

VILLAGE OF DOWNERS GROVE
Report for the Village Council Meeting
1/24/2017

SUBJECT:	SUBMITTED BY:
An Ordinance Amending Citation Provisions for Ordinance Violations in the Municipal Code	Enza Petrarca Village Attorney

SYNOPSIS

An ordinance has been prepared amending Sections of the Downers Grove Municipal Code regarding citations provisions for ordinance violations.

STRATEGIC PLAN ALIGNMENT

The goals for 2015-2017 include *Exceptional Municipal Service*.

FISCAL IMPACT

N/A.

UPDATE & RECOMMENDATION

This item was discussed at the January 10, 2017 Village Council meeting. Staff recommends approval on the January 24, 2017 Active Agenda.

BACKGROUND

Section 1.16 of the Municipal Code allows police officers and code enforcement officers the discretion, in certain limited circumstances, to issue citations at the scene of an incident ("P-tickets"), as opposed to processing a citation through the formal booking and DuPage County court system process. This process allows the offender to pay a specific fine amount outlined in the ordinance at Village Hall instead of attending a court date. Section 1.16 has not been updated in over fifteen years, and this amendment updates the fine structure and adds a few additional violations to this section to allow the officers more flexibility and discretion in the field. The addition of violations to Section 1.16 does not restrict the officers' ability to issue tickets through the formal process. The ordinance also amends certain other corresponding penalty provisions of the Municipal Code.

ATTACHMENTS

Ordinance

VILLAGE OF DOWNERS GROVE
COUNCIL ACTION SUMMARY

INITIATED: Village Attorney DATE: January 24, 2017
(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 CITATION PROVISIONS FOR ORDINANCE VIOLATIONS", as presented.



SUMMARY OF ITEM:

Adoption of this ordinance shall amend citation provisions for ordinance violations.

RECORD OF ACTION TAKEN:

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ORDINANCE NO. _____

**AN ORDINANCE AMENDING
CITATION PROVISIONS FOR ORDINANCE VIOLATIONS**

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

Section 1. That Section 1.16 is hereby amended to read as follows:

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

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

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

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

(c) Any person served with a citation for violations of the following provisions of the Downers Grove Municipal Code and the Comprehensive Zoning Ordinance of the Village of Downers Grove may settle and compromise the matter in respect of such ordinance violation by ceasing and/or abating said violation and paying the sum of ~~ten dollars (\$10.00)~~ seventy-five dollars (\$75.00) if paid within ten (10) days of service of the citation, or ~~twenty-five (\$25.00) dollars~~ one hundred fifty dollars (\$150.00) if paid after such ten (10) day period but before filing of a complaint in the Circuit Court of DuPage County.

1. DOWNERS GROVE MUNICIPAL CODE

- (i) Section 5.501; Animals; Running at Large.
- (ii) Section 5.202.; Removal of Dog Excrement.
- (iii) Section 5.203; Removal of Cat Excrement.
- (iv) Section 8.2014(d); Requirements for Display of Massage Establishment

License.

- (v) Section 13.43; Storage of Refuse.
- (vi) Section 13.49.1; Placing Garbage on the Parkway for Scavenger Removal.
- (vii) Section 13.49.2; Discarding Refuse and Compostable Materials in Streets.

etc., prohibited.

- (viii) Section 15.5.1; Noise Regulations.
- (ix) Section 15.8; Drinking in Public.
- (x) Section 5.23.1; Possession of Tobacco Products by Minors.
- (xi) Section 19.15.1; Skateboarding, Roller Skating or In-Line Skating in a

Business District.

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(xii) Section 19.21.1; Depositing Snow on Paved Streets.

(xiii) Section 25.11; Use of Public Hydrants.

(xiv) Any provision of Chapter 6, Bicycles.

2. COMPREHENSIVE ZONING ORDINANCE

(i) ~~Section 28-17.070; Location of Off-Street Parking.~~ Section 28.9.030.H; Real

Estate Signs

(ii) Section 28.9.030.J; Garage/Rummage Sale Signs.

3. INTERNATIONAL CODE COUNCIL 2006 INTERNATIONAL FIRE CODE (As adopted in Section 17-43)

(i) Section 605.4; Multi-Plug Adaptors.

(ii) Section 605.5; Extension Cords.

(iii) Section 906; Portable Fire Extinguishers.

