

VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL MEETING
AUGUST 4, 2009 AGENDA

SUBJECT:	TYPE:	SUBMITTED BY:
Downers Grove Municipal Code Chapter Four – Temporary Use and Public Gathering Provisions	<div style="display: flex; align-items: center;"> <div style="margin-right: 10px;">✓</div> <div> Resolution Ordinance Motion Discussion Only </div> </div>	April Holden Village Clerk

SYNOPSIS

An ordinance has been prepared to establish a new chapter in the Downers Grove Municipal Code entitled, “Chapter Four, Temporary Use and Public Gathering Provisions.”

STRATEGIC PLAN ALIGNMENT

The Five Year Plan and Goals identified *Exceptional Municipal Organization*. A supporting objective of this goal is *Top –quality core services responsive to current and future community and resident needs*.

FISCAL IMPACT

The proposed addition of Chapter Four of the Municipal Code would result in the establishment of uniform application fees, late fees and required payments for other Village provided services related to temporary events. Staff evaluated the proposed fee structure to ensure the fees are competitive with those charged by neighboring comparable communities and are sufficient to recover the Village’s costs for services provided.

UPDATE & RECOMMENDATION

This item was discussed at the July 28, 2009 workshop. Per direction provided by the Village Council, staff has revised the definition of the term “open air meeting” to signify a gathering of people for the purpose of discussing a matter of common interest which may reasonably be assumed to exceed fifty (50) participants.

Staff recommends approval on the August 4, 2009 active agenda.

BACKGROUND

The proposed ordinance amends existing licensing provisions in the Municipal Code pertaining to activities open to the public and conducted upon the exterior portion of a zoning lot, or on Village-owned property. Consistent with current practices, Village businesses will continue to be encouraged and permitted to conduct activities requiring a temporary use permit. The goals are to streamline the application and approval processes, consolidate and simplify the Municipal Code, address the concerns of the Downtown Management Corporation, and address compliance and safety issues.

Present licensing requirements are confusing to staff and to the public, which leads to inconsistent application of ordinances. This is primarily due to the fact that licensing and permit requirements are located in different chapters of the Municipal Code including the following:

- Chapters 8: Business and Activity Licenses and Regulations
- Chapter 15: Miscellaneous Offenses
- Chapter 19: Streets and Sidewalks
- Chapter 28: Zoning Ordinance

Staff believes the creation of a new chapter in the Municipal Code which consolidates existing licensing provisions will lead to less confusion and greater consistency of application procedures by the Village. The proposed chapter will be entitled “Chapter Four: Temporary Use and Public Gathering Provisions.” This chapter is an attempt to consolidate and address all the permitting activities for a variety of community events including those of a temporary nature, parades, public assemblies, athletic events, outdoor sales, and block parties. From the applicants’ perspective, the proposed ordinance would ensure that application procedures are consistent and that uniform application fees, late fees and required payments for other Village provided services are established. Additionally, the proposed ordinance will establish one point of contact for all inquiries which will result in better information exchange between Village departments in completing the application review process.

Several key items will be addressed in the proposed creation of Chapter Four of the Municipal Code including the following:

1. The proposed amendments change the permit issuance process. The Director of Community Development would be responsible for issuing temporary use permits. The Manager may refer temporary use permits to the Village Council for consideration. Currently, the large temporary use permit applications require Village Council approval.
2. The proposed amendments would clearly state that the Village may require applicants to use certain Village services to address public health, safety and welfare issues (Police, Fire, Public Works services, etc.) and that the applicants are responsible for the costs of these Village services.
3. Downtown restaurant outdoor seating with two or fewer tables is allowed without obtaining a permit, although certain conditions must be met.
4. The ordinance extends the time period for sidewalk cafes and outside display of merchandise; they will be allowed to operate from March 15 through November 15.
5. The proposed amendments allow outdoor display of merchandise on private property within the downtown business district without a permit, provided that certain conditions are met.
6. Unless the business conducting the temporary use activity is a not-for-profit organization, the applicant for a temporary use permit activities must be the owner or lessee of the property and the activity must be incidental to the principal use of the property or business.
7. Street vendors wishing to sell prepared food on Village property are prohibited from doing so unless in conjunction with another event pursuant to this chapter.
8. Provisions for parades and open air meetings are made a part of this ordinance and specifically addressed.
9. Compliance with this chapter will require advance notification/information to the public as well as coordination with other departments currently involved in special events activities.
10. Accompanying this ordinance, staff has prepared an application form to assist staff and applicants through the temporary use process.

ATTACHMENTS
Ordinance

Temporary Use

ORDINANCE NO. _____

AN ORDINANCE AMENDING TEMPORARY USE AND PUBLIC GATHERING PROVISIONS

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

Section 1. That Section 4.100ART. is hereby added to read as follows:

4.100ART. Article I. Temporary Use

Section 2. That Section 4.100SEC. is hereby added to read as follows:

4.100SEC. General Provisions.

Section 3. That Section 4.101. is hereby added to read as follows:

4.101. Definitions.

“Temporary Use” shall mean an activity, event, sale or similar use which is open to the public and conducted upon the exterior portion of a zoning lot or on Village-owned streets, rights-of-way, parking lots or other open space. Provided, it is for a limited and defined period of time, with the intent to discontinue such activity upon the expiration of a specific time period; and

1. It is an activity incidental to the principal use of the property or business and the applicant is the owner or lessee of the property; or
2. The business conducting the Temporary Use is a not-for-profit organization registered with the Illinois Secretary of State or qualified as tax exempt pursuant to the Internal Revenue Code; or
3. The activity is the sale of holiday trees during the months of November and December.

Section 4. That Section 4.102. is hereby added to read as follows:

4.102. Permit Required.

(a) No person shall sell, offer for sale or make a stopping place for the purpose of selling, offering for sale, exhibiting, keeping or storing any merchandise or other property on any public property, including, but not limited to, any street or other public right-of-way, except in conformance with this Chapter. No permit shall be issued for street vendors selling prepared food on Village property unless in conjunction with another event pursuant to this Chapter.

(b) It shall be unlawful to conduct a Temporary Use within the corporate limits of the Village without first obtaining a Temporary Use Permit. Application for such permit shall be in accordance with the terms and conditions contained in Village of Downers Grove Administrative Regulation entitled "Temporary Use Permits: Procedures for Application, Approval and Issue". Any such permit may be subject to the approval of the Director of Community Development or his or her designee on the basis of

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the adequacy of the parcel size, parking provisions, traffic access and the absence of adverse impacts to adjacent property, the vicinity, or the general public health, safety and welfare. Provided that:

1. A Temporary Use which requires the use of Village services (police, fire, public works) or property may be subject to Village Council approval and a license agreement.
2. In addition to a Temporary Use Permit, certain activities may require additional licensing or permitting from the Village (i.e. liquor license, fingerprinting, etc.).
3. A Temporary Use shall be limited to those permitted uses, special uses, and accessory uses allowed in the zoning district in which the Temporary Use is to be located.
4. No more than six (6) Temporary Use Permits shall be issued to any person, corporation or other legal entity in any calendar year, which individually or in the aggregate, shall not exceed one hundred eighty (180) days in any calendar year, unless otherwise specified in this ordinance.
5. Except for holiday tree sales, a Temporary Use shall not be permitted on any vacant or abandoned lots.

(c) Except as provided in this Chapter, a Temporary Use Permit is required for the following:

1. Sales, shows, and exhibits of merchandise including, but not limited to, arts, crafts, plants and farm products.
2. Carnivals, circuses, festivals, theatrical or musical performances or other live entertainment on the streets and public ways of the Village.
3. Temporary tents, awnings, spectator stands or seating, sheds, canopies, shelters and similar structures, provided that such structures comply with all applicable building, health and safety ordinances of the Village.
4. Outdoor Cafés in accordance with Section 4.104. An Outdoor Café is defined as an outdoor seating area in which food and beverages are served and consumed.
5. Athletic Events such as an organized exercise, race, sport or game reasonably anticipated to obstruct the normal flow of traffic. Such events include, but are not limited to, all footraces, marathons, walk-a-thons, bike-a-thons and bike races.
6. Outdoor Display of Merchandise in accordance with Section 4.103.
7. Block Parties - defined as the closing of one block of a public street for no longer than an eight (8) hour period, that is entirely residential for community activities sponsored by the residents of such block.
8. Any event sponsored by an organization representing ten (10) or more businesses in the Village of Downers Grove.
9. Any other activity or event requiring a Temporary Use Permit as deemed necessary by the Director of Community Development.

Section 5. That Section 4.103. is hereby added to read as follows:

4.103. Outdoor Display of Merchandise.

The outdoor display of merchandise is permitted as a Temporary Use in all business districts and shall be subject to the following conditions:

- (a) Such outdoor display of merchandise shall be incidental to the primary business and be located only on private property. Except for holiday tree sales, the outdoor display of merchandise shall not be permitted on any vacant or abandoned lots.
- (b) Merchandise shall meet all principal structure setback requirements of the underlying zoning district except that in the Fairview Concentrated Business District the required setback for the outdoor display of merchandise shall be four (4) feet.
- (c) Merchandise shall not be located within required parking spaces or those spaces designated for disabled persons.

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(d) At least five (5) feet of walkway shall be maintained at all times for pedestrian traffic.

(e) Those businesses whose gross floor area is fifteen thousand (15,000) square feet or more are allowed to install a seasonal landscape display and sales center per the above requirements provided that the display or sales center:

1. Shall be allowed consecutively from March 15 through November 15.

2. Shall be cleaned as needed to maintain an orderly fashion and kept free of refuse.

(f) Outdoor displays within the DB Downtown Business District are exempt from Temporary Use permit requirements provided that:

1. Such outdoor display shall be incidental to the primary business and be located only on private property.

2. At least five (5) feet of public right-of-way shall be provided and maintained at all times for pedestrian traffic.

3. The displays shall be located at least five (5) feet from any drive aisle, parking space, or point of vehicular access.

4. Merchandise may be displayed only during normal business hours of the owner and must be placed inside at the close of business.

5. Merchandise must be displayed in an area no larger than fifty (50) square feet in size.

(g) Outdoor display of vending machines and propane tanks are exempt from Temporary Use permit requirements provided that they are within two (2) feet of the face of the building.

