

ITEM ORD 2014-6017

VILLAGE OF DOWNERS GROVE
Report for the Village Council Meeting
1/13/2015

SUBJECT:	SUBMITTED BY:
Update to Village Code Chapters 7, 14 and 19	Enza Petrarca Village Attorney

SYNOPSIS

An ordinance has been prepared to amend Chapters 7, 14 and 19 of the Municipal Code concerning streets and sidewalks and the regulation of work by private entities within the Village rights-of-way.

STRATEGIC PLAN ALIGNMENT

The Goals for 2011 to 2018 include Exceptional Municipal Services and Top Quality Infrastructure.

FISCAL IMPACT

N/A

UPDATE & RECOMMENDATION

This item was discussed at the December 9, 2014 and January 6, 2015 Village Council meetings. Staff recommends approval on the January 13, 2015 Active Agenda.

BACKGROUND

The purpose of this item is to update and simplify the permitting and bonding requirements for work in the public right-of-way, simplify the new sidewalk requirements for development on properties where no sidewalk currently exists, and strengthen the requirements for public safety and indemnification for private construction in the public right-of-way. In addition, these revisions would give the Village greater ability to remedy failed street patches created by the work of private entities, without expending Village funds. The substantive revisions are summarized as follows.

Chapter 7

Chapter 7 has been amended to require barricading for work done on public streets and sidewalks in order to ensure the safety of residents and prevent injury. Insurance requirements have also been amended to increase minimum coverages.

Chapter 14

Parking regulations during a snow emergency have been removed from Chapter 19 and placed into Chapter 14 which contains provisions for motor vehicles and traffic.

Chapter 19

19.9 through 19.12 – Moved sections to Chapter 14

19.14 – Updated requirements for access to unimproved streets and alleys

19.14.1 – The current ordinance creates some confusion as to when a new sidewalk or fee-in-lieu is required. The proposed revisions simplify and clarify the requirements for when a sidewalk permit is required and for when construction of a new sidewalk is required. The revisions shift the preference to fee-in-lieu rather than construction of small, potentially segregated sections of walk. To reflect this change, the fee will be reduced to represent the estimated cost to build a sidewalk as part of a new development, rather than the current method of charging the Village's average cost to construct a sidewalk after-the-fact, which is considerably higher. These changes will simplify the fee associated with new sidewalk construction by private development, and will more accurately reflect a property owner's equitable share of new sidewalk construction. These revisions also shift oversight of the appeal process from the Plan Commission to the Village Manager.

19.14.2 – Updated and modified to disallow the construction of sidewalks which would create dead-ends or gaps which violate the Americans with Disabilities Act (ADA).

19.18 – Creates standards for installation of mailboxes in the right-of-way. The current ordinance does not place any restrictions or regulations on the construction of mailboxes in the right-of-way, which has allowed, in some cases, somewhat large, elaborate brick structures to be constructed which create safety concerns.

19.25 – Updated language regarding permit applicant's liability.

19.26 – Adds a requirement for a separate cash bond for any street opening, to be held for three years after acceptance of the work. This will give the Village the ability to enforce the three year warranty required for street patches by using the bond, without expending Village funds to repair failed patches that the contractor has failed to repair.

19.27 – Updated minimum insurance limit requirements.

19.28 – Moves fees to the administrative regulation. Also adds a re-inspection fee for work that fails inspection more than once, or for an inspection where the applicant or contractor fails to show up.

19.35 – Provides that fees shall not be refundable after a permit has been issued.

19.44 – Updated requirements for traffic/pedestrian control when working in public rights-of-way.

19.45 – Clarified pavement restoration requirements.

ATTACHMENTS

Ordinance revising Chapter 19, Streets and Sidewalks

Sidewalk

ORDINANCE NO. _____

**AN ORDINANCE AMENDING PROVISIONS
CONCERNING STREETS AND SIDEWALKS**

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 19.4. is hereby amended to read as follows:**19.4. Inspection and enforcement.**

The Village Manager shall designate inspection officers to enforce the various provisions of this Chapter, which officers shall have all the necessary powers and duties to enforce such provisions. The ~~Director of Public Works~~Village shall issue all permits required under this chapter and shall have all the necessary powers to inspect permitted work and to enforce permit requirements. (Ord. No. 843, § 14; Ord. No. 1750, § 1; Ord. No. 3263, § 2.)

Section 2. That Section 19.9. is hereby amended to read as follows:**19.9. Reserved.****~~Emergency during snow storm—When to exist.~~**

~~An emergency is declared to exist within the Village whenever snow falls to a depth of three inches or more during any period of twenty four hours or less. Such emergency shall continue to exist for a period of forty eight hours or until such earlier time as snowplowing and removal operations have been declared completed by the Director of Public Works. (Ord. No. 843, § 13.)~~

Section 3. That Section 19.10. is hereby amended to read as follows:**19.10. Reserved.****~~Same—Illegal parking of vehicles.~~**

~~During a snow emergency it shall be unlawful for any person to park or cause to be parked any vehicle of any kind or description on any public parking lot or any street between the hours of 9:00 P.M. and 6:00 A.M., except as specified under Section 19-11; provided, that vehicles may be stopped not longer than five minutes for loading or unloading of passengers or thirty minutes for loading or unloading of materials at all places where such parking is otherwise permitted. (Ord. No. 843, § 13; Ord. No. 1137, § 1.)~~

Section 4. That Section 19.11. is hereby amended to read as follows:**19.11. Reserved.****~~Same—Parking restrictions on certain streets.~~**

~~Certain streets or sections of streets, as specified in this section, shall be known as business district streets and shall be subject to the emergency parking regulations of Section 19-10 at the following times and for the following distances:~~