(d) Any person served with a citation for violations of the following provisions of the Downers Grove Municipal Code, and such other Codes adopted therein, may settle and compromise the matter in respect of such ordinance violation by ceasing and/or abating said violation and paying the sum of ~~twenty-five dollars (\$25.00)~~ one hundred dollars (\$100.00) if paid within ten (10) days of service of the citation, or ~~fifty dollars (\$50.00)~~ two hundred dollars (\$200.00) if paid after such ten (10) day period but before filing of a complaint in the Circuit Court of DuPage County.

~~1. DOWNERS GROVE MUNICIPAL CODE~~

~~(i) Section 25-11; Use of Public Hydrants.~~

~~(ii) Section 15-8; Drinking in Public.~~

~~(iii) Section 8-99(a)(7); Requirements for Display of Massage Establishment~~

~~License.~~

~~(iv) Section 14-74; Pedestrian's Duties at Railroad Grade Crossings.~~

~~(v) Section 15-5.1; Noise Regulations.~~

~~(vi) Section 19-21.1; Depositing Snow on Paved Streets.~~

~~(vii) Section 13-49.2; Discarding Refuse and Compostable Materials in Streets,~~

~~etc., prohibited.~~

~~2. 2003 NATIONAL FIRE PROTECTION ASSOCIATION LIFE SAFETY CODE (As adopted in Section 7-1301)~~

~~(i) Section 4.6.13.1 through 4.6.13.4 Maintenance and Testing [Equipment, Systems and Life Safety Features Maintained in Proper Operating Condition].~~

~~3. INTERNATIONAL CODE COUNCIL 2006 INTERNATIONAL FIRE CODE (As adopted in Section 17-43)~~

~~(i) Section 605.4; Multi-Plug Adaptors.~~

~~(ii) Section 605.5; Extension Cords.~~

~~(iii) Section 906; Portable Fire Extinguishers.~~

~~4. COMPREHENSIVE ZONING ORDINANCE~~

~~(i) Section 28-7.090; Parking of Recreational Vehicles and Recreation~~

~~Equipment.~~

1. DOWNERS GROVE MUNICIPAL CODE

(i) Section 13.35; Open Burning Prohibited.

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

(iii) Section 15.2; Curfew.

(iv) Section 15.3; Littering.

(v) Section 15.4.(a), (b), (c), (d), & (f); Malicious mischief.

(vi) Section 15.5 (a), (d), (e) & (h) Disorderly conduct.

(vii) Section 15.12; Fireworks-Possession.

(viii) Section 15.23; Truancy.

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- (ix) Section 15.25(g); Possession of cannabis prohibited <10 grams.
- (x) Section 15.25(h); Possession of cannabis paraphernalia in connection with <10 grams cannabis.
- (xi) Section 15.28 Retail Theft - Less than \$150.
- (xii) Section 15.29; Commercial Solicitation.
- (xiii) Section 15.39 Noncommercial Solicitation.
- (xiv) Section 17.45; Parking in Fire Lane.
- (xv) Section 25.5; Regulations for Water Conservation.

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

3. 2003 NATIONAL FIRE PROTECTION ASSOCIATION LIFE SAFETY CODE (As adopted in Section 7-1301)

- (i) Section 4.5.3.2 Unobstructed Egress.
- (ii) Section 4.6.13.1 through 4.6.13.4 Maintenance and Testing [Equipment, Systems and Life Safety Features Maintained in Proper Operating Condition].
- (iii) Section 7.2.1.5 Locks.
- (iv) Section 7.2.1.6 Locking Arrangements.

(e) Any person served with a citation for violations of the following provisions of the Downers Grove Municipal Code, may settle and compromise the matter in respect of such ordinance violation by ceasing and/or abating said violation and paying the sum of ~~fifty dollars (\$50.00)~~ three hundred dollars (\$300.00) if paid within ten (10) days of service of the citation, or ~~one hundred dollars (\$100.00)~~ six hundred dollars (\$600.00) if paid after such ten (10) day period but before filing of a complaint in the Circuit Court of DuPage County.