Section 6. That Section 4.104. is hereby added to read as follows:

4.104. Outdoor Cafe.

An outdoor café is permitted as a Temporary Use consecutively between March 15 and November 15 in all business districts when associated with a restaurant and shall meet the following standards:

(a) The outdoor café area shall be immediately adjacent to the principal restaurant building and shall have direct access via the principal restaurant.

(b) The café shall be located at least five (5) feet from any drive aisle, parking space, or point of vehicular access.

(c) Lighting which is directly related to the operation of the outdoor café shall be directed away from adjacent properties in such a manner and shall not create a public nuisance.

(d) The outdoor café shall be placed on a hard dustless material, generally asphalt, concrete, or concrete paver.

(e) The outdoor café shall be cleaned as needed or on a daily basis whichever is more frequent to maintain an orderly fashion and kept free of refuse.

(f) If the outdoor café is self-service, a trash receptacle shall be provided.

(g) The applicant shall not be permitted to sell or serve alcoholic liquor at the outdoor café except in conformance with an appropriate liquor license issued pursuant to Chapter 3 of the Downers Grove Municipal Code.

(h) Outdoor entertainment is allowed subject to the following conditions:

1. Entertainment is not allowed past 10 p.m.

2. Amplification is not allowed.

3. Outdoor entertainment may be shut down earlier if the Police Department receives any complaints.

(i) Outdoor cafés shall be located entirely on private property, except that outdoor cafés in the DB Downtown Business District and Fairview Concentrated Business District may be located on public property provided that they comply with the above regulations and that they shall be required to enter into an encroachment license agreement with the Village in a form acceptable to the Village Attorney and may be required to pay a fee for the use of public property.

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(j) In the DB Downtown Business District outdoor cafés consisting of two (2) or fewer tables and located entirely on private property are exempt from obtaining a Temporary Use permit.

Section 7. That Section 4.105. is hereby added to read as follows:

4.105. Exceptions.

The following do not require a Temporary Use permit:

- (a) Events or activities sponsored by the Village of Downers Grove.
- (b) Any activity, event, sale or similar use deemed by the Village Manager to not require a permit.
- (c) Ice cream vendors as specified in Chapter 19.48 of the Downers Grove Municipal Code.
- (d) Outdoor display of merchandise in the DB Downtown Business District in accordance with Section 4.103.
- (e) Outdoor display of vending machines and propane tanks in accordance with Section 4.103.
- (e) Outdoor Café in the DB Downtown Business District in accordance with Section 4.104.
- (f) A bonafide private function not exceeding two (2) days.
- (g) A garage or rummage sale conducted in conformance with the Downers Grove Zoning Ordinance.
- (h) A car wash conducted by a not-for-profit organization, provided that such event has been approved by the Public Works Department with regard to outdoor water usage.

Section 8. That Section 4.106. is hereby added to read as follows:

4.106. Denial, Revocation or Suspension of Permit.

No Temporary Use Permit shall be issued or renewed as follows:

- (a) To an applicant providing false or misleading information on the application.
- (b) To an applicant who has been convicted of the following offenses (applicable to any event dealing primarily with children):
 1. Any offense involving sexual misconduct with children or other sex offenses as defined in Article 11 of the Criminal Code of 1961, as amended; or
 2. A felony based upon conduct or involvement in such business or activity or related or similar business or activity, within the past ten years; or
 3. A felony unrelated to conduct or involvement in such business or activity or related or similar business or activity, but which felony involved the use of a deadly weapon, traffic in narcotic drugs, or violence against another person, including rape, within the past five (5) years; or
 4. A misdemeanor or licensing ordinance violation, based upon conduct or involvement in such business or activity or related or similar business or activity, within the past two (2) years.
- (c) To an applicant whose license issued under this ordinance has been revoked for cause.
- (d) To an applicant who, at the time of application for renewal of any license issued hereunder, would not be eligible for such license upon a first application.
- (e) To an applicant under the age of eighteen (18) years of age.
- (f) To a partnership, if any general partner thereof, or any limited partner owning more that twenty percent (20%) of the aggregate limited partner interest in such partnership, would not be eligible to receive a license hereunder.
- (g) To a corporation, if any officer or director, or any stockholder or stockholders owning in the aggregate more than twenty percent (20%) of the stock of such corporation, would not be eligible to receive a license hereunder.
- (h) To a corporation unless it is incorporated in Illinois, or unless it is a foreign corporation which is qualified under the "Business Corporation Act of 1983" to transact business in Illinois.
- (i) To an applicant whose place of business is conducted by a manager unless the manager possesses the same qualifications required by the licensee.

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(j) To an applicant who is not a beneficial owner of the business to be operated by the licensee.

Section 9. That Section 4.107. is hereby added to read as follows:

4.107. Appeals.

(a) Any applicant for a Temporary Use permit who receives a notice of denial, revocation or suspension may file a written appeal with the Village Manager within ten (10) business days upon receipt of the notice. The written appeal shall set forth the reasons why the applicant believes the decision to deny, revoke or suspend the permit should be reversed. The Village Manager shall respond to the appeal within fourteen (14) days either affirming or reversing the decision to deny, revoke or suspend the license.

(b) The decision of the Village Manager as provided in subsection (a) above shall be the final administrative action of the Village with respect to the permit or application, and shall be subject to the immediate appeal by the permittee or applicant to the Circuit Court. Such appeal to the Circuit Court shall be filed not later than thirty-five (35) days following receipt of the Village Manager's findings. Failure to timely file such appeal as provided herein shall render the Village Manager's decision final.

(c) The Village Manager may delegate any duty or power set forth in this section, including but not limited to, the issuance of any final decision, to such Village official as the Village Manager may designate.

Section 10. That Section 4.108. is hereby added to read as follows:

4.108. Fees.

All Temporary Use Permits shall be subject to a general application fee of seventy-five dollars (\$75.00); except that permits for block parties shall only be subject to a twenty-five dollar (\$25.00) security deposit; certain events may be subject to additional fees as provided below:

Circus/Amusement/Live Entertainment - \$100.00 per day.

Temporary Signs - \$10.00 per week.

Tents - \$25.00.

Fee for use of public property - \$1.00 per square footage of property utilized.

Additional Inspection fee - \$50.00.

Fingerprinting Fee - \$20.00.

Late fee - \$75.00.

Additional fees may be assessed for the cost of any services provided by the Village Police, Fire or Public Works Departments.

Section 11. That Section 4.109. is hereby added to read as follows:

4.109. Sales Tax.

The Temporary Use Permit holder shall be strictly responsible for collecting and remitting all sales tax proceeds in the manner provided by law.

Section 12. That Section 4.110. is hereby added to read as follows:

4.110. through. 4.199. Reserved.

Section 13. That Section 4.200ART. is hereby added to read as follows:

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4.200ART. Public Gatherings.

Section 14. That Section 4.200SEC. is hereby added to read as follows:

4.200SEC. Parade and Open Air Meetings.

Section 15. That Section 4.201. is hereby added to read as follows:

4.201. Definitions.

(a) The term "parade", as used in this Chapter, shall be defined as any parade, march, demonstration, ceremony, exhibition, pageant, or procession of any kind or any similar display, in or upon any street, sidewalk, park or other public place in the Village.

(b) The term "open air meeting", as used in this Chapter, shall be defined as any demonstration, picket line, rally or congregation of citizens held outdoors and upon any public property for the purpose of hearing speakers or discussing some matter of common interest where the number of participants expected may reasonably be assumed to exceed fifty (50) persons. The closing of one block of a public street which is entirely residential for community activities sponsored by the residents of such block shall not be construed to be an open air meeting under this definition.

Section 16. That Section 4.202. is hereby added to read as follows:

4.202. Permit Required.

No parade or open air meeting shall be permitted on any street, sidewalk, or other public area of the Village unless a permit allowing such activity has been obtained from the Village Manager or the Village Council as hereinafter specified; provided, however, that this ordinance shall not apply to funeral processions or students going to and from school classes, or participating in educational activities under the immediate direction and supervision of school authorities, or a governmental agency acting within the scope of its functions, nor shall a permit be required for normally scheduled activities of the Village.

Section 17. That Section 4.203. is hereby added to read as follows:

4.203. Application.

Any person, partnership, voluntary association, corporation, or other organization seeking to obtain a parade or open air meeting permit shall file an application with the Village not less than fourteen (14) days before the date for which the parade or open air meeting is proposed. An application timely filed may be corrected and refiled, if necessary, not less than seven (7) days before the proposed parade or open air meeting. The application for a parade or open air meeting permit shall be in a form prescribed by the Village.

Section 18. That Section 4.204. is hereby added to read as follows:

4.204. Time of Holding.

All parades shall be held during daylight hours at times other than peak traffic periods (7:30 A.M. to 9:00 A.M. and 4:30 P.M. to 6:00 P.M.) Monday through Saturday and not before noon on Sunday.

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All open air meetings shall conclude by midnight and shall not be held before noon on Sunday.

Section 19. That Section 4.205. is hereby added to read as follows:

4.205. Standards for Issuance.

The Village Manager shall issue a permit as provided for hereunder when, from a consideration of the application and from such other information as may be otherwise obtained, he/she determines that:

(a) The conduct of the parade or open air meeting will not substantially interfere with the safe and orderly movement of traffic in the area contiguous to the route.

(b) The activity will not create an imminent danger of a substantial breach of the peace, riot or similar disorder.

(c) There are available at the time of the parade or open air meeting a sufficient number of peace officers to police and protect lawful participants in the activity and maintain adequate police protection in the remainder of the Village of Downers Grove.

(d) The concentration of persons, animals and vehicles at the assembly points of the parade or open air meeting will not unduly interfere with the proper provision for fire, police or ambulance services within the Village.

(e) The activity will not interfere with scheduled Village functions or the normal pursuit of activities of the residents of the Village.

(f) The parade or open air meeting is not being conducted for an unlawful purpose or for the sole purpose of advertising any product, goods or event and is not designed to be held purely for private profit.

Section 20. That Section 4.206. is hereby added to read as follows:

4.206. Time for Approval or Denial; Appeal.

Following receipt of an application or reapplication, the Manager shall within five (5) days either issue such permit or deny same. Permits shall be denied only for failure to comply with the standards for issuance set forth in 4.2.5 of this Chapter or for improper or incomplete application, and the applicant shall be informed in writing of the reasons for denial.

In the event the Village Manager denies the application, the applicant may, if he so chooses, appeal the decision to the Village Council. The applicant shall appeal by filing with the Village Clerk a written appeal, no later than five (5) business days following receipt of the notice of denial. If no appeal is filed within five (5) business days following receipt of the notice, that decision shall be deemed final.