~~Restricted parking hours 9:00 P.M. to 6:00 A.M. on Fairview Avenue from Maple Avenue to Second Street; Washington Street from Rogers Street to Maple Avenue; Forest Avenue from Curtiss Street to Franklin Street; Burlington Avenue from Forest Avenue to Washington Street; Curtiss Street from Washington Street to Forest Avenue; Main Street from Prairie Avenue to 55th Street; and Warren Avenue~~

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~~from Saratoga Avenue to Washington Street.—(Ord. No. 843, § 13; Ord. No. 1737, § 5; Ord. No. 3263, § 3.)~~

Section 5. That Section 19.12. is hereby amended to read as follows:

19.12. Reserved.

~~Same—Removal of illegally parked vehicles.~~

~~Whenever any law enforcement officer or employee of the Village shall find a vehicle standing upon a street or public parking lot in violation of Section 19-10 or Section 19-11 he may request the owner or operator to move or cause the same to be moved to a location not in violation of such sections. In the event of failure on the part of such owner or operator to move such vehicle or in the event such owner or operator cannot be found, such officer or employee shall cause such vehicle to be removed and impounded and held until such time as the costs for removal and impounding shall be paid by the owner or operator. (Ord. No. 843, § 13, Ord. No. 1137 § 1.)—~~

Section 6. That Section 19.14. is hereby amended to read as follows:

19.14. Access to streets and alleys; permit required; improvements.

No person shall construct any access across a parkway to improved or unimproved street, public land or public right-of-way within the Village without first obtaining a permit to do so from the ~~Director of Public Works~~Village. This permit may be issued if the following requirements are met:

(a) The access to the street will not create undue or unnecessary safety hazards; will not impede the safe and efficient flow of traffic and will be constructed in compliance with applicable laws, ordinances and specifications of the Village.

(b) If the street to which access is desired is not improved with asphalt pavement, storm sewers and curbs and gutters, it shall be improved and maintained as follows by the person seeking access in accordance with Village specifications approved by the Director of Public Works:

(1) Curbs and gutters shall be constructed along the side of any street to which access is sought to the limits of the property, if the nearest paved portion of that street is improved with curbs and gutters along one or both sides. If no curb and gutter exists, a crushed aggregate or concrete shoulder, at least twenty-four (24) inches wide, shall be constructed along the side of any street to which access is sought, to the limits of the property.

(2) Pavement at least twenty feet wide of material similar or equivalent to the material used for the nearest paved portion of that street or streets as determined by the Director of Public Works, shall be constructed along the side of the street or streets to which access is sought to the limits of the property and beyond to the nearest paved portion of that street or streets.

(3) ~~Storm drainage shall be constructed along the street or streets to which access is sought to the limits of the property and connected to the nearest existing storm drainage in that street or streets. If the nearest paved portion of the street or streets is improved with storm sewers, then storm sewers shall be installed.~~Adequate storm drainage shall be constructed so that storm water runoff from the property from which access to the street is sought shall not cause damage to adjoining properties or erosion of the land. Such storm drainage shall be constructed in accordance with specifications as determined by the Director of Public Works consistent with the provisions of Chapter 26 of this Code which shall assure that upstream and downstream drainage problems shall not result therefrom.

(4) Traffic signals shall be constructed along the street or streets to which access is desired if the property is used for other than single-family residential uses and if the traffic volume generated from development of the property meets the warrants established by the Illinois Department of Transportation.

(5) All improvements made to public land shall be maintained by the person seeking access in a clean and safe condition free of any and all obstacles. Such maintenance shall not damage, create a defect, obstruction, hazard or other dangerous condition to or upon any Village owned property or adjacent property owners.

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(c) No person shall construct any access to an alley within the Village without first obtaining a permit to do so from the ~~Director of Public Works~~ Village. This permit may be issued if the following requirements are met:

(1) Pavement shall be constructed in accordance with Downers Grove construction specifications and to the width of any existing improved alley (or to the Village standard alley width, whichever is wider), or if none of the alley is improved, to the ~~limits of the alley right-of-way~~ standard Village alley specifications and details, along the alley to which access is sought to the limits of the property and beyond to the nearest paved portion of the alley. If the existing alley right-of-way is not sufficient to construct an alley to the Village standard, the alley shall be constructed as required by the Director of Public Works, but in no case shall the pavement be less than ten (10) feet wide.

(2) Adequate storm drainage shall be constructed so that storm water runoff from the property from which access to the alley is sought shall not cause damage to adjoining properties or erosion of the land. Such storm drainage shall be constructed in accordance with specifications as determined by the Director of Public Works consistent with the provisions of Chapter 26 of this Code which shall assure that upstream and downstream drainage problems shall not result therefrom.

(d) If the right of way to which access is sought has been improved after the effective date of this section pursuant to the requirements of paragraph (b) above, the person desiring access shall pay to the Village that portion of the original cost of the improvements installed within the right of way abutting his/her property to the center line of the right of way and the limits of his/her property. These recaptured costs shall be collected by the Village and reimbursed to the person who paid for the improvements when installed, when and if the Village collects these costs as aforesaid.

(e) All proposed improvements shall be designed by a licensed professional engineer and shall be subject to review by the Director of Public Works and Village Engineer.

The Village Council, after a public hearing before the Plan Commission and receipt of the findings and recommendations of such Commission, may waive or vary any requirement of paragraph (b) above for good cause shown upon application by the person seeking access, pursuant to the criteria established in Section 20.602(c). (Ord. No. 2295, § 1; Ord. No. 2962, § 2; Ord. No. 3263, § 5; Ord. No. 3288, § 1.)