1. DOWNERS GROVE MUNICIPAL CODE

- (i) Section 7.1801; (a), (d), (e), (f), (g), (i), (k), (o), (p); Demolition/Construction Site Management.
- (ii) Section 15.20(b); Sale of Tobacco to a Minor.
- (i) ~~Section 13-35; Open Burning Prohibited.~~
- (ii) ~~Section 15.23; Truancy~~
- (iii) ~~Section 15-28.3; Possession of Telecommunications Devices on Public School Property Prohibited.~~
- (iv) ~~Section 17-45; Parking in Fire Lane.~~
- (v) ~~Section 25-5; Regulations for Water Conservation.~~

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

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

~~1. DOWNERS GROVE MUNICIPAL CODE~~

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

~~2. COMPREHENSIVE ZONING ORDINANCE~~

- (i) ~~Section 28-9.030.H; Real Estate Signs.~~

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~~(ii) Section 28.9.050.J; Garage/Rummage Sale Signs.~~

3. ~~2003 NATIONAL FIRE PROTECTION ASSOCIATION LIFE SAFETY CODE
(As adopted in Section 7-1301)~~

~~(i) Section 4.5.3.2 Unobstructed Egress.~~

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

~~1. DOWNERS GROVE MUNICIPAL CODE~~

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

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

~~(h) Any person served with a citation for violations of the following provisions of the Downers Grove Municipal Code, may settle and compromise the matter in respect of such ordinance violation by ceasing and/or abating said violation and paying the sum of two hundred fifty dollars (\$250.00) five hundred dollars (\$500.00) if paid within ten (10) days of service of the citation, or five hundred dollars (\$500.00) one thousand dollars (\$1,000.00) if paid after such ten (10) day period but before filing of a complaint in the Circuit Court of DuPage County.~~

~~1. DOWNERS GROVE MUNICIPAL CODE~~

~~(i) Section 7-1801 (a), (d), (e), (f) (g), (i), (k), (o), (p); Demolition/Construction Site Management.~~

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

~~1. DOWNERS GROVE MUNICIPAL CODE~~

~~(i) Section 3.25; Sale of Liquor to Certain Persons Prohibited.~~

~~(ii) Section 15.20.1; Rental of Hotel Room to Minors.~~

~~(j) Any person served with a citation for violations of the following provisions of the Downers Grove Municipal Code, may settle and compromise the matter in respect of such ordinance violation by ceasing and/or abating said violation and paying one hundred percent (100%) of double the permit fee if work is started without a permit.~~

~~1. DOWNERS GROVE MUNICIPAL CODE~~

~~(i) Section 7.301; Permit Required. (Buildings)~~

~~(ii) Section 10.401; Work to be stopped. (Electrical)~~

~~(iii) Section 16.303(b) Permit issuance. (Plumbing)~~

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

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

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

~~(n) The following Village personnel shall have the authority to issue citations under this section: police officers, fire department inspectors, community development officers, and such other persons as designated by the Village Manager; provided that fire department inspectors shall only write citations for violations of the Life Safety or BOCA ICC Fire Prevention Code, and that the Village Manager, by administrative regulation, may limit the jurisdictional powers of other persons he designates~~

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as authorized to issue citations. (Ord. No. 2261, § 4; Ord. No. 3464, 5/18/92; Ord. No. 3554, 4/19/93; Ord. No. 3612, 11/29/93; Ord. No. 3671, 8/23/94; Ord. No. 3680, 9/6/94; Ord. No. 3747, 5/22/95; Ord. No. 3758, 7/10/95; Ord. No. 3762, 7/24/95; Ord. No. 3765, 7/31/95; Ord. No. 3812, 12/11/95; Ord. No. 3831, 1/22/96; Ord. No. 3884, 9/23/96; Ord. No. 3938, 5/27/97; Ord. No. 3976, 10/6/97; Ord. No. 4052, 7/27/98; Ord. No. 4056, 8/3/98; Ord. No. 4101, 2/8/99; Ord. No. 4176, 1/4/00; Ord. No. 4182, 3/7/00; Ord. No. 4246, 2/6/01; Ord. No. 4274, 3/20/01; Ord. No. 4454, 10/15/02; Ord. No. 4526, 7/15/03; Ord. No. 4533, 9/16/03; Ord. No. 4573, 3/2/04; Ord. No. 4621, 10/5/04; Ord. No. 4638, 1/18/05; Ord. No. 4668, 5/3/05; Ord. No. 4768, 5/2/06; Ord. No. 4801, 8/1/06; Ord. No. 4812, 9/19/06; Ord. No. 4895, 8/7/07; Ord. No. 4927, 11/20/07; Ord. No. 5001, 9/16/08; Ord. No. 5056, 5/5/09; Ord. No. 5089, 11/3/09; Ord. No. 5077, 11/6/09; Ord. No. 5156, 10/12/10; Ord. No. 5384, 5/6/14; Ord. No. 5392, 6/15/14)

Section 2. That Section 7.1801. is hereby amended to read as follows:

7.1801. Demolition/Construction Site Management.

An applicant for a demolition and/or building permit ("permit applicant") shall be responsible for safe construction site management during all phases of demolition and/or construction of permitted improvements. The following minimum standards shall be complied with prior to the commencement of work and throughout the duration of the project.