The notice of appeal shall include:

1. A petition for an informal public hearing, and
2. A response to the notice of denial. Such response shall include a brief statement addressing the substantive deficiencies cited in the denial notice and shall set forth the basis why the permit should not be denied. A public hearing shall be held before the Mayor or the Village Council within three (3) business days. The Village Council shall either affirm or reverse the Village Manager's decision within three (3) business days after conclusion of the hearing. If a decision is not rendered within three (3) business days after conclusion of the hearing, said application for a permit shall be deemed approved and the permit deemed granted in conformance with the application.

Section 21. That Section 4.207. is hereby added to read as follows:

4.207. Applications for conflicting activities - Priorities of scheduling, limitations on issuance.

If the Village Manager shall receive more than one application for a parade or open air meeting on the same day, the application received first in time shall be given preference over the others. The Village

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Manager may set time limits for each parade or open air meeting which is to occur during one day which shall not, without the consent of the group seeking the permit, be less than three (3) hours.

Section 22. That Section 4.208. is hereby added to read as follows:

4.208. Alternative Permit.

The Village Manager, in denying a permit application, may offer to issue an alternative permit authorizing the conduct of a parade or open air meeting on a different date or over a different route from that named by the applicant. An applicant desiring to accept an alternate permit shall, within three (3) days after notice of the action by the Village Manager, accept the alternative permit in writing to be filed with the Village Manager. An alternative permit shall conform to the requirements of and shall have the same effect of a parade or open air meeting permit.

Section 23. That Section 4.209. is hereby added to read as follows:

4.209. Content of Permit.

Each parade or open air meeting permit shall state the following information:

- (a) Starting time and termination time, if applicable.
- (b) Date.
- (c) Route to be travelled.
- (d) Maximum length of the parade in miles or fractions thereof, or the maximum size of the area to be used for the open air meeting in square feet.
- (e) Such other information as the Village Manager shall find necessary to insure the enforcement of this ordinance.

A permittee hereunder shall comply with all permit conditions and restrictions and shall maintain the standards for permit issuance set forth in 4.205 of this ordinance.

Section 24. That Section 4.210. is hereby added to read as follows:

4.210. Public conduct during parades or open air meetings.

- (a) Interference. No person shall unreasonably hamper, obstruct, impede, or interfere with any parade, open air meeting or similar activity, or with any person, vehicle or animal participating or used in such activity.
- (b) Driving through parades or open air meetings in a motor vehicle or by bicycle is prohibited.
- (c) The Village Manager shall have the authority to prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the route of a parade or location of an open air meeting. The Village Manager shall order the posting of signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

Section 25. That Section 4.211. is hereby added to read as follows:

4.211. Revocation of permit.

- (a) The Village Manager may revoke a parade or open air meeting permit issued hereunder if, at any time, facts are brought to the attention of the Village Manager or Village Council which show a reasonable likelihood that the parade or open air meeting does not, or will not, comply with the standards for issuance as herein set forth in Section 4.205 of this Chapter.
- (b) If the Village Manager determines, after investigation that cause exists for the suspension or

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revocation of a parade or open air meeting permit, the Village Manager shall notify the permittee in writing that its permit will be revoked, setting forth the reasons therefor, and advising the applicant of the right to appeal pursuant to Section 4.206 of this Chapter.

Section 26. That Section 4.212. is hereby added to read as follows:

4.212. Enforcement.

The Village Attorney of the Village of Downers Grove is hereby empowered to seek an injunction in the Circuit Court of DuPage County to restrain any person, group or organization from violating this ordinance.

Section 27. That Section 4.213. through 4.299. Reserved is hereby added to read as follows:

4.213. through 4.299. Reserved

Section 28. That Section 8.11. is hereby amended to read as follows:

8.11. Amusements--Licenses required.

No person shall engage in the following businesses or activities within the Village before obtaining a license therefor:

~~(a) Theatrical or musical performances and other live entertainment on the streets and public ways of the Village.~~

~~_____ (b) Readings in the art of divination.~~

~~_____ (c) Circuses, carnivals or any other show of similar nature given out of doors or under canvas or a temporary shelter. (Ord. No. 2167, § 6; Ord. No. 2549, § 2; Ord. No. 2691, § 1.)~~

Section 29. That Section 8.12. is hereby amended to read as follows:

8.12. Same--License fees.

License fees to be charged for the purpose of licensing and regulating the activities listed in Section 8-11 hereof shall be as follows:

~~(a) \$500.00 per year or \$50.00 per day for theatrical or musical performances and other live entertainment on the streets and public ways of the Village and for readings in the art of divination.~~

~~_____ (b) \$100 per day for circuses, carnivals or other shows of a similar nature out of doors or under canvas or a temporary shelter. (Ord. No. 2167, § 6; Ord. No. 2549, § 3; Ord. No. 2691, § 2.)~~

Section 30. That Section 8.13. is hereby amended to read as follows:

8.13. Application for License.

(a) Application for a license shall be made in writing to the Village Clerk, upon forms provided, and shall include the following:

(1) The name (including any nicknames or aliases), date of birth, address, including current and all prior addresses in last five (5) years, telephone number, and social security number of the applicant. In addition, the application shall include the registered agent of the applicant if the applicant is a corporation, and the general or managing partners, if the applicant is a partnership.

(2) The location of the ~~amusement~~ activities.

(3) A complete statement of all convictions of the applicant as provided in this section. If the applicant is a corporation, such statement shall include applicant's officers, and directors thereof, and any stockholder or stockholders owning in the aggregate more than twenty percent (20%) of the stock of such

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corporation. If the applicant is a partnership, such statement shall include all general partners, and any limited partner owning more than twenty percent (20%) of the aggregate limited partner interest in such partnership. Such listing shall include the following:

(i) Any offense involving sexual misconduct with children or other sex offenses as defined in Article 11 of the Criminal Code of 1961, as amended.

(ii) A felony based upon conduct or involvement in such business or activity or related or similar business or activity, within the past ten (10) years; or

(iii) A felony unrelated to conduct or involvement in such business or activity or related or similar business or activity, but which felony involved the use of a deadly weapon, traffic in narcotic drugs, or violence against another person, including rape, within the past five (5) years; or

(iv) A misdemeanor or licensing ordinance violation, based upon conduct or involvement in such business or activity or related or similar business or activity, within the past two (2) years.

(4) A description of the proposed amusement activities, including the anticipated age and number of patrons, hours of operation and all activities and business conducted at the same location, and the physical facilities to be used.

(5) A written statement setting forth all measures proposed to ensure that adequate traffic control, crowd protection and security, both inside and outside the amusement area, will be maintained.

(6) The name, address, telephone number and age of all managers shall be provided, along with a statement of any convictions as set forth under subsection (3), above. A manager is required to be on duty during business hours.

(7) A statement whether applicant has made similar application for a similar other license at a location other than described in this application and the disposition of such application.

(8) A current certificate of inspection for the location from the DuPage County Board of Health, if applicable.

(9) The license fee as provided in Section 8-12.

(10) The fingerprinting fee as provided in Section 8-13(12)

(11) In the event applicant is made aware that any information or document submitted as part of this application process is inaccurate or incomplete, applicant shall immediately notify the Village and provide appropriate corrections. Failure to accurately and completely provide, or as necessary update, required information may delay the processing of such application or result in its denial.

(12) In addition to the requirements of subsections (a) and (b) above, the applicant shall submit their fingerprints to be used in completing the investigation. Applicants are required to present themselves for fingerprints to be taken by the Downers Grove Police Department as provided by the Village Clerk. Applicants are required to pay a fingerprinting fee assessed by the Village. Provided, in the case of a renewal application, fingerprints and the fingerprint fee shall not be required from a renewal applicant whose fingerprints are on file, unless the Village determines in its sole discretion that cause exists to have the applicant fingerprinted. If the applicant is a corporation, fingerprints shall be required of applicant's officers, directors, and any stockholder or stockholders owning in the aggregate more than twenty percent (20%) of the stock of such corporation. If the applicant is a partnership, fingerprints shall be required of all general partners, and any limited partner owning more than twenty percent (20%) of the aggregate limited partner interest in such partnership.

Section 31. That Section 8.75. is hereby amended to read as follows:

8.75. Reserved.

Temporary use; in general.

~~"Temporary Use" shall mean an activity which is open to the public and conducted upon the exterior portion of a zoning lot, or within an approved temporary structure, for a limited and defined period of time, with the intent to discontinue such activity on the expiration of the time period. Provided:~~

~~1) A bona fide private function not exceeding two days, such as an employee picnic, shall not~~

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~~require a temporary use permit.~~

~~2) A garage or rummage sale conducted in conformance with the Downers Grove Zoning Ordinance shall not require a temporary use permit.~~

~~3) In addition to a temporary use permit, certain activities may require an amusement license as well.~~

~~(Ord. No. 2390, § 1; Ord. No. 3383, § 1.)~~

Section 32. That Section 8.76. is hereby amended to read as follows:

8.76. Reserved.

~~Same License required; application; standards for issuance.~~

~~No person shall conduct any temporary use without first having obtained a license therefor from the Village. Application for such license shall be made as provided in Section 8.3. In addition to any other requirements, a plat of survey for the area where the activity will take place is required in order to obtain a temporary use permit. Except as otherwise set forth below, such license shall be issued in accordance with the standards established by Section 8.2 herein. A temporary use shall be subject to the following conditions and standards:~~

~~1) Vacant lots. Except for holiday tree sales, a temporary use shall not be permitted on any vacant or abandoned lots.~~

~~2) Relation to principal use. Except for holiday tree sales and as otherwise provided herein, a temporary use shall be an activity accessory to, and consistent with, the principal use of the property. However, a temporary use which is not accessory to, and consistent with, the principal use of the property may be conducted pursuant to this section provided the business conducting the temporary use is a not-for-profit organization registered with the Illinois Secretary of State or qualified as tax exempt pursuant to the Internal Revenue Code, and further, the property shall not be used for such non-consistent temporary uses for more than seven (7) consecutive days in any calendar year.~~

~~3) Exceptions:~~

~~A. Holiday tree sales. Holiday tree sales shall be permitted as a temporary use during the months of November and December.~~

~~4) Uses allowed. A temporary use shall be limited to those permitted uses, conditional uses, and accessory uses allowed in the zoning district in which the temporary use is to be located.~~