Section 7. That Section 19.14.1. is hereby amended to read as follows:

19.14.1. Certain construction activities; sidewalk improvements required.

~~(a) No person shall improve any parcel within the Village, except for accessory buildings and reconstruction or remodeling of or additions to existing buildings in any single family or two family residential zoning district, without first obtaining a sidewalk permit from the Director of Public Works. A sidewalk permit is required for:~~

- ~~1. The construction of any new single family residence or commercial building; and~~
- ~~2. Any commercial remodeling or addition which amount to more than twenty-five percent (25%) of the gross floor area.~~

~~(b) No person shall construct any building, except for accessory buildings and reconstruction or remodeling or existing buildings, or additions to existing buildings which amount to less than twenty-five percent of the gross floor area of such building, in any zoning district in the Village other than single family and two family districts, without first obtaining a sidewalk permit from the Director of Public Works.~~

~~(c) The permits required by paragraphs (a) and (b) hereof may be issued if one of the following requirements are met:~~

~~(1) If any street abutting the property on which such improvement or construction is to occur does not currently have an existing sidewalk and is depicted on the map or schedule on file in the Public Works Department of the Village as a street on which sidewalk construction is to be required, sidewalks shall be constructed along the entire street frontage of such parcel or the property owner shall pay a fee as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule" equal to the cost to the Village per square foot for construction of the sidewalk abutting the property, as such fee is determined annually by the~~

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Director of Public Works.

(2) If any street abutting the property on which such improvement or construction is to occur, is planned for sidewalk construction, or currently has a sidewalk constructed on neighboring parcels, the Director of Public Works may allow the applicant to construct a sidewalk adjacent to the subject property in lieu of paying the fee. Any sidewalk constructed must connect with the existing sidewalk network and shall not create any additional dead-ends or gaps in the sidewalk network. ~~does not currently have an existing sidewalk and is not depicted on the map or schedule on file in the Public Works Department of the Village as a street on which sidewalk construction is required, the property owner shall pay a fee equal to the cost to the Village per square foot for construction of the sidewalk abutting the property, as such fee is determined annually by the Director of Public Works.~~

(3) ~~If any street abutting the property on which such improvement or construction is to occur does not currently have an existing sidewalk that was constructed in the past as part of a Village construction program for which the adjacent current or previous property owner did not pay a fee for the sidewalk, the property owner shall pay a fee equal to the cost to the Village per square foot for construction of the sidewalk abutting the property, as such fee is determined annually by the Director of Public Works.~~

~~(4) In the case of a corner lot, the new sidewalk or fee paid for new sidewalk shall be for the sidewalk along the access side of the property.~~

~~(5) Any fees collected as required under the previous paragraphs (1), (2) or (3) shall be utilized by the Village for construction of sidewalks and said funds shall be deposited into the Village's Capital Projects Fund.~~

~~(e) Any person aggrieved by any decision of the Director of Public Works regarding the sidewalk fee or construction of sidewalks abutting such person's property may appeal the decision within thirty (30) days of the date thereof to the Plan Commission Village Manager who shall hear and decide such appeal. Application for such appeal shall be in writing, accompanied by a one hundred dollar (\$100.00) application fee. The Plan Commission Village Manager may either affirm the decision of the Director of Public Works, or may reverse such decision. The procedure set forth in this paragraph shall constitute the only available administrative remedy for any person aggrieved by any decision of the Director of Public Works with respect to sidewalk construction and the determination of the Plan Commission Village Manager on an appeal shall be the final administrative decision of the Village, from which any further appeals shall be to a court of competent jurisdiction. (Ord. No. 3288, § 2.)~~

Section 8. That Section 19.14.2. is hereby amended to read as follows:

19.14.2. Sidewalk Construction; installation in previously developed areas, requests for and replacement of.

(a) *Sidewalk installation in previously developed areas.* The Director of Public Works shall prepare and update annually a map, ~~or schedule~~ or policy determining the streets or portions of streets on which ~~construction of sidewalks is to be~~ required. In addition, the Director of Public Works shall administer the requirements of this ~~ordinance~~ Chapter and determine the streets or portions thereof on which sidewalk construction is to be required based upon the availability of funds. The Director of Public Works shall develop the criteria. In developing the annual map or list of streets or portions of streets on which sidewalks are to be constructed, the following factors and criteria shall be considered:

- (1) The proximity to grade (K-6) schools.
- (2) The measured average daily vehicular traffic volume (ADT) on the adjacent street.
- (3) The pedestrian clearance width.
- (4) The measured 85th percentile of traffic speed on the adjacent street.
- (5) The continuity of the new segment of sidewalk with the existing network of sidewalks.
- (6) The proximity of the area to significant non-park pedestrian generators.
- (7) The proximity to major and minor parks.
- (8) Any roadside sight obstructions and/or the existence of blind hills in the block limiting visibility

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of pedestrians on the roadway to motorists.

(b) *Requests from property owners.* In cases where a property owner requests installation of new sidewalk or replacement of sidewalk adjacent to his/her property other than in the order of the priority stated above ~~determined by the Director of Public Works~~, the Village may, based on the availability of funds participate in up to one-half of the cost of the new sidewalk, such cost shall not exceed the maximum per square foot cost determined uniformly and annually by the Director of Public Works. Construction of new sidewalks cannot create any gaps or dead ends in the sidewalk network.

(c) *Replacement of existing sidewalks.* In areas where sidewalks currently exist, the replacement of hazardous or deteriorated sidewalks shall occur as funds become available in accordance with the following priorities:

- (1) In business districts.
- (2) Adjacent to railroad stations.
- (3) Adjacent to school property.
- (4) On designated school routes.
- (5) Adjacent to parks.
- (6) Along other routes extending away from schools and parks.
- (7) Along other streets upon the determination of the Village that the location or condition of the sidewalks warrants priority in replacement.

