depicting all types of food and beverage items available to its patrons. A full restaurant menu or a reduced restaurant menu shall also be required should licensees choose to remain open after 10:00 p.m. Sunday through Thursday or 11:00 p.m. on Friday or Saturday.

(5) Restaurant Operation Plan describing the planned operations for the restaurant which shall include, but is not limited to, a description of the customer facilities such as seating areas, displays, service areas, access and egress and similar facilities.

(6) Hours of operation. A list of the hours of operation for the establishment.

(7) Certificate of Occupancy verifying that the applicant has met all Building, Fire, Zoning and Health Department requirements of the Village.

(8) The expected date of occupancy, which shall not exceed nine months from the date such application is filed;

(9) Certification that dram shop insurance is or will be in force covering the applicant and the premises which are to be operated under the license in an amount sufficient to satisfy statutory limits. The applicant shall attach to the application a copy of the policy for dram shop insurance coverage, which policy shall contain at a minimum the following information: insurer's name, agent's name, date of expiration of policy, type and amount of coverage, and a provision that the insurance company shall give the Village at least thirty (30) days notice prior to any cancellation or termination of the policy; and

(10) The name, home address, driver's license number, and past employment experience for the person to be designated as the Liquor Manager of the establishment. Also, certification that the Liquor Manager is employed on the premises of the establishment at least thirty-five (35) hours per week.

(11) Declaration page including the corporate name, business name and address along with information concerning the type of business activity or retail sales primarily engaged in.

(d) *Application for classification change.* A licensee wishing to file an application for a change of liquor license classification shall submit an application to the Village on forms as prescribed by the Village Manager. Such application shall be filed with the Local Liquor Commissioner and shall include those items

## Liquor Fees

listed in Section 3-9(c).

(e) *Application fee.* Except as otherwise provided herein, a non-refundable application fee of one thousand ~~two hundred fifty~~ four hundred dollars (~~\$1,250.00~~ \$1,400.00) shall be required with the filing of any application. Where the Local Liquor Commissioner in his/her sole discretion determines, based upon the nature and complexity of the application, that the administrative functions were de minimis, a full refund may be granted. Where the Local Liquor Commissioner determines that the administrative functions were not de minimis, a partial refund of one-half of the application fee may be granted. The application fee may be reduced or waived if the Local Liquor Commissioner:

(1) grants a liquor license without referring the application to the Local Liquor Commission or the Plan Commission; (2) grants a liquor license without requiring a full investigation; or, (3) grants a liquor license while referring the application to the Local Liquor Commission for change of liquor license classification.

In the event that the applicant is seeking a license for outdoor liquor sales, a non-refundable application fee shall be required with the filing of any application. The fee for such application shall be ~~five hundred sixty five~~ six hundred fifteen dollars (~~\$565.00~~ \$615.00). Provided, in the event the outdoor seating area application is filed and processed in conjunction with an application for issuance of a liquor license under this Section, the outdoor seating area application fee shall be ~~two hundred eighty five~~ dollars (~~\$285.00~~ three hundred ten dollars (\$310.00)). (Ord. No. 244, § 3; Ord. No. 1741, § 10; Ord. No. 1749, § 2; Ord. No. 2388, § 5; Ord. No. 2450, § 3; Ord. No. 2541, § 4; Ord. No. 2735, § 1; Ord. No. 2847, § 2; Ord. No. 3064, § 1; Ord. No. 3182, § 2; Ord. No. 3343, § 1.)

**Section 3. That Section 3.14 is hereby amended to read as follows:**

**3.14 Term - fees.**

- (a) The term of each license issued hereunder shall be from July 1 to June 30.
- (b) Licenses shall be issued to new applicants and/or renewal applicants with satisfactory performance in the most recent year in which they held a license. The fee for the various classes of licenses shall be as follows:

License	Annual Fee
"B-1" (Brew Pub)	<del>\$2,925.00</del> <u>3,240.00</u>
"C-1" (Club, private)	<del>\$ 670.00</del> <u>770.00</u>
"E-1" (Theater)	<del>\$1,105.00</del> <u>1,700.00</u>
"E-2" (Comedy Club)	<del>\$1,055.00</del> <u>1,700.00</u>
"E-3-A" (Golf Course)	<del>\$1,725.00</del> <u>1,860.00</u>
"E-3-B" (Recreational Facility - beer/wine)	<del>\$1,610.00</del> <u>2,300.00</u>
"E-3-C" (Recreational Facility - full)	<del>\$2,985.00</del> <u>3,670.00</u>
"E-3-D" (Billiard Hall - full)	<del>\$2,985.00</del> <u>3,670.00</u>
"E-4" (Cultural/Performing Arts Facility - beer/wine)	<del>\$1,610.00</del> <u>1,930.00</u>
"E-5" (Entertainment/Restaurant Facility - full)	<del>\$2,985.00</del> <u>3,670.00</u>
"H-1" (Hotel)	<del>\$2,985.00</del> <u>4,050.00</u>
"K-1" (Catering - full)	<del>\$ 805.00</del> <u>950.00</u>
"K-2" (Catering - Park District - beer/wine)	<del>\$ 955.00</del> <u>1,090.00</u>
"O-1" (Outdoor)	<del>\$ 260.00</del> <u>270.00</u>
"P-1" (Packaged - full)	<del>\$1,850.00</del> <u>2,070.00</u>
"P-2" (Packaged - beer/wine)	<del>\$1,160.00</del> <u>1,300.00</u>
"P-3" (Packaged - wine shop)	<del>\$1,160.00</del> <u>1,240.00</u>
"R-1" (Restaurant - full)	<del>\$2,870.00</del> <u>3,100.00</u>
"R-2" (Restaurant - beer/wine)	<del>\$1,550.00</del> <u>1,750.00</u>
"S-1" (Special Event)	<del>\$ 375.00</del> <u>420.00</u>



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"S-2" (Special Event)	\$ <del>90.00</del> <u>95.00</u>
"W-1" (Wine Boutique)	<del>\$1,310.00</del> <u>1,550.00</u>

(c) Except as provided herein, there shall be no refund or proration of the license fee for any portion of a year prior to issuance or during which licensee ceases to engage in the business of selling alcoholic liquor. For any license issued on or after the first day of January of any year, the license fee shall be prorated by dividing the fee set forth in subsection (b)(1) by twelve and multiplying the resulting sum by the number of months, or parts thereof, remaining in the license year.

(d) For any change in classification issued on or before the first day of January of any year, the licensee shall be awarded a credit in the amount of the license fee previously paid by licensee in same license year for the same establishment.

(e) The annual renewal fee shall be due and payable June 30 in each year. Provided, any licensee submitting a late renewal filing shall, in addition to the license fee, pay a late filing fee of two hundred fifty dollars (\$250.00) pursuant to Section 3-16 (c) of this Code. No licensee shall continue to engage in the business of selling alcoholic liquor unless such fee has been paid.

(f) All required fees shall be paid at the time of issuance of the license after approval by the Local Liquor Commissioner pursuant to Section 3-12 of this Chapter. All such fees shall be forthwith deposited with the Village Treasurer.

(g) Application fees are provided for in Section 3-9(e) of this Code.

(h) It is the intention of the Village to review and, if justified, adjust license fees annually based upon the costs and expenses incurred by the Village to administer this section. Provided, however, nothing herein shall require such review nor impair or prohibit any adjustment in fees as may from time to time, be approved by the Council. (Ord. No. 244 §§ 5, 6; Ord. No. 279, § 1; Ord. No. 356, § 1; Ord. No. 634, § 1; Ord. No. 635, § 1; Ord. No. 1059, § 1; Ord. No. 1200, § 1; Ord. No. 1465, § 1; Ord. No. 1741, §§ 15 to 17; Ord. No. 2167, § 4; Ord. No. 2246, § 1; Ord. No. 2388, § 7; Ord. No. 2541, § 6; Ord. No. 2735, § 1; Ord. No. 3050, § 2; Ord. No. 3377, § 1.)

### **Section 4. That Section 3.31. is hereby amended to read as follows:**

#### **3.31. Hours of business.**

(a) It shall be unlawful for any on-premise liquor license holder to deliver, sell or offer for sale, any alcoholic liquor in the Village between the hours of 1:00 A.M. and 8:00 A.M. or between the hours of 2:00 A.M. and 12:00 Noon on any Sunday.

(b) It shall be unlawful for any off-premise liquor license holder 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. or between the hours of 2:00 A.M. and 9:00 A.M. on any Sunday.

(c) Hours during which sale is lawful may be extended by written order of the Local Liquor Commissioner for periods not to exceed three hours upon written application by the licensee stating the reasons for the requested extension and the date or dates for which the extension is sought. The request shall be forwarded to the Village in writing no later than two (2) weeks prior to the date the extension is requested or the request shall automatically be denied. No licensee shall be granted such extension for more than eight dates in any one calendar year, provided a fee in the amount of ~~fifty-five dollars \$50.00~~(\$55.00) shall be submitted for each day of requested extension.

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

(1) A Class "P" packaged liquor license for premises from which less than half of the gross revenues are derived from the sale of alcoholic liquor not for consumption on the premises, such premises may be kept open during such hours, but no alcoholic liquor may be sold to any person in such premises during such hours.

## Liquor Fees

(e) 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.

(f) 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 5.** That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**Section 6.** That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

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Mayor

Passed:

Published:

Attest:

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Village Clerk