- (a) Notification. Each permit applicant that seeks a demolition permit for an existing house or garage or a building permit for any construction that will add six hundred (600) square feet or more of gross floor area to an existing house or garage shall be required to provide notification to all residents of property located within one hundred (100) feet of the subject property. Such notification shall be made no less than seven (7) days prior to the commencement of any work and shall consist of providing the residents with a copy of an informational brochure provided by the Village, disclosure of a site plan, a general explanation of the work to be done, and the name, address and telephone number of the individual supervising the work. Each permit applicant shall submit written certification, on a form provided by the Village, of personal notification to all residents of property located within one hundred (100) feet of the subject property of the pending work as a condition precedent to issuance by the Village of a permit for work on the subject property.
- (b) No structure shall be eligible for demolition unless and until the permit applicant has notified all utilities having service connections within or about the structure such as water, electric, gas, sewer, telephone and any other connections. The Village Public Works Department shall be notified to remove the water meter or the Village may give written permission to allow the permit applicant to remove the water meter. The Sanitary District must be notified regarding the capping of sanitary sewers. A permit to demolish a structure shall not be issued until a release is provided by the relevant utilities stating that their respective service connections and appurtenant equipment, such as meters and regulators, have been removed or capped in a safe manner.
- (c) No structure shall be eligible for demolition unless and until the permit applicant has submitted and the Village has approved a grading and site restoration plan or an application for construction has been placed on file with the Village and the applicant has been issued an initial review letter from the Village.
- (d) The permit applicant for demolition and/or construction shall be required to install and maintain in good working order a six (6) foot high temporary chain link construction fence with driven posts around the perimeter of the lot for all residential construction, and an eight (8) foot high temporary chain link construction fence with driven posts around the perimeter of the lot for all commercial construction. For both residential and commercial areas, the fencing must have a gated opening which shall be closed when no construction or demolition activity is being performed on the site. Fencing must be installed prior to the commencement of any construction or demolition on the site and must remain in place until the final grading of the property commences. Erosion control measures (silt fencing) must be installed and maintained on the inside of the

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perimeter fence. The Director of Community Development shall have the authority to determine the fencing requirements, excluding height requirements, and/or to require a written fencing plan for construction activities. The Director shall have the discretion to determine the appropriate timing and location of the fencing requirements in order to adequately protect the health, safety and welfare of the public and the adjacent residential and commercial properties.

(e) Each tree on the property, including the parkway, must be protected with fencing, and as provided in Section 24-7 of this Code.

(f) Construction/demolition debris and refuse containment shall be required for all job sites. Containment shall occur on the property that is the subject of the permit, and shall be within a dumpster or container that shall be fully covered to prevent windblown debris. Such dumpster or container shall be set back a minimum of five (5) feet from the front lot line and a minimum of five (5) feet from the side lot line. All such dumpsters or containers shall be covered at all times when no work is being performed on the property that is the subject of the permit. Such dumpster or container shall not be located on public property, including but not limited to, parkways or sidewalks.

(g) Construction sites shall be provided with a portable toilet. The location of the portable toilet shall be set back as far as possible from all property lines to within three to four (4) feet from the excavation but not less than a minimum of five (5) feet from the front lot line and a minimum of five (5) feet from the side lot line, and whenever possible the portable toilet shall be located in the rear yard. Such portable toilet shall not be located on public property, including but not limited to, parkways or sidewalks.

(h) The permit applicant shall maintain all construction/demolition sites free and clear of debris and refuse generated by site preparation, reconstruction or demolition of buildings and structures.

(i) The hours of construction/demolition are as follows:
7:00 a.m. to 7:00 p.m. Monday-Saturday
No Work on Sundays

(j) All construction work shall be limited to the permitted property. No permit issued pursuant to this Section shall authorize any entry onto the property adjoining the permitted property or any work for which entry onto property adjoining the permitted property is or may be necessary, unless a proper right of entry has been secured from the owner of such property.