Section 9. That Section 19.15. is hereby amended to read as follows:

19.15. Vehicles crossing curbs and parkways.

It shall be unlawful for any person to push, pull, drive or cause to be pushed, pulled or driven any wheeled or track-laying type vehicle, conveyance, machine, apparatus or equipment on, over or across, in whole or in part, any curb or parkway lying in or on a public street, except as provided in this section:

- (a) Vehicles, as described herein, may be driven over parkways at driveways; and
- (b) Vehicles, as described herein, may be driven over curbs and over parkways at other than driveways, provided that such curbs and parkways shall be adequately bridged and shored with suitable wooden or steel structures to protect such curbs and parkways from any damage whatsoever, and further provided that a permit to do so shall be obtained from the ~~Director of Public Works~~ Village. (Ord. No. 2195, § 1; Ord. No. 3263, § 6.)

Section 10. That Section 19.17. is hereby amended to read as follows:

19.17. Obstructions or encroachment of public land regulated.

Except as provided herein, it shall be unlawful for any person to build, construct, install or maintain or permit to be built, constructed, installed or maintained, over, in or on any street, alley or public land any building, fence, porch, steps, gallery, structure or other obstruction. Provided, the following may be permitted as provided in the applicable regulations and subject to such regulations as shall be adopted governing such work:

- (a) Improvements and/or facilities authorized as provided in Chapter 7 of the Downers Grove Municipal Code.
- (b) Improvements and/or facilities authorized as permitted commercial activities pursuant to Article IV of this Chapter.
- (c) A temporary building or structure may be constructed or placed upon a parkway if a permit therefor has been obtained as provided in Article II of this Chapter.
- (d) Structures or appurtenances of a Public Utility or railroad regulated by the Illinois Commerce Commission, to the extent such facilities are approved by the Illinois Commerce Commission and subject to the condition that a permit is obtained as provided in Article II of this Chapter. Provided further, a franchise agreement or license agreement may be required to the extent permitted or authorized under ~~S~~state or federal

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law.

(e) Poles, wires, mains, pipe conduits or other work or things of any person who is not a Public Utility, subject to the condition that a permit is obtained as provided in Article II of this Chapter. Provided further, a franchise agreement or license agreement may be required to the extent permitted or authorized under State or federal law.

(f) Improvements and/or facilities of the Village, or any other governmental entity as authorized by the Village.

(g) A written encroachment license agreement approved by the Village Manager ~~shall~~ may be required to be executed by the owner of the property. Fees for filing an encroachment license shall be set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule."

Section 11. That Section 19.18. is hereby amended to read as follows:

19.18. Mailboxes on public rights of way.

~~—All mailboxes placed in Village parkways must be in compliance with all federal guidelines. The Village shall not be responsible for damage caused during snow removal to mailboxes not in compliance with federal guidelines.—~~

All mailboxes placed in Village parkways must be in compliance with all federal guidelines. In addition, the following standards shall be met:

The mailbox shall be mounted on one of the following support structures, which shall be secured firmly in the ground, but may not be permanently fastened to a solid immovable foundation:

- (1) wooden post;
- (2) light gauge hollow cast iron, galvanized steel or painted steel pipe;
- (3) pre-fabricated plastic structure, specifically designed to house a mailbox;
- (4) hollow brick or stone veneer structure constructed of finishing brick or thin stone veneer no more than four inches (4") thick (from outside face to inside face), provided that the support structure shall have dimensions of no more than twenty-four inches (24") by twenty-four inches (24") and shall be no more than sixty-four inches (64") in height (from existing grade). Brick/stone column may rest on a concrete foundation, providing that said foundation does not project more than six inches (6") above existing grade, and the column is not attached to the concrete with any material besides mortar. Column shall not be reinforced, or filled with grout, cement or any other material. Column may be capped with stone or pre-cast concrete, provided that the capstone does not exceed thirty inches (30") by thirty inches (30") and does not extend above the maximum allowable height. Brick/stone veneer mailboxes shall be subject to the terms of a right-of-way encroachment license, which shall be obtained from the Village by the property owner, and the Village shall not be responsible for any damage to the brick/stone structure caused by an act or omission of a Village employee or agent.

Section 12. That Section 19.19. is hereby amended to read as follows:

19.19. Permits required for work affecting trees and shrubs.

No person may plant, remove, destroy, prune, set out, break, cut, deface or in any way injure or interfere with any tree, shrub, vine or similar plant on any street or alley, or upon property owned or maintained by the Village, without first obtaining a ~~public works permit~~ pursuant to the provisions of Chapter 24. (Ord. No. 843, § 10; Ord. No. 3263, § 8.)

Section 13. That Section 19.21.1. is hereby amended to read as follows:

19.21.1. Depositing of snow on streets and sidewalks prohibited.

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It shall be unlawful for any person, other than authorized Village personnel, to:

- a. Plow or otherwise ~~remove~~ deposit snow or ice from private property and deposit the same on any Village street, sidewalk or right-of-way in such a manner as to decrease the drivable width on any such street, impede the normal routing of pedestrian or vehicular traffic, or significantly hamper Village snow removal efforts.
 - b. Plow or otherwise remove snow or ice from private property in such a way as to block the vision of motorists at any intersection, prevent parking at the curb or cover fire hydrants.
- (Ord. No. 2361, § 1.)

Section 14. That Section 19.23. is hereby amended to read as follows:

19.23. Permit required.

Except as provided herein, any person desiring to perform or to have performed any of the acts covered by this eChapter wherein a permit is required shall secure such a permit in accordance with the rules and regulations set forth in this Article. Provided, the provisions of this Article shall not apply to permits sought or issued pursuant to Article IV ~~except to the extent so provided in Article IV of the permit.~~ (Ord. No. 843, § 17.)