~~5) Temporary structures. A temporary use may be conducted in a temporary structure such as a tent, awning, spectator stand or seating, shed or other similar item, provided such temporary structure shall comply with all applicable building and health and safety ordinances of the Village. Such temporary structures shall be subject to inspection by the Community Development Department and fire department officials of the Village prior to commencing any activity or event for which the temporary use license was issued. A temporary structure shall not be maintained or used for more than 180 days in any calendar year.~~

~~6) Operation. No temporary use shall be operated in such a manner as to cause a public nuisance including, but not limited to stormwater runoff onto adjoining property; soil erosion; unsafe or inadequate pedestrian or vehicular access, egress, parking or on-site vehicular circulation; excessive noise; unruly crowds; or any other activity that jeopardizes the public peace, health, safety, or welfare.~~

~~7) Applicant shall not reduce the open, unobstructed portion of the public sidewalk to less than five (5) feet.~~

~~8) Other codes and ordinances. Unless specifically otherwise authorized, a temporary use shall comply with all other codes and ordinances of the Village. Deviations from other codes and ordinances shall only be allowed if it is determined that such deviation will not endanger the public health, safety and welfare.— (Ord. No. 2390, § 1; Ord. No. 3383, § 1.)~~

Section 33. That Section 8.77. is hereby amended to read as follows:

Temporary Use

8.77. Reserved.

~~Same Approval Limitations Revocation.~~

~~————— No temporary use license shall be issued unless written authorization has been obtained by all of the departmental designees assigned to review and evaluate the applications. This shall include, but not be limited to, members of the following departments: Community Development, Police, Fire Prevention and the Village Manager's Office. Any of the Village officials designated to review applications may impose or ratify restrictions on any license including, but not limited to, require facilities, insurance and prohibiting certain types of activities determined to be inappropriate or against the public health, welfare or safety. A temporary use license may be suspended or revoked as set forth in this Chapter for violation of any condition or restriction imposed. (Ord. No. 2390; § 1; Ord. No. 3383, § 1.)~~

Section 34. That Section 8.78. is hereby amended to read as follows:

8.78. Reserved.

~~Same Fee; term. —————~~

~~The license fee for a temporary use license shall be twenty five dollars for all applications submitted more than seven days prior to the commencement of the activity as set forth in the application. A license fee of fifty dollars shall be charged for those applications that are received by the Village within seven or fewer days of the commencement of the activity. — No person, corporation, or other legal entity shall be granted temporary use licenses for a period or periods which in their aggregate, exceed 180 days in any calendar year. No more than six temporary use licenses shall be issued to any person, corporation or other legal entity in any calendar year, which six, individually or in their aggregate, shall not exceed 180 days in any calendar year. For purposes of this section, persons, corporations or other legal entities shall include any relatives, affiliates, agents, subsidiaries or other related applicant seeking to conduct the same or substantially the same use. No property shall be used for temporary use purposes more than 180 days in any calendar year. (Ord. No. 2390, § 1 Ord. No. 2987, § 2; Ord. No. 3383, § 1.)~~

Section 35. Section 15.45ART. is hereby repealed in its entirety

15.45ART. Article IV. Public Gatherings

Section 36. That Section 15.46. is hereby amended to read as follows:

15.46. Reserved.

~~Parade and open air meetings Defined.~~

~~————— (a) The term "parade" as used in this article shall be defined as any parade, march, demonstration, ceremony, show, exhibition, pageant, or procession of any kind or any similar display, in or upon any street, sidewalk, park or other public place in the Village.~~

~~————— (b) The term "open air meetings" as used in this article shall be defined as any demonstration, picket line, rally or congregation of citizens held outdoors and upon any public property for the purpose of hearing speakers or discussing some matter of common interest where the number of participants expected may reasonably be assumed to exceed fifty (50) persons. The closing of one block of a public street which is entirely residential for community activities sponsored by the residents of such block shall not be construed to be an open air meeting under this definition. (Ord. No. 2113, § 2; Ord. No. 2833, §§~~

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3, 5.)

Section 37. That Section 15.47. is hereby amended to read as follows:

15.47. Reserved.

~~Same Permit required.~~

~~———— No parade or open air meeting shall be permitted on any street, sidewalk, or other public area of the Village unless a permit allowing such activity has been obtained from the Village Manager or the Village Council as hereinafter specified; provided, however, that this ordinance shall not apply to funeral processions or students going to and from school classes, or participating in educational activities under the immediate direction and supervision of school authorities, or a governmental agency acting within the scope of its functions, nor shall a permit be required for normally scheduled activities of the Village.—(Ord. No. 2113, § 2; Ord. No. 2833, §§ 3, 5.)~~

Section 38. That Section 15.48. is hereby amended to read as follows:

15.48. Reserved.

~~Same Application.~~

~~———— Any person, partnership, voluntary association, corporation, or other organization seeking to obtain a parade or open air meeting permit shall file an application with the Manager not less than fourteen (14) days before the date for which the parade or open air meeting is proposed. An application timely filed may be corrected and refiled, if necessary, not less than seven (7) days before the proposed parade or open air meeting.~~

~~———— The application for a parade or open air meeting permit shall contain the following information:~~

~~———— (a) The name, address and telephone number of the person signing the application.~~

~~———— (b) If the parade or open air meeting is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization.~~

~~———— (c) The name, address, and telephone number of the person who will be the parade chairman or chairman of the open air meeting, if different than the applicant.~~

~~———— (d) The date of the proposed parade or open air meeting and the hours when the activity will begin and terminate.~~

~~———— (e) The proposed assembly area or the proposed route to be travelled, from starting point to termination point.~~

~~———— (f) The approximate number of persons, animals and vehicles to participate in the parade or open air meeting, stating the types of animals and a description of the vehicles.~~

~~———— (g) A statement as to whether the parade will occupy all or a portion of the width of the streets or sidewalks proposed to be traversed.~~

~~———— (h) If the parade or open air meeting will require the use of a public address system, a description of the equipment to be used shall be submitted with the application.~~

~~———— (i) Any additional information which the Manager or Village Council shall find reasonably necessary to fairly determine whether the public health, peace, safety and welfare might be affected by the parade or open air meeting.—(Ord. No. 2113, § 2; Ord. No. 2833, §§ 3, 5.)~~

Section 39. That Section 15.49. is hereby amended to read as follows:

15.49. Reserved.

~~Same Time of holding.~~

~~———— All parades shall be held during daylight hours at times other than peak traffic periods (7:30 A.M. to~~

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~~9:00 A.M. and 4:30 P.M. to 6:00 P.M.) Monday through Saturday and not before noon on Sundays. All open air meetings shall conclude by midnight and shall not be held before noon on Sunday. (Ord. No. 2113, § 2; Ord. No. 2833, §§ 3, 5.)~~

Section 40. That Section 15.50. is hereby amended to read as follows:

15.50. Reserved.

~~Standards for issuance.~~

~~———— The Manager shall issue a permit as provided for hereunder when, from a consideration of the application and from such other information as may be otherwise obtained, he determines that:~~

~~———— (a) The conduct of the parade or open air meeting will not substantially interfere with the safe and orderly movement of traffic in the area contiguous to the route.~~

~~———— (b) The activity will not create an imminent danger of a substantial breach of the peace, riot or similar disorder.~~

~~———— (c) There are available at the time of the parade or open air meeting a sufficient number of peace officers to police and protect lawful participants in the activity and maintain adequate police protection in the remainder of the Village of Downers Grove.~~

~~———— (d) The concentration of persons, animals and vehicles at the assembly points of the parade or open air meeting will not unduly interfere with the proper provision for fire, police or ambulance services within the Village.~~

~~———— (e) The activity will not interfere with scheduled Village functions or the normal pursuit of activities of the residents of the Village.~~

~~———— (f) The parade or open air meeting is not being conducted for an unlawful purpose or for the sole purpose of advertising any product, goods or event and is not designed to be held purely for private profit. (Ord. No. 2113, § 2; Ord. No. 2833, §§ 3, 5.)~~

Section 41. That Section 15.51. is hereby amended to read as follows:

15.51. Reserved.

~~Same Time for approval or denial.~~

~~———— Following receipt of an application or reapplication, the Manager shall within five (5) days either issue such permit or deny same. Permits shall be denied only for failure to comply with the standards for issuance set forth in 15-50 of this ordinance or for improper or incomplete application, and the applicant shall be informed in writing of the reasons for denial.~~

~~———— In the event the Manager denies the application, the applicant may, if he so chooses, appeal the decision as provided herein. The applicant shall appeal by filing with the Village Manager a written appeal, no later than ten (10) business days following receipt of the notice of denial, and shall include: (1) a petition for an informal public hearing, and (2) a response to the notice of denial. Such response shall include a brief statement addressing the substantive deficiencies cited in the denial notice and shall set forth the basis why the permit should not be denied. (Ord. No. 2113, § 2; Ord. No. 2833, §§ 3, 5.)~~

Section 42. That Section 15.52. is hereby amended to read as follows:

15.52. Reserved.

~~Same Applications for conflicting activities Priorities of scheduling, limitations on issuance.~~

~~———— If the Manager shall receive more than one application for a parade or open air meeting on the same day, the application received first in time shall be given preference over the others. The Manager may set time limits for each parade or open air meeting which is to occur during one day which shall not, without the consent of the group seeking the permit, be less than three hours. (Ord. No. 2113, § 2; Ord. No. 2833, §§ 3,~~

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5.)