(k) Posted Notice of Rules and Regulations: The applicant shall post on the permitted property in a prominent place, visible from the public right-of-way, a sign containing notice of the rules and regulations applicable to demolition and construction work. The applicant shall also post notice of the contractor's name and a phone number of the individual supervising the work. Such sign shall be posted not less than four (4) nor more than seven (7) days in advance of the commencement of work. Such sign shall be maintained on the permitted property until all work on the permitted property has been completed and approved or until removal is requested by the Director. The size, shape and message of such sign shall be established by the Director of Community Development. The sign containing notice of rules and regulations shall be obtained from the Village wherein an administrative fee as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule" shall be assessed by the Village.

(l) The noise regulations contained in Section 15-5.1 of this Code shall be applicable.

(m) The applicant shall cause all dirt, mud, gravel and other debris from the subject property or related to the work conducted on the subject property to be cleaned regularly every day from all streets and sidewalks adjoining or in the area of the subject property.

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(n) No streets, sidewalks or driveways shall be blocked so as to prevent pedestrian or vehicular traffic. An applicant performing any work resulting in the 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. Permit applicants must comply with Section 19-44(i) of this Code regarding Traffic Control Procedures and must submit a construction site parking plan outlining the proposed location for all parking of contractor and worker vehicles. All vehicles shall comply with all Village ordinances. The Director of Community Development shall review the construction parking plan and shall either approve the plan as submitted, approve the plan with modifications and/or conditions or deny the plan. The applicant shall adhere to the terms and conditions of the approved construction parking plan. Failure to comply with the terms and conditions of the approved construction parking plan shall constitute a violation of this ordinance.

(o) On all demolition sites and construction sites or in any situation where airborne particles may be disbursed, proper watering is required in that airborne particles shall be controlled at the property that is the subject of the permit during work hours by thoroughly saturating all portions of the structure with water. Such spraying shall be undertaken at all times necessary to thoroughly control the creation and migration of airborne particles, including without limitation, dust from the property that is the subject of the permit. The water source for control of airborne particles shall be either (i) a water tanker truck with pump capacity of one hundred (100) gallons per minute at the nozzle; or (ii) an approved public water hydrant. Water shall be delivered from the water source to the subject property by a hose with a minimum diameter of 2 ½ inches, which may be reduced to 1 ½ inches when on the property that is the subject of the permit. If a public water hydrant is used, a Village water meter and proper hydrant wrench must be used after acquiring a permit from the Public Works Department in accordance with Chapter 25-11 of the Downers Grove Municipal Code. Any hose leading from a public water hydrant and crossing a driveway, street, alley or other vehicular right-of-way or path must be bridged in a manner sufficient to protect the water system.

(p) No open burning is permitted at the demolition/construction site.

(q) Permit applicants shall submit written acknowledgment, on a form provided by the Village, of rules for construction/demolition site management.

(r) Permit fees shall be paid in the amount set forth in Article VIII of this Code.

(s) A bona fide certificate of insurance shall be supplied to the Village, showing minimum insurance coverage from an insurance company with at least a B+ rating of one million dollars (\$1,000,000.00) bodily injury, one million dollars (\$1,000,000.00) property damage and statutory coverage for workers compensation and shall name the Village of Downers Grove as an additional insured. A certificate of insurance shall accompany the permit applications. The building official may waive the insurance requirement for minor demolition work.

(t) A site management cash bond as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule" shall be deposited with the Village and shall be kept in a separate account. Such cash bond shall be in addition to all other application and processing fees, costs, escrows, bonds and performance securities required, and stand as security for the full and complete performance by the permit applicant of the work covered by the permit, insuring the initiation of construction in a timely manner and proper management of the site, subject to the following provisions:

(i) The Village shall have the right at all times, at its option, to draw on the site management bond for the costs, including, without limitation, legal fees and administrative expenses incurred or to be incurred by the Village in exercising any of its rights under this Chapter in the event: 1) the applicant

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undertakes work in violation of any provision of this Chapter or of any permit issued or plan approved pursuant to this Chapter; or 2) the applicant fails or refuses to complete any work authorized by any permit issued under this Chapter in accordance with all plans approved in connection with said permit. The Village's determination of such costs shall be based either on costs actually incurred by the Village or on the Village's reasonable estimates of costs to be incurred.

(ii) If the Village draws on the site management bond, then the applicant shall replenish the bond to the full amount required by this section immediately after demand therefore is made to the applicant in writing by the Village. Any failure of the applicant to replenish the bond shall result in cancellation of the related permit, which permit shall not be reissued thereafter except after the filing of a new application therefore, repayment of the permit fee, and establishment of a new site management bond.