Section 15. That Section 19.24. is hereby amended to read as follows:

19.24. Application.

Application for a permit under this eChapter shall be made on such forms as shall be provided by the Director of Public Works. No work shall commence until the Director of Public Works or his/her designee has authorized issuance of a permit therefore and such permit has been issued. For permits issued pursuant to Section 19-19 or any other permit which affects trees or shrubs, or will have an affect on trees or shrubs, in the right-of-way or on Village owned property, the forestry division of the Public Works Department shall review and approve the permit before it is issued.

An application for a permit shall be accompanied by two (2) copies of plans and specifications showing the work to be done, the time required to complete such work and the estimated cost thereof. When the permit is issued, one copy of such plans and specifications shall be returned to the applicant and the other retained by the Director of Public Works. (Ord. No. 843, § 17; Ord. No. 1750, § 1; Ord. No. 3263, § 13.)

Section 16. That Section 19.25. is hereby amended to read as follows:

19.25. Agreement to accept liability for work performed.

An applicant for a permit shall agree to save the Village, its officers, employees and agents harmless from any and all costs, damages, liabilities and attorneys' fees which may accrue or be claimed to accrue by reason of any work performed under such permit. The acceptance of any permit under this eChapter shall constitute such an agreement by the applicant. Every permit authorizing work shall be deemed to be conditioned upon the permittee's acceptance of, and agreement to abide by, the provisions of this chapter. Commencement of the work pursuant to any such permit shall be deemed to be the permittee's acknowledgement and acceptance of the terms of this section whether or not such terms are expressly stated on the permit. (Ord. No. 843, § 17.)

Section 17. That Section 19.26. is hereby amended to read as follows:

19.26. Bond required for certain permits.

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~~(a) With each application for a permit under Sections 19-14, 19-15, 19-17, 19-18 and 19-40 this Chapter, an applicant shall furnish a cash bond to guarantee faithful performance of the work covered by the permit.~~

~~The amount of the cash bond shall be not less than that specified in the schedule of Section 19-28 set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule". In lieu of a separate cash bond for each permit, an applicant anticipating more than one permit application may furnish one cash bond in the amount of five thousand dollars (\$5,000.00) set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule" to cover all up to five separate permits. Bonds shall be released in full once all permits are determined to be complete by the Director of Public Works. Partial release shall not be allowed.~~

~~———— The applicant shall deposit the cash bond with the Village Treasurer, and such bond so deposited shall be kept in a separate account and shall stand as security for the full and complete performance by the applicant of the work covered by such permit, subject to the following provisions:~~

~~———— (a) If any direct cost to the Village of any loss, damage, work, claim or liability arises out of the breach by the applicant, or any contractor or representative of the applicant, in the performance of the applicant's obligations in connection with the work covered by such permit the applicant shall forfeit its bond.~~

~~———— (b) Upon certification by the Director of Public Works of completion of the work covered by such permit, the balance of such cash bond shall be refunded by the Village Treasurer to the applicant upon request.~~

~~———— (c) In the event that the Director of Public Works shall determine that additional surety in excess of five thousand dollars (\$5,000.00) is the required amounts, the applicant shall furnish a cash bond or a commercial bank letter of credit in form and substance approved by the Village Manager and drawn on a bank located within a fifty mile radius of the Village in an amount equal to that determined by the Director of Public Works. If a letter of credit is provided, it shall be dated on or before the date of permit application and shall be for a term to expire one year after receipt by the permittee of a certificate of final inspection.~~

~~(b) The applicant shall deposit the cash bond with the Village Treasurer, and such bond so deposited shall be kept in a separate account and shall stand as security for the full and complete performance by the applicant of the work covered by such permit, subject to the following provisions:~~

~~(1) If any direct cost to the Village of any loss, damage, work, claim or liability arises out of the breach by the applicant, or any contractor or representative of the applicant, in the performance of the applicant's obligations in connection with the work covered by such permit the applicant shall forfeit its bond, and the Village may apply the bond or letter of credit to cover the costs. In addition to utilizing the bond or drawing upon the letter of credit, the Village may take any and all additional actions that may be available to enforce all applicable provisions of the Code and to recover any damages done by the permittee or by any subcontractor of the permittee or by the work. The bond provided is in addition to any other such actions and shall not be construed as a limit on the amount of damages that may be recovered by the Village or on any other remedy or penalty provided by law.~~

~~(2) Upon certification by the Director of Public Works of completion of the work covered by such permit, the balance of such cash bond shall be refunded by the Village Treasurer to the applicant upon request.~~

~~(c) If a permit involves a street opening, a separate cash bond shall be set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule", and shall be held for a three (3) year warranty period after acceptance of the work. If, at any point during warranty period, deficiencies are noted in the work associated with said street opening, applicant must correct said deficiencies to the satisfaction of the Director of Public Works. After three (3) years, if no deficiencies exist, the bond may be refunded. If applicant fails to correct any noted deficiencies within fourteen (14) calendar days of being notified by the Village, the bond shall be forfeited and the Village shall have the right to apply the bond proceeds towards the correction of the deficiencies. Any costs above and beyond the bond amount to have the deficiencies corrected will be charged to the applicant. Corrective work within the three (3) year warranty period does not relieve the applicant of the responsibility for any other work done, which may be deemed deficient within the three (3) year period.(Ord. No. 843, § 17; Ord. No. 1440, § 1; Ord. No. 1750, § 2; Ord. No. 3263, § 14.)~~

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Section 18. That Section 19.27. is hereby amended to read as follows:**19.27. Insurance required for certain permits.**