Section 43. That Section 15.53. is hereby amended to read as follows:

15.53. Reserved.

~~Alternative permit.~~

~~———— The Manager in denying a permit application may offer to issue an alternative permit authorizing the conduct of a parade or open air meeting on a different date or over a different route from that named by the applicant. An applicant desiring to accept an alternate permit shall, within three (3) days after notice of the action by the Manager, accept the alternative permit in writing to be filed with the Manager. An alternative permit shall conform to the requirements of and shall have the same effect of a parade or open air meeting permit. (Ord. No. 2113, § 2; Ord. No. 2833, §§ 3, 5.)~~

Section 44. That Section 15.54. is hereby amended to read as follows:

15.54. Reserved.

~~Same Contents of permit.~~

~~———— Each parade or open air meeting permit shall state the following information:~~

~~———— (a) Starting time and termination time, if applicable.~~

~~———— (b) Date.~~

~~———— (c) Route to be travelled.~~

~~———— (d) Maximum length of the parade in miles or fractions thereof, or the maximum size of the area to be used for the open air meeting in square feet.~~

~~———— (e) Such other information as the manager shall find necessary to insure the enforcement of this ordinance.~~

~~———— A permittee hereunder shall comply with all permit conditions and restrictions and shall maintain the standards for permit issuance set forth in 15-50 of this ordinance. (Ord. No. 2113, § 2; Ord. No. 2833, §§ 3, 5.)~~

Section 45. That Section 15.55. is hereby amended to read as follows:

15.55. Reserved.

~~Same Public conduct during parades or open air meetings.~~

~~———— (a) Interference. No person shall unreasonably hamper, obstruct, impede, or interfere with any parade, open air meeting or similar activity, or with any person, vehicle or animal participating or used in such activity.~~

~~———— (b) Driving through parades or open air meetings in a motor vehicle or by bicycle is prohibited.~~

~~———— (c) The Manager shall have the authority to prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the route of a parade or location of an open air meeting. The Manager shall order the posting of signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. (Ord. No. 2113, § 2; Ord. No. 2833, §§ 3, 5.)~~

Section 46. That Section 15.56. is hereby amended to read as follows:

15.56. Reserved.

~~Revocation of permit.~~

~~———— (a) The Village Manager may revoke a parade or open air meeting permit issued hereunder if, at any time, facts are brought to the attention of the Manager or Village Council which show a reasonable likelihood that the parade or open air meeting does not, or will not, comply with the standards for issuance as herein set~~

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~~forth in Section 15.50 of this Article.~~

~~(b) If the Village Manager determines after investigation that cause exists for the suspension or revocation of a parade or open air meeting permit, the Manager shall notify the permittee in writing that its permit will be revoked, setting forth the reasons therefor, and advising the applicant of the right to appeal pursuant to Section 15.35.1 of this Chapter. (Ord. No. 2113, § 2; Ord. No. 2833, §§ 3, 5.)~~

Section 47. That Section 15.57. is hereby amended to read as follows:

15.57. Reserved.

~~Same Enforcement.~~

~~The Village Attorney of the Village of Downers Grove is hereby empowered to seek an injunction in the Circuit Court of Du Page County to restrain any person, group or organization from violating this ordinance. (Ord. No. 2113, § 2; Ord. No. 2833, §§ 3, 5.)~~

Section 48. That Section 15.58. is hereby amended to read as follows:

15.58. Reserved.

~~Block parties.~~

~~No person shall hold a block party upon the public streets of the Village without first obtaining written permission therefor from the Village Manager, subject to the following rules and regulations:~~

~~(a) Permission may be granted for the closing of one block of a local public street, both sides of which block are entirely residential, for a single period not to exceed eight (8) hours, if the manager determines that the block party is of such type, size and duration that:~~

~~(1) It would not substantially interfere with the safe and orderly movement of traffic or emergency vehicles in the area;~~

~~(2) It would not create an imminent danger of a substantial breach of the peace, riot or similar disorder; or~~

~~(3) It is not to be held for an unlawful purpose.~~

~~(b) Before permission shall be granted, the residents of said block shall request permission from the Manager by letter signed by an adult resident who represents the residents of the block, not less than seven (7) days prior to the requested block party, setting forth the following facts:~~

~~(1) The date and time of the block party (with a rain date, if desired)~~

~~(2) The name of the street upon which the block party is to be held, specifying by name the street boundaries of the requested block of that street.~~

~~(c) The residents of said block shall provide barricades as approved by the Village street department, to be placed at the boundary intersections of the block. Such barricades shall be placed so that they do not interfere with the movement of traffic on the boundary streets of the block. The barricades shall be moveable, so that emergency vehicles may enter the block if necessary.~~

~~(d) Upon granting permission to residents for a block party, the Manager shall notify the Chief of Police, the fire chief, and the superintendent of streets of the date, time and location of such party. (Ord. No. 2114, § 1; Ord. No. 2833, §§ 3, 5.)~~

Section 49. That Section 19.47. is hereby amended to read as follows:

19.47. Reserved.

~~Commercial use of public property regulated.~~

~~Except as provided in this Article, no person shall sell, offer for sale or make a stopping place for the purpose of selling, offering for sale, exhibiting, keeping or storing any merchandise or other property on any public property, including but not limited to any street or other public right of way, except in conformance~~

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with this Article.

Section 50. That Section 19.49. is hereby amended to read as follows:

19.49. Reserved.

Sidewalk Cafes.

~~_____ (a) No person shall operate or maintain a sidewalk cafe on property occupied, maintained or controlled by the Village without first having obtained a license therefor or subject to the conditions contained herein, a license agreement and any other such terms and conditions as the Village may direct. Applications for a sidewalk cafe shall be made on forms provided by the Village by the owner or lessee of the property on which such sidewalk cafe is to be operated or maintained. No sidewalk cafe license shall be issued unless the Village Manager has given notice to the Village Council at least seventy two (72) hours prior to a regularly scheduled Village Council meeting. At such meeting the Village Council may, in its discretion, direct the Village Manager to deny the sidewalk cafe license to the applicant therefor, or impose any additional conditions or restrictions as it deems appropriate. For purpose of this section, the following terms are defined:~~

~~_____ 1. "Sidewalk Cafe" means a dining area situated upon public property, including a sidewalk, and operated as an integral part of an adjacent restaurant where food and beverages are sold or served for consumption on premises.~~

~~_____ 2. "DB Downtown Business District means that area so described in the Downers Grove Zoning Ordinance.~~

~~_____ 3. "Restaurant" means an establishment where food or beverages are sold or served and which includes table seating within such establishment for consumption on premises. Such business may also include "take out" sales in addition to sales for on-site consumption.~~

~~_____ (b) The decision to grant or deny an application under this section shall be within the sole discretion of the Village Council. Because each application will involve different property and issues, the Village Council is expected to consider a number of factors, including but not limited to the following:~~

~~_____ (1) The location and area surrounding the proposed sidewalk cafe.~~

~~_____ (2) Any safety concerns.~~

~~_____ (3) The impact on surrounding properties, uses and occupants.~~

~~_____ (4) The impact on pedestrian and vehicular traffic.~~

~~_____ (5) The nature of the property and whether a sidewalk cafe is appropriate within this area.~~

~~_____ (6) The operation of the proposed sidewalk cafe.~~

~~_____ (7) The past operation of the licensee within the Village.~~

~~_____ (8) Whether alcoholic liquor will be served within the sidewalk cafe.~~

~~_____ (c) A sidewalk cafe shall be subject to such conditions and restrictions as may be directed by the Village Council to protect the public health, safety or welfare, including but not limited to the following:~~

~~_____ (1) The applicant's restaurant shall be located within the DB Downtown Business District and in a building immediately adjacent to the public area designated in the license application.~~

~~_____ (2) Fencing or a removable barrier may be required.~~

~~_____ (3) Sidewalk cafes shall only be open to the public during the normal business hours of the adjacent restaurant, or such hours as the Village may direct. Operation of the cafe shall be limited to April 1st through October 31st. Appurtenances and/or portable fencing shall be removed from the public property when the sidewalk cafe is not in use or operation.~~

~~_____ (4) Entertainment and electronically amplified or reproduced music or sound may be prohibited or restricted as the Village Council may direct. Live entertainment is expressly prohibited in the Sidewalk cafe.~~

~~_____ (5) The sidewalk cafe shall be established and operated in a safe and reasonable manner with due regard for the health and safety of persons and property. In no event shall the sidewalk cafe obstruct vehicular or pedestrian traffic in an unsafe or unreasonable manner.~~

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~~(6) The sidewalk cafe shall be established and operated in a clean, well maintained and sanitary manner. In particular, but without limitation, the licensee shall promptly and properly collect and dispose of all litter, trash and other waste materials associated with the sidewalk cafe, including materials in the adjacent public right of way originating from the sidewalk cafe. The Village shall have the right to remove or cause the removal of any debris, and otherwise maintain the public property of the sidewalk cafe, in the event the licensee fails to promptly and properly clean and maintain such area. In such event, the licensee shall promptly reimburse the Village in taking such action. The Village reserves all rights to collect the costs associated with such clean up, including the right to draw upon the letter of credit. If the costs exceed the letter of credit, the Village shall reserve the right to file a lien against the property.~~

~~(7) Except as expressly authorized in the license agreement, no cooking or food preparation shall be permitted in a sidewalk cafe.~~

~~(8) Except as expressly authorized in the license agreement, all tables, chairs, furnishings, equipment and other items of personal property shall be removed from the public right of way at the close of business each day.~~

~~(9) Except as expressly authorized in the license agreement, where a structure or other facility, such as deck, is permitted as part of the sidewalk cafe, it shall be removed, and the right of way restored, within 30 days following expiration or termination of the license agreement.~~

~~(10) The applicant shall provide the Village with a letter of credit, in amounts and on upon terms as may be directed by the Village Manager. The letter of credit shall be maintained by the licensee throughout the term of the license and such other period of time during which licensee operates or is engaged in the removal of its facilities. Such letter of credit shall be retained until an inspection is completed upon the public property to ensure that there has been no damage to it as a result of the use thereof. Applicant shall be responsible for any and all fees associated with said inspections.~~

~~(11) To the fullest extent permitted by law, the applicant shall defend, indemnify and hold harmless the Village, and its officers, boards, commissions, elected and appointed officials, agents and employees, for any and all claims for damages against arising out of injuries which may be incurred as a result of the use of the right of way by the licensee.~~

~~(12) Applicant shall maintain throughout the term of the license, general comprehensive liability insurance; hazard insurance, including comprehensive form, premises operations, explosions and collapse hazard, underground hazard and products completed hazard; liquor liability insurance, commonly known as dram shop, if applicable; automobile liability insurance; and workers compensation insurance all naming as additional insured the Village, and its officers, boards, commissions, elected and appointed officials, agents and employees, in such minimum amounts as may be set by the Village Manager. The insurance required by this section shall be maintained by the licensee throughout the term of the license and such other period of time during which applicant operates or is engaged in the removal of its facilities.~~

~~(13) The applicant shall be required to enter into a written license agreement with the Village, in such form as may be approved by the Village Council, incorporating applicable conditions and restrictions.~~