(iii) Upon certification by the building official of the satisfactory completion of the work, the balance of the cash bond shall be refunded to the permit applicant.

(u) (1) The applicant shall cause the demolition and/or construction of a structure to be completed with due diligence, in good faith and without delay. The applicant shall notify the Village at least twenty-four (24) hours prior to the commencement of demolition. Once the work commences on the site, the applicant shall continuously pursue completion of the work. If no substantial work is being pursued on the site for thirty (30) consecutive days or more once the work has commenced, then the site shall be deemed abandoned. Once the Village issues a notice of abandonment the applicant shall within ten (10) days from issuance of the abandonment notice either:

(i) commence work on the site and diligently pursue completion of the demolition; or

(ii) restore the property to a final grade and grass seeded condition or commence construction activities pursuant to a valid building permit.

For purposes of this Section, completion of demolition shall be defined as removal of all portions of the structure both above ground and below ground level and restoration of the property to a final grade and grass seeded condition.

(2) Additional fee for late work: If the applicant fails to comply with this Section he/she shall pay a late work fee as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule" per day for each day until such work is completed. The Village shall deduct such fee from the site management bond.

(v) Fees and Fines: Failure to comply with the minimum standards will constitute a violation of this Code, subjecting violators to a stop work order and a ~~minimum~~ fine as set forth in ~~Administrative Regulation entitled "User-Fee, License and Fine Schedule"~~ Chapter 1 of the Downers Grove Municipal Code per violation, for every day the violation exists. In addition to any other penalties provided in this Section, the Village Attorney shall have the authority to seek injunctive or other relief in the Circuit Court of DuPage County to enforce and compel compliance with the ordinance of the Village. Such injunctive action may be combined with counts seeking monetary fines as provided herein.

(i) Street Cleaning. If the applicant shall fail to clean all sidewalks and streets adjoining and in the area of the subject property, then the applicant shall pay a fine as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule" for each violation. The Village shall deduct such fine from the site management bond provided in Section(t). This charge shall be in addition to any fines assessed pursuant to Ordinance. (Ord. No. 1527, § 1; Ord. No. 2918, § 1.)

Section 3. That Section 15.7. is hereby amended to read as follows:

15.7. Reserved.

Penalty for certain violations:

~~(a) The penalty for a violation of Sections 15-2 through 15-6 of this Chapter shall be as follows:~~

~~—— (1) A fine of not less than one hundred twenty dollars (\$120.00) nor more than seven hundred fifty dollars (\$750.00); or~~

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~~— (2) A period of court supervision or conditional discharge not to exceed one year. Either disposition shall specifically require as a condition that the defendant not violate any criminal statute or quasi-criminal ordinance of any jurisdiction and that the defendant report to and appear in person before such person or agency as directed by the court. In addition, the disposition may require as a condition that the defendant:~~

- ~~— (i) pay a fine as specified herein;~~
- ~~— (ii) make restitution or reparation in an amount not to exceed actual loss or damage to property and pecuniary loss;~~
- ~~— (iii) perform some reasonable public or community service work;~~
- ~~— (iv) work or pursue a course of vocational study;~~
- ~~— (v) undergo medical or psychiatric treatment or counselling;~~
- ~~— (vi) if a minor, to reside with his/her parent or in a foster home, attend school or attend a nonresidential program for youth;~~
- ~~— (vii) comply with any other penalty or condition set forth in 730 ILCS 5/5-6-3 or 5-6-3.1, as may be amended from time to time.~~

~~(b) The parent or legal guardian of an unemancipated minor defendant who resides with such parent or legal guardian shall be liable for any fine or condition of restitution or reparation imposed by the court upon a minor hereunder; provided, that the minor has not paid such fine or made restitution or reparation within the time ordered by the court, and further provided that such parent or legal guardian has been served with a notice to appear in the original cause as provided by law. (Ord. No. 2877, § 1.)~~

Section 4. That Section 15.23. is hereby amended to read as follows:

15.23. Truancy.

(a) Definitions. For the purpose of this section, the following terms, words and their definitions shall have the meaning given herein.

1. "Legal guardian" means any natural parent, foster parent, person appointed guardian or given custody of a minor by a circuit court of this state, or a person appointed guardian or given custody of a minor under the Illinois Juvenile Court Act, but shall not include any person appointed guardian only to the estate of a minor, or a guardian ad litem.

2. "Parents" shall include the father and/or the mother of a minor child, whether by birth or adoption, or shall be deemed to be the parent having legal custody of the minor in the event the parents are divorced or separated. The term "parent" as used in this section shall also be deemed to mean "legal guardian."

3. "Minor," "minor child" or "ward" shall mean any person five (5) years of age, but not yet eighteen (18) years of age.

(b) Truancy Prohibited. It shall be unlawful for any minor enrolled in a public, private or parochial school within the corporate limits of the Village of Downers Grove to absent himself or herself from attendance during all or part of a school day during a time when school is in session without permission of his or her parent or legal guardian. Emergency, unforeseen absences due to illness, observation of a religious holiday, death in the immediate family, family emergency or other causes beyond the control of the minor so absenting himself or herself from school without permission of his or her parent or legal guardian shall not constitute truancy if permission for such absence has in substance been obtained from the parent or legal guardian and such permission is confirmed in writing to the proper school authorities within twenty-four (24) hours after such absence.

(c) Parental Responsibility. It shall be unlawful for a parent or legal guardian to allow or permit his or her minor child or ward to violate subsection (b) of this section.

(d) Contributing to Truancy. It shall be unlawful for any person eighteen (18) years of age or older to perform any act of commission or omission when such act encourages or contributes to the truancy of a minor.

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(e) Defenses to Truancy. Those defenses and/or exceptions as set forth in the Illinois School Code (105 ILCS 5/1 et seq.) for compulsory attendance or enrollment in school shall apply as defenses to this section.

~~(f) Penalties.—~~

~~———— (1) Any person that violates any of the provisions of this section shall be subject to the penalties set forth in Section 1.16 of the Downers Grove Municipal Code.—~~

~~———— (2) In addition to or in lieu of the fine amounts set forth in sections 1.16 and 1.15, a period of community service not to exceed one hundred sixty (160) hours may be imposed upon a minor who violates any provision of this section.~~

~~———— (3) Each and every day a minor is truant shall be deemed a separate violation.~~

~~(g) Parental Liability. The parent or legal guardian of an unemancipated minor defendant who resides with such parent or legal guardian shall be liable for any fine or condition of restitution or reparation imposed by the court upon a minor hereunder; provided, that the minor has not paid such fine or made restitution or reparation within the time ordered by the court, and further, provided that such parent or legal guardian has been served with a notice to appear in the original cause as provided by law.~~

Section 5. That Section 15.25. is hereby amended to read as follows:

15.25. Possession of cannabis prohibited.

(a) For purposes of this ordinance, the following definitions apply:

Cannabis. Includes marijuana, hashish and other substances which are identified as including any parts of the plant *Cannabis sativa*, whether growing or not; the seeds thereof, the resin extracted from any part of such plant; and any compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or resin, including tetrahydrocannabinol (THC) and all other cannabinol derivatives, including its naturally occurring or synthetically produced ingredients, whether produced directly or indirectly by extraction, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, cake or the sterilized seed of such plant which is incapable of germination.

Drug Paraphernalia. Includes all equipment, products and materials of any kind which are peculiar to, or marketed for use, or are used, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repacking, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body, cannabis in violation of the Cannabis Control Act or any controlled substance. It includes but is not limited to:

- i. Kits peculiar to an marketed for use, or used in manufacturing, compounding, converting, producing, processing or preparing cannabis;
- ii. Isomerization devices peculiar to, or marketed for use, or used in increasing the potency of any species of plant which is cannabis;
- iii. Testing equipment peculiar to, or marketed for private home use in, or used for, identifying or analyzing the strength, effectiveness or purity of cannabis;
- iv. Diluents and adulterants peculiar to, or marketed for use in, or used for, cutting cannabis or any controlled substance by private persons;
- v. Objects peculiar to, marketed for use in, or used for ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, hashish oil, or any controlled substance into the human body including, where applicable, the following terms: water pipes, carburetion tubes and devices; smoking and carburetion masks; carburetor pipes; electric pipes; air-driven pipes; chillums; bongs; ice pipes or chillers.
- vi. Any item whose purpose, as announced or described by the seller, is for use in

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violation of this Section.

(b) It shall be unlawful for any person to grow, possess, sell, give away, barter, deliver, exchange, distribute, administer, or in any way possess any cannabis or any drug paraphernalia.