Each applicant for a permit under ~~Sections 19-14, 19-15, 19-17, 19-18 and 19-40~~ this Chapter shall furnish the Village with a satisfactory certificate of insurance or a statement from the administrator of a self-insurance program showing the required coverages, and containing a limitation that the insurance coverage may not be revoked except after ten days written notice delivered to the Village. The applicant's insurance shall provide coverage against claims for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his/her subcontractor or anyone directly or indirectly employed by him. Such insurance shall cover, inter alia, collapse, explosive hazards and underground work by equipment on the street, and shall include liability arising from completed operations. The amount of the liability insurance for personal injury shall be not less than ~~five hundred thousand~~ one million dollars ~~(\$1,000,000) per person, five hundred thousand dollars per incident, and one hundred thousand dollars for property damage occurrence and shall name the Village of Downers Grove as an additional insured.~~ (Ord. No. 843, § 17; Ord. No. 1750, § 3; Ord. No. 3263, § 15.)

Section 19. That Section 19.28. is hereby amended to read as follows:**19.28. Inspection and Permit Fees.**

(a) An applicant for a permit and/or bonds under this eChapter shall ~~pay a permit fee in the amount specified in the following schedule:~~ be set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule. No permit shall be issued until the required permit fee is paid in full

Schedule of fees

<u>Type of Work</u>	<u>Permit Fee</u>	<u>Bond*</u>
Bituminous Driveway approach (Black Top)	\$45.00	\$400.00
P.C.C. Driveway approach (Concrete)	\$45.00	\$600.00
New Curb and gutter removal and replacement	\$45.00	\$30.00 per lineal foot
Curb and gutter (Typical curb cut)	\$45.00	\$200.00
Public walk	\$45.00	\$25.00 per lineal foot
Street opening removal and replacement		
— 1 to 50 sq. feet	\$45.00	\$400.00
— 51 to 100 sq. feet	\$60.00	\$1,000.00
101 sq. feet plus	10% of the estimated cost	\$5,000.00 plus a bond equal

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to 100% of the
estimated value
of the work in
excess of \$5,000.00

Connection to storm sewer where street opening is not required	\$130.00	\$200.00
Tree planting	\$30.00	\$0.00
Tree Bonding Protection	\$30.00	The full tree appraisal amount per Section 24-3 for each parkway tree
Tree Removal	The full tree appraisal amount per Section 24-3 for each parkway tree	
Temporary access across a parkway (including lawn irrigation systems, dumpsters, etc.)		
	\$30.00	\$200.00
Other work in right of way (including storage in roadway)		
1-50 Sq. Feet	\$45.00	\$200.00
50-100 Sq. Feet	\$60.00	\$500.00
100+ Sq. Feet	10% of the estimated cost	\$1,000 plus bond equal to 100% of the estimated value of work in excess of \$5,000.00

*Cash bond refunded upon final acceptance of work and/or restoration. Maximum cash bond for any one person or company holding more than one permit concurrently is \$10,000.00.

(b) No permit as required by ~~Public Works~~ the Village shall be issued until the fees described above have been paid in full to the Village, nor shall an amendment to the permit be approved until additional fees have been received.

(c) Cash bond shall be refunded upon final acceptance of work or completion of restoration work, except the cash bond for any street openings as described in Section 19.26.

(d) Fees and or cash bond may be forfeited in the event of non-acceptance of work or if restoration is not completed pursuant to Section 19-45.

(e) If any work does not pass inspection, due to failure by the applicant to comply with the requirements of the permit, or if applicant/contractor fails to show up for a scheduled inspection, and more than one subsequent re-inspection visit is required as a result, additional inspection fees shall be charged and must be paid in full prior to scheduling the re-inspection. (Ord. No. 843, §§ 17, 23; Ord. No. 1750, § 4; Ord. No. 3263, § 16.)

Section 20. That Section 19.35. is hereby amended to read as follows:

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19.35. Expiration; extension of time.

Permits issued in accordance with the provisions of this eChapter shall expire at the end of the period of time which shall be set out in the application for the permit. If the permittee shall be unable to complete the work within the time period, he shall, prior to the expiration of the permit, present in writing to the Director of Public Works a request for an extension of time, setting forth therein the reasons for the requested extension. If in the opinion of the Director of Public Works such an extension is necessary and not contrary to the public interest, he/she may grant the permittee additional time for completion of the work.

a) All extensions of permit time shall be calculated at twenty-five percent (25%) of the original total permit fee and shall extend the life of the permit for an additional six (6) month period.

b) One hundred percent (100%) of a permit fee shall be added if work is started without a permit.

c) No fees shall be refunded ~~when~~after a permit has ~~been issued.~~ ~~lapsed after work is started.~~ ~~When a permit is revoked at the request of the permittee prior to lapsing due to time limits, and no work has been done, all but a basic fee of twenty five dollars (\$25.00) to cover the cost incurred by the Public Works Department shall be refunded.~~ (Ord. No. 843, § 22; Ord. No. 1750, § 1; Ord. No. 3263, § 19.)

Section 21. That Section 19.36. is hereby amended to read as follows:

19.36. Default in performance.

Whenever the Director of Public Works shall find that a default has occurred in the performance of any term or condition of a permit, written notice thereof shall be given to the permittee and to the commercial bank issuing a letter of credit, if any. Such notice shall state the work to be done, the estimated cost thereof, and the period of time deemed by the Director of Public Works to be necessary for the completion of such work. After receipt of such notice, the permittee or the commercial bank shall within the time therein specified either cause the required work to be performed, ~~or failing therein.~~ If the required work is not performed within the specified time, the cash bond or letter of credit shall be utilized to reimburse the Village for the cost of doing the work set forth in the notice. (Ord. No. 843, § 28; Ord. No. 1750, § 1; Ord. No. 3263, § 20.)