~~(14) The applicant shall not be permitted to sell or serve alcoholic liquor at the sidewalk cafe except in conformance with an appropriate liquor license issued pursuant to Chapter 3 of the Downers Grove Municipal Code. Alcohol shall be served at sidewalk cafes only in conjunction with meal service. The cafe shall not function or shall not otherwise be advertised as a "beer garden". All alcoholic liquor shall be provided from the interior bar or service area. No portable bars or service counters shall be permitted in the sidewalk cafe.~~

~~(15) Applicant shall be required to pay a license fee in the amount of one dollar (\$1.00) per square foot of the public right of way to be occupied.~~

~~(16) Applicant shall not interfere with pedestrian or vehicular traffic, or reduce the open, unobstructed portion of the public sidewalk to less than five (5) feet.~~

~~(d) Any person seeking approval of a sidewalk cafe shall submit to the Village Manager a written application for a license to conduct a sidewalk cafe in a form provided by the Village and the required~~

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~~application fee as provided in paragraph e, below. Such application shall include such information as the Manager may direct, including but not limited to, the following:~~

~~(1) The name, address and telephone number of the applicant and of the adjacent restaurant and its manager.~~

~~(2) An overall site plan showing the proposed location and dimension of the sidewalk cafe in relation to the adjacent street and sidewalk including that part of the sidewalk to remain outside of the cafe. This shall include a detailed description and site plan regarding any proposed improvements within the public right of way.~~

~~(3) A floor plan specifying the location of ingress, egress, tables, decorations, furnishings, equipment, removable perimeter barriers, the total square footage to be occupied by the sidewalk cafe and the maximum seating capacity.~~

~~(4) An operations plan specifying the proposed dates, days and hours of operation of the adjacent restaurant, the number of wait staff, security staff and maintenance personnel and a proposed menu, including alcoholic beverages, if applicable.~~

~~(5) A statement regarding whether the applicant will be serving alcoholic liquor at the sidewalk cafe as well as information regarding the current or proposed liquor license status of the applicant.~~

~~(6) A proposed license agreement on forms provided by the Village Manager.~~

~~(7) Such other information as the Manager may direct.~~

~~(e) An application fee shall be included in the initial submission of the application in order for the application to be considered. The application fee shall be as follows:~~

~~(1) Application fee \$150.00~~

~~(f) In order to protect the public health, safety and welfare, the Sidewalk cafe shall be inspected prior to opening the cafe and at the conclusion of the license agreement. Licensee shall be responsible for any and all fees associated with said inspections.~~

~~(g) In order to allow staff review and provide adequate time for consideration, applications and all required submittals must be furnished to the Village Manager one (1) month prior to the requested opening of the cafe. Late applications may result in a delayed opening.~~

~~(h) The Village Manager shall review the completed application and transmit it to the Village Council along with such recommendations as the Manager may have regarding whether the application should be approved and, if so, upon what conditions.~~

~~(i) A license issued pursuant to this Section shall not be transferable or assignable and shall not confer any property rights in the underlying right of way.~~

~~(j) Any license granted under this Section shall be subject to the absolute and primary right of the Village to protect the public health safety and welfare. In the event of an emergency, or to prevent or protect against an immediate threat to the public health safety and welfare, the Village Manager may order the immediately cessation of business, and removal of any or all equipment and facilities from public right of way. In addition, the Village Manager may suspend or revoke any license issued under this Section in the event it is determined that the licensee has failed or refused to truthfully complete the application, or if the licensee has failed or refused to comply with the regulations of this Section, the license agreement or with other applicable law.~~

~~(k) The Village Manager may delegate any duty or power set forth in this section, including but not limited to, the conduct of the informal hearing and issuance of any final order, to such person as the Village Manager may designate.~~

~~(l) The Village shall have the right to remove or cause the removal of any equipment, structure or other facility of the applicant, and/or restoration of the right of way, in the event such items are not promptly and properly removed by the licensee and/or the right of way restored, pursuant to this Section, the license agreement or a lawful order of the Village Manager. In such event, the Village, at its discretion, may store, sell or otherwise dispose of such items as it deems appropriate. The applicant shall promptly reimburse the Village for all expenses in removing storage or disposal of such items and restoring the right of way. The Village reserves all rights to collect the costs associated with such actions, including the right to draw upon~~

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~~the letter of credit. If the costs exceed the letter of credit, the Village shall reserve the right to file a lien against the property.~~

~~(m) In the event that a Sidewalk Cafe interferes with a public event planned on the public right of way, the public event shall take precedence. The Village will endeavor to notify the applicant thirty (30) days in advance of the scheduled event that will require the closure of the sidewalk cafe and the use of the public right of way.~~

Section 51. That Section 19.50. is hereby amended to read as follows:

19.50. Reserved.

~~Special Commercial Events.~~

~~(a) Special commercial events may be authorized by the Village Council subject to a license agreement and such terms and conditions as the Village Council may direct. For purpose of this section, a "special commercial event" means an event, such as a festival, involving retail sales and similar commercial activities which occur on Village owned streets, rights of way, parking lots, or other open green space, but which is not sponsored or conducted by the Village.~~

~~(b) Applications for a special commercial event shall be made on forms provided by the Village. An application fee shall be included in the initial submission of the application in order for the application to be considered. The application fee shall be \$150.00. In order to allow staff review and provide adequate time for consideration by the Village Council and other boards or commissions, applications and all required submittals must be furnished to the Village sixty (60) days prior to the scheduled event.~~

~~(c) Any person seeking approval of a special commercial event shall submit a written application for a license to conduct a special commercial event to the Village Manager. Such application shall include such information as the Manager may direct, including but not limited to, the following:~~

~~(1) The name, address and telephone number of the applicant.~~

~~(2) An overall site plan showing the proposed location and dimension of the special commercial event showing the location of ingress, egress, tables, decorations, furnishings, equipment, removable perimeter barriers, the total square footage to be occupied by the special commercial event and the maximum seating capacity.~~

~~(3) An operation plan specifying the proposed dates, days and hours of operation, the number of people expected, the number of wait staff, security staff and maintenance personnel and a proposed menu, including beverages, if applicable.~~

~~(4) A statement regarding whether the applicant will be serving alcoholic liquor at the special commercial event as well as information regarding the current or proposed liquor license status of the applicant.~~

~~(5) A proposed license agreement on forms provided by the Village Manager.~~

~~(6) Such other information as the Manager may direct.~~

~~(d) The Village Manager shall review the completed application and transmit this to the Village Council along with such recommendations as the Manager may have regarding whether the application should be approved and, if so, upon what conditions. The Village Council will render the final decision regarding whether the license will be granted and, if so, upon what terms.~~

~~(e) The decision to grant or deny an application under this section shall be within the sole discretion of the Village Council. Because each application will involve different property and issues, the Village Council is expected to consider a number of factors, including but not limited to the following:~~

~~(1) The location and area surrounding the proposed special commercial event.~~

~~(2) Any safety concerns.~~

~~(3) The impact on surrounding properties, uses and occupants.~~

~~(4) The impact on pedestrian and vehicular traffic.~~

~~(5) The nature of the property and whether a special commercial event is appropriate within this area.~~

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- ~~_____ (6) The operation of the proposed special commercial event.~~
- ~~_____ (7) The past operation of the licensee within the Village.~~
- ~~_____ (8) Whether alcoholic liquor will be served within the special commercial event.~~
- ~~_____ (f) A special commercial event shall be subject to such conditions and restrictions as may be directed by the Village Council to protect the public health, safety or welfare, including but not limited to the following:~~
- ~~_____ (1) Fencing or a removable barrier may be required.~~
- ~~_____ (2) The special commercial event shall be established and operated in a safe and reasonable manner with due regard for the health and safety of persons and property. In no event shall the special commercial event obstruct vehicular or pedestrian traffic in an unsafe or unreasonable manner.~~
- ~~_____ (3) The special commercial event shall be established and operated in a clean, well maintained and sanitary manner. In particular, but without limitation, the applicant shall promptly and properly collect and dispose of all litter, trash and other waste materials associated with the special commercial event, including materials in the adjacent public right of way originating from the special commercial event. The Village shall have the right to remove or cause the removal of any debris, and otherwise maintain the public property of the special commercial event, in the event the applicant fails to promptly and properly clean and maintain such area. In such event, the applicant shall promptly reimburse the Village in taking such action.~~
- ~~_____ (4) The applicant shall provide the Village with a security deposit, in an amount as may be directed by the Village Manager, to guarantee prompt and proper removal of any structures and/or clean up of the area. The security deposit shall be withheld throughout the term of the license and such other period of time during which licensee operates or is engaged in the removal of any facilities. Such security deposit shall be retained until an inspection is completed upon the public property to ensure that there has been no damage to it as a result of the use thereof. Applicant shall be responsible for any and all fees associated with said inspections.~~
- ~~_____ (5) To the fullest extent permitted by law, the applicant shall defend, indemnify and hold harmless the Village, and its officers, boards, commissions, elected and appointed officials, agents and employees, for any and all claims for damages against arising out of injuries which may be incurred as a result of the use of the right of way by the applicant.~~
- ~~_____ (6) The applicant shall maintain throughout the term of the license, general comprehensive liability insurance; hazard insurance, including comprehensive form, premises operations, explosions and collapse hazard, underground hazard and products completed hazard; liquor liability insurance, commonly known as dram shop, if applicable; automobile liability insurance; and workers compensation insurance—all naming as additional insured the Village, and its officers, boards, commissions, elected and appointed officials, agents and employees, in such minimum amounts as may be set by the Village Manager. The insurance required by this section shall be maintained by the applicant throughout the term of the license and such other period of time during which applicant operates or is engaged in the removal of its facilities.~~
- ~~_____ (7) The applicant shall be required to pay such fees and enter into a written license agreement with the Village, in such form as may be approved by the Village Council, incorporating applicable conditions and restrictions.~~
- ~~_____ (8) The applicant shall not be permitted to sell or serve alcoholic liquor at the special commercial event except in conformance with an appropriate liquor license issued pursuant to Chapter 3 of the Downers Grove Municipal Code.~~
- ~~_____ (9) Depending upon the nature and complexity the event and as determined by the Chief of Police, the applicant may be required obtain Downers Grove Police Department personnel to serve as security for the special commercial event. The applicant shall be required to pay any and all costs associated with the security detail.~~
- ~~_____ (10) Depending upon the nature and complexity the event and as determined by the Public Works Director, the applicant shall be required to pay any and all costs associated with Village personnel involved in the set up, breakdown or aid rendered to the applicant during the course of the event which will~~