(c) Exemptions:

(1) Any conduct in accordance with the Compassionate Use of Medical Cannabis Pilot Program Act, 410 ILCS 130/1 et seq.

(2) Items marketed for the use in the preparation, compounding, packaging, labeling or other use of cannabis as an incident to lawful research, teaching, or chemical analysis and not for sale.

(3) Items marketed for, or historically and customarily used in connection with the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, or inhaling of tobacco or any other lawful substance.

(4) Items exempt under this section include, but are not limited to, garden hoes, rakes, sickles, baggies, tobacco pipes and cigarette-rolling papers.

(5) Items that are marketed for decorative purposes, when such items have been rendered completely inoperable or incapable of being used for any illicit purpose prohibited by this Section.

i. Considerations: In determining whether or not a particular item is exempt under this Section, all other logically relevant factors should be considered, including the following:

a. The general, usual, customary, and historical use to which the item involved has been put;

b. Expert evidence concerning the ordinary or customary use of the item and the effect of any peculiarity in the design or engineering of the item upon its functioning;

c. Any written instructions accompanying the delivery of the item concerning the purposes or uses to which the item can or may be put;

d. Any oral instructions provided by the seller of the item at the time and place of sale or commercial delivery;

e. Any national or local advertising, concerning the design, purpose or use of the item involved, and the entire context in which such advertising occurs;

f. The manner, place and circumstances in which the item was displayed for sale, as well as any item or items displayed for sale or otherwise exhibited upon the premises where the sale was made;

g. Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

h. The existence and scope of legitimate uses for the object in the community.

(d) A person who possesses drug paraphernalia in connection with possession of ten (10) grams or less of cannabis shall be fined not less than one hundred dollars (\$100.00), in accordance with Section 1.16 of the Downers Grove Municipal Code. A person who possesses drug paraphernalia in connection with possession of more than ten (10) grams of cannabis shall be fined not less than two hundred fifty dollars (\$250.00) nor more than seven hundred fifty dollars (\$750.00).

(e) A person who possesses ten (10) grams or less of cannabis shall be fined not less than one hundred dollars (\$100.00), as provided for in Section 1.16 of the Downers Grove Municipal Code. A person who possesses more than ten (10) grams but less than thirty (30) grams of cannabis shall be fined not less than ~~seventy five dollars (\$75.00)~~ two hundred fifty dollars (\$250.00) nor more than seven hundred fifty dollars (\$750.00)

(f) The provisions of this Section relating to the possession of cannabis shall be applicable to the possession of any quantity of cannabis less than thirty (30) grams. (Ord. No. 2389, § 1; Ord. No. 2877, § 1.)

Section 6. That Section 15.44.ART. is hereby added to read as follows:

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15.44.ART. Article IV. Penalties**Section 7. That Section 15.45. is hereby amended to read as follows:****15.45. Penalties for certain violations.**

(a) Any person who violates any of the provisions of this Chapter may be subject to the penalties set forth in Sections 1.15 and 1.16 of the Downers Grove Municipal Code.

(1) In addition to or in lieu of the fine and penalty as set forth in Sections 1.15 and 1.16 of the Downers Grove Municipal Code, a period of court supervision or conditional discharge not to exceed one year may be imposed. Either disposition shall specifically require as a condition that the defendant not violate any criminal statute or quasi-criminal ordinance of any jurisdiction and that the defendant report to and appear in person before such person or agency as directed by the court. In addition, the disposition may require as a condition that the defendant:

(i) pay a fine as specified herein;

(ii) make restitution or reparation in an amount not to exceed actual loss or damage to property and pecuniary loss;

(iii) perform some reasonable public or community service work;

(iv) work or pursue a course of vocational study;

(v) undergo medical or psychiatric treatment or counselling;

(vi) if a minor, to reside with his/her parent or in a foster home, attend school or attend a nonresidential program for youth;

(vii) comply with any other penalty or condition set forth in 730 ILCS 5/5-6-3 or 5-6-3.1, as may be amended from time to time.

(b) The parent or legal guardian of an unemancipated minor defendant who resides with such parent or legal guardian shall be liable for any fine or condition of restitution or reparation imposed by the court upon a minor hereunder; provided, that the minor has not paid such fine or made restitution or reparation within the time ordered by the court, and further provided that such parent or legal guardian has been served with a notice to appear in the original cause as provided by law. (Ord. No. 2877, § 1.)

Section 5. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

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

 Mayor

Passed:

Published:

Attest: _____

Village Clerk

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