Section 22. That Section 19.37. is hereby amended to read as follows:

19.37. Revocation.

Any permit may be revoked by the Director of Public Works after prior written notice to the permittee for:

(a) Violation of any provision of this eChapter.

(b) Violation of any other applicable provision of this Code or any other ordinance or law relating to the work.

(c) Existence of any condition or the doing of any act constituting or creating a nuisance or endangering the lives or property of others.

Written notice of any such violation shall be served upon the permittee or his/her agent engaged in the work. The notice shall contain a brief statement for the reason of the contemplated revocation of the permit. Notice shall be given either by personal delivery thereof to the person to be notified, by certified or registered United States mail addressed to the person to be notified, ~~or by telegram addressed to the person to be notified.~~ Such notice shall state the period of time which the permittee is being granted to correct the violation and to proceed with diligent prosecution of the work, which time shall be no less than twenty-four (24) hours. (Ord. No. 843, § 27; Ord. No. 1750, § 1; Ord. No. 3263, § 21.)

Section 23. That Section 19.39. is hereby amended to read as follows:

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19.39. Abandoned facilities.

Whenever any facilities existing in the streets or alleys of the Village have been abandoned by their owners, the owner of such facilities shall be notified of the requirement to remove them, and if the owners shall fail to so remove them, the Village may remove them and the owners shall reimburse the Village for the cost thereof. Notice of the Village's order to remove abandoned facilities may be given either by personal delivery thereof to the person to be notified, or by certified or registered United States mail addressed to the person to be notified. For purposes of this section abandoned facilities shall be defined to be facilities not permitted, facilities which have not been utilized by the owner or any other person for a period of at least six (6) months, or facilities which are no longer necessary or useful because they have been replaced in some other location on the property. (Ord. No. 843, § 29; Ord. No. 3263, § 23.)

Section 24. That Section 19.44. is hereby amended to read as follows:

19.44. Requirements for work in streets, etc.

All work in streets, alleys, parkways and public lands shall be subject to the following restrictions:

(a) No opening or excavation in any street shall extend beyond the center line of the street before being backfilled and the surface of the street temporarily restored. Streets shall remain open to traffic at all times. Flaggers shall be used as necessary. No street shall be closed or detoured without written permission from the Director of Public Works

(b) No more than two hundred fifty feet (250') measured longitudinally shall be opened in any street at any one time.

(c) All underground pipes, tiles, cables, etc., shall be located sufficiently ahead of trench excavation work to avoid damage to those facilities and to permit relocation if necessary.

(d) Pipes, drains, tiles, culverts or other underground facilities encountered shall be protected as directed by the Director of Public Works .

(e) Monuments, bench marks or datum points of concrete, iron or other lasting material set for the purpose of locating or preserving the lines of any street or property subdivision, or a precise survey reference point within the Village, shall not be removed or disturbed unless permission to do so is first obtained in writing from the proper governmental authority. Permission may be granted only upon condition that the permittee shall pay all expenses incident to the proper replacement thereof, including the cost of a survey.

(f) When work performed by the permittee interferes with any the established drainage system of ~~any street~~ or natural water way, provision shall be made by the permittee for adequate temporary drainage to the satisfaction of the Director of Public Works and consistent with the provisions of Chapter 26 of this Code.

(g) When any earth, gravel or other excavated material is caused to roll or flow or is washed or otherwise deposited on any street or sidewalk, the permittee shall cause the same to be removed from the street or sidewalk before the end of the working day. In the event the earth, gravel or other excavated material so deposited is not so removed, the Director of Public Works shall cause such removal and the cost incurred thereby shall be paid by the permittee. Failure on the part of the permittee to make immediate payment of such cost upon demand shall be cause for revoking such permit.

(h) Every permittee shall place around the excavation or project such barriers, barricades, lights, warning flags and danger signs as shall be determined by the Director of Public Works to be necessary for the protection of the public. Additional safety requirements may be prescribed by the Director of Public Works where deemed necessary by him to protect adjacent private or public property. Whenever any person fails to provide or maintain the safety devices required by the Director of Public Works, such devices may be installed and maintained by the Village. The amount of the cost thus incurred shall be paid by the permittee.

(i) When any work is performed on Village streets, the permittee must comply with the Downers Grove Traffic Control Procedures, copies of which are available at the Department of Public Works and the Department of Community Development. In the event proper traffic control is lacking or deficient,

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and is not corrected within one (1) hour upon notice, the Director of Public Works may stop work and/or revoke the permit.

(j) Access to private driveways and alleys shall be provided except during working hours when construction operations prohibit such access. Access to private drives and alleys shall not be restricted without a minimum of forty-eight (48) hours notice to all users of said facilities. Free access shall be provided at all times to fire hydrants.

(k) Excavated materials shall be laid compactly along the side of the trench or removed immediately from the site at the discretion of the Director of Public Works. Excavated material when piled alongside the excavation shall be kept trimmed so as to cause a minimum of inconvenience to public travel. In order to expedite the flow of traffic or to abate a dirt or dust nuisance, the Director of Public Works may require the permittee to provide and use toe boards or bins. If the excavated area or storage area is muddy and causes inconvenience to pedestrians, temporary wooden plank walks shall be installed by the permittee as directed by the Director of Public Works. If the street is not wide enough to hold the excavated material without using part of the adjacent sidewalk, the permittee shall keep open a passageway at least one-half of the sidewalk width along such sidewalk. If a clear zone of forty-eight inches (48") cannot be maintained the sidewalk shall be closed and an accessible detour route established as approved by the Director of Public Works. A permittee performing any work involving the laying, repairing or disruption of any pavement on a street, sidewalk or other public place or making any excavation or opening in the same shall maintain suitable barricades to prevent injury of any person or vehicle by reason of such work. All such barricades shall be protected by suitable lights at nighttime. Any defect in any pavement shall be barricaded to prevent injury.