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~~ensure adequate traffic and pedestrian flow.~~

~~(11) Depending upon the nature of the event, the applicant may be required to obtain approval from the DuPage County Health Department.~~

~~(12) Applicant shall not interfere with pedestrian or vehicular traffic, or reduce the open, unobstructed portion of the public sidewalk to less than five (5) feet.~~

~~(g) A license issued pursuant to this Section shall not be transferable or assignable and shall not confer any property rights in the underlying right of way.~~

~~(h) Any applicant granted a license under this Section shall be subject to the absolute and primary right of the Village to protect the public health safety and welfare. In the event of an emergency, or to prevent or protect against an immediate threat to the public health safety and welfare, the Village Manager may order the immediately cessation of business, and removal of any or all equipment and facilities from public right of way. In addition, the Village Manager may suspend or revoke any license issued under this Section in the event it is determined that the applicant has failed or refused to truthfully complete the application, or if the applicant has failed or refused to comply with the regulations of this Section, the license agreement or with other applicable law.~~

~~(i) The Village Manager may delegate any duty or power set forth in this section, including but not limited to, the conduct of the informal hearing and issuance of any final order, to such person as the Village Manager may designate.~~

~~(j) The Village shall have the right to remove or cause the removal of any equipment, structure or other facility of the applicant, and/or restoration of the right of way, in the event such items are not promptly and properly removed by the licensee and/or the right of way restored, pursuant to this Section, the license agreement or a lawful order of the Village Manager. In such event, the Village, at its discretion, may store, sell or otherwise dispose of such items as it deems appropriate. The licensee shall promptly reimburse the Village for all expenses in removing storage or disposal of such items and restoring the right of way.~~

Section 52. That Section 28.201 is hereby amended to read as follows:

28.201 Definitions.

For the purposes of this Zoning Ordinance, wherever any term is used in this Chapter, it shall have the same meaning as defined in Chapter 1 of the Downers Grove Municipal Code, unless otherwise defined in this Chapter. The following words and phrases shall have the meanings respectively ascribed to them as follows:

* * *

Temporary ~~u~~Use. An activity permitted on a limited basis pursuant to Chapter ~~84~~ of the Downers Grove Municipal Code.

* * *

Section 53. That Section 28.1005. is hereby amended to read as follows:

28.1005. Reserved.

~~Outdoor display of merchandise.~~

~~The outdoor display of merchandise, where allowed as a permitted or special use shall be subject to the following conditions:~~

~~(a) Such outdoor display of merchandise shall be only on private property.~~

~~(b) The owner for the special use shall be the owner of the property or the lessee, if any.~~

~~(c) The owner for the special use shall submit a drawing indicating the exact location of such outdoor display of merchandise.~~

~~(d) The owner for the special use shall specify the items to be displayed outdoors.~~

~~(e) Outdoor display shall be limited to portable displays and shall be limited to display only during~~

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~~normal business hours of the owner. Provided, within the DB Downtown Business District, such outdoor display shall be limited to portable displays of flowers, plants, other live vegetation, fruits and vegetables and other similar displays and shall be limited to display only during normal business hours of the owner.~~

~~—(f) In the Fairview Concentrated Business District the required setback for the outdoor display of merchandise shall be four (4) feet.—~~

Section 54. That Section 28.1006. is hereby amended to read as follows:

28.1006. Reserved.

~~Outdoor Cafe:~~

~~—An outdoor cafe, where allowed as a permitted or special use, shall be subject to the following conditions:~~

~~—(a) The required parking for the café shall be based on the gross floor area thereof and shall conform to the number of spaces required pursuant to Table 4, Section 28.1410 for "Restaurants if no alcoholic beverages are served, or to the requirements for "Restaurants with lounges" if alcoholic beverages are served.~~

~~—(b) The outdoor cafe area shall not be located in any required yard or setback.~~

~~—(c) Lighting which is directly related to the operation of the outdoor café shall be directed away from adjacent properties in such a manner as shall not create a public nuisance.~~

~~—(d) No entertainment shall be permitted.~~

~~—(e) The outdoor cafe area shall be immediately adjacent to the principal restaurant building.~~

~~—(f) The outdoor cafe area shall conform to a site plan and elevation drawings which shall depict vegetation or other screening or reasonable distance from adjacent properties so that noise from the café area shall not create a public nuisance.—~~

Section 55. That Section 28.602. is hereby amended to read as follows:

28.602. B-1 District - Permitted uses.

The following uses are allowed in the B-1 Limited Retail Business District as permitted uses:

(a) Retail and service uses as follows:

(1) Art and school supply stores

(2) Art galleries and studios

(3) Barber shops

(4) Beauty shops

(5) Book or stationery stores

(6) Camera and photographic supply stores

(7) Churches, church schools, and other places of worship

(8) Clothes pressing establishments

(9) Coin and philatelic stores

(10) Custom dressmaking and millinery shops

(11) Drug stores

(12) Dry cleaning of the automatic self-service type and laundry receiving stations where processing is to be done elsewhere.

(13) Dry goods or notion stores

(14) Electrical and household appliance stores, including radio and television sales

(15) Florist shops and conservatories

(16) Food stores, grocery stores, meat markets, bakeries, candy and ice cream shops, delicatessens, and frozen food stores including locker rental in conjunction therewith.

(17) Garden supply and seed stores

(18) Gift shops

(19) Government structures

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- (20) Haberdasheries
- (21) Hardware stores
- (22) Hobby shops
- (23) Interior decorating shops, including upholstering and making of draperies, slip covers and other similar articles.
- (24) Jewelry stores, including watch repair
- (25) Laundries, automatic, self-service type, or hand, provided that laundry machines shall not exceed 14 pounds capacity each.
- (26) Liquor stores, package goods only
- (27) Paint and wallpaper stores
- (28) Photographer
- (29) Restaurants, tearoom or café (excluding drive-in or curbside service, dancing or entertainment)
- (30) Schools - music, dance, or business
- (31) Sewing machine stores, household machines only
- (32) Shoe and hat repair stores
- (33) Shoe stores
- (34) Sporting goods stores
- (35) Tailor shops
- (36) Tobacco shops
- (37) Toy shops
- (38) Wearing apparel shops
- (39) Wine Boutiques (See Section 3-3.)
- (40) Variety stores
- (b) Business and professional offices. (See Section 28-1004.)
- (c) Miscellaneous uses as follows:
 - (1) Clubs and lodges (nonprofit), fraternal or religious institutions
 - (2) Day Care Center. (See Section 28-1017.)
 - (3) Meeting halls.
 - (4) Nursing homes.
 - (5) Sheltered care facilities.
- (d) Residential uses as follows:
 - (1) Multiple-family dwellings either in buildings devoted exclusively to residences or in buildings containing residences and other uses permitted in the B-1 zoning district.
 - (2) Lodging houses, if business uses or premises designated for such use occupy the ground floor.
- (e) Uses incidental to principal permitted uses as follows:
 - (1) Accessory uses.
 - (2) Home occupations. (See Section 28-1014.)
 - (3) Parking, accessory.
 - (4) Signs.
 - (5) Temporary structures for construction purposes, for a period not to exceed the duration of such construction.
 - (6) Outdoor café. (See Section 4-104.)
 - (7) Outdoor display of merchandise. (See Section 4-103.)

Section 56. That Section 28.603. is hereby amended to read as follows:

28.603. B-1 District - Special uses.

The following uses are allowed in the B-1 Limited Retail Business District as special uses:

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- ~~(a) Outdoor Café. (See Section 28-1006.)~~
- ~~(b) Outdoor display of merchandise. (See Section 28-1005.)~~
- ~~(ea) Planned developments. (See Article XVI.)~~
- ~~(db) Recycling collection facilities. (See Section 28-1007.)~~
- ~~(fc) Telecommunications Towers. (See Section 28-1307.)~~

Section 57. That Section 28.606. is hereby amended to read as follows:

28.606. B-2 District - Special uses.

The following uses are allowed in the B-2 General Retail Business District as special uses:

- (a) Aircraft landing areas.
- (b) Automobile Dealerships; conducted wholly within a completely enclosed building.
- (c) Automobile Laundries; conducted wholly within a completely enclosed building.
- (d) Automobile Repair; conducted wholly within a completely enclosed building.
- (e) Automobile service stations. (See Section 28-1018.)
- (f) Drive-in, drive-up and drive-through uses, including but not limited to banks and restaurants.
- (g) ~~Outdoor cafes. (See Section 28-1006.)~~
- (h) ~~Outdoor display of merchandise. (See Section 28-1005.)~~
- (i) Planned developments. (See Article XVI.)
- (jh) Plumbing contractors' offices and shops, provided that such use shall be operated in conjunction with a plumbing showroom.
- (ki) Recycling collection facilities. (See Section 28-1007.)
- (lj) Telecommunications Towers. (See Section 28-1307.)
- (mk) Undertaking establishments, funeral parlors.

Section 58. That Section 28.608. is hereby amended to read as follows:

28.608. B-3 District - Permitted Uses.

The following uses are allowed in the B-3 General Services and Highway Business District as permitted uses:

- (a) Any use permitted in the B-2 General Retail Business District, except dwellings unless otherwise set forth or superseded hereafter.
- (b) Retail, office and service uses as follows:
 - (1) Agricultural implement sales and service
 - (2) Animal hospitals, pounds, shelters and kennels
 - (3) Air conditioning and heating sales and service
 - (4) Beverages, nonalcoholic, bottling and distributing
 - (5) Boat sales
 - (6) Building material sales, when conducted wholly within a building.
 - (7) Carpenter or cabinet shops (excluding furniture manufacture)
 - (8) Cartage and express facilities
 - (9) Clothing, custom manufacturing and alterations for retail trade only
 - (10) Contractor or construction shops, when conducted wholly within a building such as: air conditioning, masonry, building, painting, cement, plumbing, electrical, refrigeration, heating and ventilating, and roofing.
 - (11) Dry cleaning establishments
 - (12) Exterminating shops
 - (13) Feed and seed stores, wholesale
 - (14) Glass cutting and glazing
 - (15) Greenhouses, wholesale growers

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- (16) House trailer or mobile home sales
- (17) Laboratories, medical, dental, research, experimental, and testing; provided there is no danger from fire or explosion, nor of offensive noise, smoke, dust, odors, heat, glare, vibration or other objectionable conditions beyond the confines of the premises upon which the use is located.
- (18) Laundries
- (19) Linen, towel, diaper and other similar supply services.
- (20) Machinery sales and service
- (21) Monument sales
- (22) ~~Outdoor cafes. Provided, no site plan or elevation drawings shall be required. (See Section 28-1006.)~~
- ~~(23)~~ Processing or assembly of the following. Provided, space occupied in a building shall not exceed ten thousand (10,000) square feet of total floor and basement space, not including stairwells or elevator shafts; and provided such processing or assembly can be conducted without noise, vibration, odor, dust, or any other conditions which might be disturbing to occupants or adjacent buildings.
 - (i) Advertising displays
 - (ii) Awnings, venetian blinds and window shades
 - (iii) Brushes and brooms
 - (iv) Bakeries, wholesale
 - (v) Cosmetics, drugs and perfumes
 - (vi) Electrical equipment appliances
 - (vii) Food processing, packaging and distribution
 - (viii) Ice cream
 - (ix) Jewelry
 - (x) Medical and dental supplies
 - (xi) Optical goods and equipment
 - (x) Pattern making
 - (xi) Scientific and precision instruments
- (24) Products from finished materials, such as plastic, bone, cloth, cork, feathers, felt, fibre, paper, fur, glass, hair, horn, leather, precious or semi-precious stones, rubber, shell or yarn.
- (25) Recreation places, including bowling alley, dance hall, gymnasium, skating rink, archery range, golf practice range, miniature golf course or other similar places of amusement or entertainment when operated for profit, but specifically excluding any off-track wagering location as defined and licensed pursuant to the Illinois Horse Racing Act (230 ILCS 5/1 et seq.) which establishments are expressly prohibited in the Village.
- (26) Retail nursery sales
- (27) Shell egg businesses, including handling, cartoning, and distribution.
- (28) Silver plating and repair shops.
- (29) Tool, die, and pattern making.
- (30) Uses customarily incidental to any of the above uses, and accessory structures, when located on the same premises.
- (31) Warehousing and storage rooms, provided that such warehousing and storage rooms are accessory to a retail principal use.

Section 59. That Section 28.610. is hereby amended to read as follows:

28.610. DB Downtown Business District.

- (a) *Purpose and goals.* The purposes of the DB Downtown Business District are to establish comprehensive zoning standards for development in the central business area of Downtown Downers Grove and to provide the greater flexibility for that development that is appropriate and necessary to allow for revitalization and continuing vitality of “traditional” downtown area. Traditional downtown

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areas like Downtown Downers Grove often include buildings with mixed uses, lot-line-to-lot-line development, greater floor area ratios and heights, and other techniques to create vibrant, compact areas within which to shop, dine, and live. Buildings and streetscapes in these areas often are designed differently from retail buildings outside of the downtown area to achieve the desired dense, pedestrian-friendly retail environment. These are the goals of the DB Downtown Business District, which is intended to encourage high quality retail uses, compatible services uses, and, in conjunction therewith, multiple family residential dwelling units. The DB Downtown Business District provides for a broad range of these mixed uses and for somewhat more intense development in the nature of a traditional downtown. Development within the DB Downtown Business District that affects the exterior appearance of a structure is subject to review pursuant to the Downtown Design Guidelines.

(b) *Mapping restriction.* The DB Downtown Business District is designed for the types of development appropriate for the Village's downtown business area, and thus the DB Downtown Business District should be mapped only in the area shown on the Zoning Map as of June 7, 2005, except that (1) the DB Downtown Business District may be mapped on property contiguous to that area on property classified as of June 7, 2005, within the DT Downtown Transition District and (2) upon a finding by the Council that there exists specific extraordinary circumstances, the DB Downtown Business District may be mapped on property classified within other zoning districts abutting the existing DB District.

(c) *Permitted uses.* The following uses are allowed in the DB Downtown Business District as permitted uses:

- (1) Public, Institutional.
 - Village-owned facilities and structures.
 - Governmental facilities and structures other than colleges, universities, and schools.
- (2) Commercial.
 - Antique shops.
 - Animal grooming.
 - Art and school supply stores.
 - Art galleries and studios.
 - Bakeries, retail only, with accessory preparation, but only up to 5,000 square feet.
 - Banks, financial institutions, but excluding drive-in, drive-up, and drive through facilities.
 - Barber shops and beauty salons.
 - Bicycle shops.
 - Books, stationery, and newspaper stores.
 - Business and professional offices.
 - Camera and photographic supply and repair stores.
 - Candy stores, retail only, with accessory preparation.
 - Carpet, rug, and linoleum stores and showrooms, but excluding warehousing.
 - Clothing sales and clothing rental stores.
 - Coin and philatelic stores.
 - Copying, binding, and digital imaging services.
 - Cosmetics and toiletry stores, retail only.
 - Craft and hobby shops.
 - Custom clothing making and millinery shops, including monogramming services.
 - Department stores up to 15,000 square feet.
 - Drug stores, but not including drive-through facilities.
 - Dry cleaning stores, retail only, no plant on site.
 - Electronics and household appliance stores, retail only, including radio, television, cellular, and similar products, but not including warehousing.

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- Flower and florist shops.
 - Food stores, grocery stores, meat markets, delicatessens, ice cream shops, and similar stores other than restaurants up to 15,000 square feet.
 - Furniture stores, retail only, but not including warehousing.
 - Furrier stores, retail only.
 - Garden supply shops and stores.
 - Gift and card shops.
 - Glassware stores, including china, ceramic, pottery, and similar products, retail only.
 - Hardware stores up to 15,000 square feet.
 - Interior decorating stores.
 - Jewelry stores, including accessory repair and assembly, retail only.
 - Leather goods and luggage stores.
 - Liquor stores, but not including any customer seating, packaged goods only.
 - Locksmith shops.
 - Medical offices (outpatient services only) up to 3,000 square feet.
 - Musical instrument stores, including accessory repairs.
 - Office supply stores.
 - Paint and wallpaper stores.
 - Photograph developing and processing stores, retail only.
 - Photographer studios, including accessory developing and processing.
 - Picture framing stores, retail only.
 - Plumbing showrooms, retail only, excluding warehousing.
 - Restaurants (but not including outdoor seating or drive-through facilities).
 - Sewing machine shops, including accessory repairs, household machines only.
 - Shoe stores and shoe repair shops.
 - Sporting goods stores, but not including sales of firearms or ammunition of any kind.
 - Tailor shops.
 - Ticket sales and agencies.
 - Tobacco shops.
 - Toy stores.
 - Travel bureaus, including transportation ticket offices.
 - Video stores.
 - Wine boutiques, which include customer seating.
- (3) Miscellaneous.
- Home occupations.
 - Off-street parking lots and loading docks.
 - Outdoor café. (See Section 4-104)
 - Outdoor display of merchandise. (See Section 4-103)

(d) *Special uses.* The following uses are allowed in the DB District as special uses:

- (1) Residential.
 - Multiple-family dwellings.
- (2) Public, Institutional.
 - Churches, other places of worship, and church schools, but only if existing as of June 7, 2005, and only on the property as existing on June 7, 2005.
 - Colleges, universities, and schools, both public and private.
 - Public utility facilities.
- (3) Commercial.

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- Automobile service stations, including automobile repair, minor, but excluding body repair and painting.
 - Animal surgical offices.
 - Bowling alleys.
 - Commercial schools.
 - Day care centers, subject to Section 28-1017.
 - Department stores larger than 15,000 square feet.
 - Drive-through facilities accessory to an authorized use (but not including drive-through restaurants).
 - Food stores, grocery stores, meat markets, delicatessens, ice cream shops, and similar stores other than restaurants larger than 15,000 square feet.
 - Hardware stores larger than 15,000 square feet.
 - Health and fitness clubs.
 - Hotels and bed-and-breakfast establishments.
 - Medical offices (outpatient services only) larger than 3,000 square feet.
 - ~~— Outdoor seating accessory to a restaurant.~~
 - ~~— Outdoor display of merchandise accessory to an authorized use.~~
 - Private schools.
 - Theaters, but not including drive-in movie theaters.
- (4) Miscellaneous.
- Planned developments.

(e) *Minimum lot area:* 800 square feet per dwelling unit; otherwise not applicable.

(f) *Minimum lot width:* None.

(g) *Minimum front setback:* None.

(h) *Minimum side yard:* None.

(j) *Minimum rear yard:* None.

(k) *Minimum transitional yard:* Where a DB Downtown Business District adjoins a residence district, transitional yards shall be provided in accordance with the following regulations:

(i) Where a side lot line coincides with a side or rear lot line of property in an adjacent residence district, a yard shall be provided along such side or rear lot line. Such yard shall be equal in dimension to the minimum side yard which would be required under this Zoning Ordinance for a residential use or the adjacent property in the residence district. An additional one foot of yard shall be provided for each additional one foot of height in excess of 20 feet.

(ii) Where a rear lot line coincides with a rear lot line of property in an adjacent residence district, a yard shall be provided along such rear lot line. Such yard shall be 20 feet in depth, plus one foot of yard for each additional one foot of height in excess of 20 feet.

(iii) Where the extension of a front or side lot line coincides with the front lot line of an adjacent lot located in a residence district, a yard equal in depth to the minimum front yard required by this Zoning Ordinance on such adjacent lot in the residence district shall be provided along such front or side lot line for a distance of at least 25 feet, including the width of any intervening alley, from such lot in the residence district. There shall be an unobstructed, landscaped green space setback of no less than eight feet along the remainder of such front or side lot line.

(iv) If a rear lot line of a lot located in a DB Downtown Business District is contiguous to a side lot line of a lot located in a residence district, a rear yard shall be provided along such rear lot line equal in dimension to the minimum side yard required under this Zoning Ordinance on the adjacent residential lot. An additional one foot of yard shall be provided for each additional one foot of height in excess of 20 feet.

(l) *Maximum height:* 70 feet, excluding parapet walls and mechanical penthouses.

(m) *Maximum lot coverage:* Not applicable.

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- (n) *Minimum square feet of floor area per dwelling unit:* Single family—950. Two-family—750. Multiple family: 3-bedroom—750, 2-bedroom—620, 1-bedroom—500, studio—400.
- (o) *Maximum floor area ratio:* None.
- (p) *Minimum open space, landscaped green space, and common open space:* None.
- (q) *Mechanical equipment:* All mechanical equipment shall be entirely screened from public view.

Section 60. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 61. 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

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