(l) Work authorized by a permit shall be performed between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday, unless the permittee obtains written consent from the ~~inspection officer~~ Director of Public Works to do the work at other times. Such permission shall be granted only: (1) in case of emergency as determined by the Director of Public Works; (2) where safety and traffic control measures in accordance with Village and Illinois Department of Transportation standards are not feasible during these hours as determined by the Director of Public Works; (3) if the construction area is not within five hundred (500) feet of any single or multi-family dwelling as determined by the Director of Public Works; (4) or for Village work or activities where the Village Manager determines that extended hours of work are necessary to complete the work in a timely fashion and to protect the public health, welfare and safety. The decision of the Village Manager or Director of Public Works shall be final as to the validity of an alleged emergency or the feasibility of safety or traffic control measures. Any permit granted under this section may include other conditions on the permittee's ability to work after 7:00 p.m. and on Sundays which conditions are determined to be necessary or convenient for the public health, welfare and safety. (Ord No. 843, § 15; Ord. No. 1750, § 1; Ord. No. 3263, § 25.)

Section 25. That Section 19.45. is hereby amended to read as follows:

19.45. Backfilling and restoring of openings.

All backfilling and restoring of openings made in any street, alley, parkway or public lands shall be performed in accordance with the latest specifications of the Village of Downers Grove or as by the Director of Public Works and the following requirements:

(a) All pavement cuts, openings and excavations shall be backfilled in accordance with Downers Grove specifications. The permittee shall, notwithstanding settlement, maintain the upper limit of such temporary surface even with the adjacent surface until such time as the permanent surface is installed as provided in this chapter. The permittee shall give the Director of Public Works at least ~~twelve~~ (+2)twenty-four (24) hours notice before beginning backfilling.

(b) All pavement cuts, openings and excavations must be temporarily surfaced with portland cement concrete, hot mix asphalt or cold patch by the permittee within ten (10) days of initial disruption. If restoration work is not commenced within ten (10) days, the Director of Public Works may revoke the permit after giving the permittee advance warning in writing of his/her intention to do so. Such notice

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may be given either by personal delivery thereof to the person to be notified, or by certified or registered United States mail addressed to the person to be notified. Such notice shall state the period of time being granted to complete the work, after which the Village may complete it and charge the cost thereof to the permittee and/or deduct the costs of repair from any bonds submitted.

(c) All permanent restoration must be completed within thirty (30) days of initial disruption, except when opening repair work is performed between December 15 and April 15. If permanent restoration work for any street openings, excavations, damaged or disturbed areas is not completed within thirty (30) days, the Director of Public Works may revoke the permit after giving the permittee advance warning in writing of his/her intention to do so. Such notice may be given either by personal delivery thereof to the person to be notified, or by certified or registered United States mail addressed to the person to be notified. Such notice shall state the period of time being granted to complete the work, after which the Village may complete it and charge the cost thereof to the permittee.

(d) If in the judgment of the Director of Public Works the surfaces or underlying strata adjacent to the excavation are damaged or disturbed through the actions of the permittee, the ~~inspection officer~~ Director of Public Works may require that the permittee take all steps necessary to restore all such damage or disturbance at the permittee's expense. In the event such damage or disturbance cannot immediately be restored, the permittee may be required by the Director of Public Works to deposit funds to insure such restoration.

(e) Once excavation is commenced, the same shall be concluded, backfilled and fully restored within ten (10) days. If in the opinion of the Director of Public Works the work is not properly performed, he may revoke the permit after giving the permittee advance warning in writing of his/her intention to do so. Such notice may be given either by personal delivery thereof to the person to be notified, or by certified or registered United States mail addressed to the person to be notified. Such notice shall state the period of time being granted to complete the work, after which the Village may complete it and charge the cost thereof to the permittee and/or deduct the costs of repair from any bonds submitted.

(f) Upon completion of all work covered by the permit, the permittee shall request final inspection by the Director of Public Works. A certificate of final inspection shall be issued by the Director of Public Works to each permittee after the permanent restoration of the excavation has been made, provided all provisions of this chapter have been complied with.

(g) If any settlement takes place or other defect appears in the restored area within a period of three years from the date of the certificate of final inspection, proper restoration shall be made by the permittee at his/her own expense; failure of the permittee to perform such restoration shall be cause for the Village to perform such work and recover the cost thereof from the permittee or from his/her bond.

(h) In no case shall any opening made by a permittee be considered the responsibility of the Village, or any of its officers or employees; and no officer or employee shall assume any responsibility over any such opening except in the exercise of the police power, and then only when necessary to protect life and property.

(Ord. No. 843, § 16; Ord. No. 1750, § 1; Ord. No. 3263, § 26.)

Section 26. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 27. That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

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Mayor

Passed:

Published:

Attest: _____

Village Clerk

VILLAGE OF DOWNERS GROVE
COUNCIL ACTION SUMMARY

INITIATED: Village Manager DATE: January 13, 2015
(Name)

RECOMMENDATION FROM: _____ FILE REF: _____
(Board or Department)

NATURE OF ACTION:

STEPS NEEDED TO IMPLEMENT ACTION:

- Ordinance
- Resolution
- Motion
- Other

Motion to Adopt "AN ORDINANCE AMENDING PROVISIONS CONCERNING STREETS AND SIDEWALKS", as presented.



SUMMARY OF ITEM:

Adoption of this ordinance shall amend provisions concerning streets and sidewalks.

RECORD OF ACTION TAKEN:

