

VILLAGE OF DOWNERS GROVE
Report for the Village
2/5/2019

SUBJECT:	SUBMITTED BY:
Solicitation Ordinance Amendments	Enza Petrarca Village Attorney

SYNOPSIS

An ordinance has been prepared amending solicitation provisions.

STRATEGIC PLAN ALIGNMENT

The 2017-2019 goals include *Exceptional Municipal Services*.

FISCAL IMPACT

The Village will no longer be charging an application fee. In 2018, the Village collected approximately \$1,250 in application fees.

UPDATE & RECOMMENDATION

This item was discussed at the January 15, 2019 Village Council meeting. Staff recommends approval on the February 5, 2019 Active Agenda.

BACKGROUND

Currently, solicitation permits are separated into two categories – commercial and non-commercial, and they have different requirements for each with stricter regulations for commercial solicitation. Changes to the ordinance are necessary in order to comply with state and federal laws and regulations. The Village can no longer have the stricter regulations for commercial solicitors (for example, The Village has stricter time limits and limited the number of commercial solicitation permits that could be issued at any one time).

The amendments to the solicitation ordinance now have uniform regulations for both types of solicitors and provide for the same process to obtain approval to solicit door-to-door. Anyone who wants to solicit door-to-door must register with the Village and obtain a Certificate of Registration. The ordinance allows solicitation daily from 9:00 am to 8:00 pm. The following regulations will remain in place – duty to wear badges, duty to honor no soliciting signs, and duty to leave premises on the resident's request.

ATTACHMENTS

Ordinance

VILLAGE OF DOWNERS GROVE
COUNCIL ACTION SUMMARY

INITIATED: Village Attorney DATE: February 5, 2019
(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 SOLICITATION PROVISIONS", as presented.



SUMMARY OF ITEM:

Adoption of the attached ordinance shall amend solicitation provisions.

RECORD OF ACTION TAKEN:

ORDINANCE NO. _____

AN ORDINANCE AMENDING SOLICITATION PROVISIONS

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

Section 1. That Section 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 seventy-five dollars (\$75.00) if paid within ten (10) days of service of the citation, or 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, Alternative Nicotine Products, Smoking Materials or Drug Paraphernalia by any person under the age of twenty-one.
- (xi) Section 5.23.2; Purchase of Tobacco Products, Alternative Nicotine Products,

Smoking Materials or Drug Paraphernalia by any person under the age of twenty-one.

(xii) Section 19.15.1; Skateboarding, Roller Skating or In-Line Skating in a Business

District.

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

(xiv) Section 25.11; Use of Public Hydrants.

(xv) Any provision of Chapter 6, Bicycles.

2. COMPREHENSIVE ZONING ORDINANCE

(i) 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 one hundred dollars (\$100.00) if paid within ten (10) days of service of the citation, or 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 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 15.6; Damage to Property.

(viii) Section 15.12; Fireworks-Possession.

(ix) Section 15.23; Truancy.

(x) Section 15.25(d)(1); Possession of drug paraphernalia in connection with 10 or less grams of cannabis.

(xi) Section 15.25(e)(1); Possession of cannabis prohibited (10 or less grams).

(xii) Section 15.27; Theft (less than \$150)

(xiii) Section 15.28; Retail Theft - Less than \$150.

(xiv) ~~Section 15.29; Commercial Solicitation.~~

~~(xv) Section 15.39 Noncommercial Solicitation.~~ Chapter 8, Article II. Solicitation

(xvi) Section 17.45; Parking in Fire Lane.

(xvii) 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 three hundred dollars (\$300.00) if paid within ten (10) days of service of the citation, or 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), (n), (o), (p); Demolition/Construction Site Management.

(ii) Section 15.20(a); Sale of Tobacco Products, Alternative Nicotine Products, Smoking Materials or Drug Paraphernalia to any person under twenty-one (21).

(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 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.

(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 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)

(h) 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.

(i) 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).

(j) 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.

(k) 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 ICC Fire Prevention Code, and that the Village Manager, by administrative regulation, may limit the jurisdictional powers of other persons he designates as authorized to issue citations. (Ord. No. 2261, § 4; 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 14.77.1. is hereby amended to read as follows:

14.77.1. Reserved.

~~Solicitation on highways.~~

~~_____ (a) No person shall stand on any street or highway within the Village for purposes of soliciting employment or business from the occupant of any vehicle.~~

~~_____ (b) A soliciting agency shall be permitted to stand upon the streets or highways within the Village for purposes of soliciting contributions from the occupant of any vehicle; provided, that such agency shall comply with the following conditions:~~

~~_____ (1) Such agency shall be registered with the Attorney General as a charitable organization in the manner provided by law.~~

~~_____ (2) Solicitation by such agency shall be part of a statewide fund raising activity.~~

~~_____ (3) Solicitation shall occur only between sunrise and sunset on the specified permitted days and only at intersections where all traffic is required to come to a full stop.~~

~~_____ (4) The soliciting agency shall be liable for any injuries to any person or property occurring during any solicitation activity which are causally related to an act of ordinary negligence of the soliciting agency.~~

~~_____ (5) Persons engaged in the act of solicitation for such agency shall be at least eighteen years of age and shall wear a high visibility vest with the name of the soliciting agency printed on the back and front in letters readable from a distance of ten feet.~~

~~_____ (6) Such agency shall obtain a permit from the Village to conduct solicitation activities on the streets or highways of the Village.~~

~~_____ (c) Permits issued under this section shall be valid for a period of three consecutive days. A soliciting agency shall be allowed to obtain only one such permit per calendar year. (Ord. No. 2395, § 1.)~~

Section 3. That Section 15.24. is hereby amended to read as follows:

15.24. Reserved.

~~Tag day Permit required.~~

~~_____ No person shall solicit funds for civic, benevolent or charitable purposes outright or through the sale of tags, poppies, doughnuts or other articles in the manner commonly known as a "tag day", upon the sidewalk or in public places of the village unless the organization he represents has obtained a permit therefor from the Village Manager or his/her designee, which permit shall be issued, subject to the following rules and regulations:~~

~~_____ (a) Before a permit shall be issued, the applicant shall first make application setting forth the following facts:~~

~~_____ (1) The name and address of the sponsor of the "tag day".~~

~~_____ (2) The dates and hours of the proposed solicitation.~~

~~_____ (3) The location(s) of the proposed solicitation.~~

~~_____ (4) The maximum number of solicitors expected to be active at any one time.~~

~~_____ (b) In the issuance of any permit the Village Manager or his/her designee shall have the power to limit the number of solicitors or taggers to be active at any one time. The Village Manager or his/her~~

designee shall have the power to require some means of identification for each solicitor or tagger, and, in case of dispute, may designate or allot the stations from which such tagging or soliciting may be made. (Ord. No. 2877, § 1.)

Section 4. That Section 15.28.ART. is hereby amended to read as follows:

15.28.ART. Article II. Solicitation

Section 5. That Section 15.28.SEC. is hereby added to read as follows:

15.28.SEC. Purpose.

- (a) The Village of Downers Grove has a legitimate interest in preventing fraud, protecting the privacy of its residents, preventing crime and conserving the resources of its police department. This Article is intended to apply to the solicitation of funds and is not intended to interfere with the exercise of free speech and the free exercise of rights protected under the First Amendment (i.e religious proselytizing, anonymous political speech and the distribution of hand bills). It is further declared to be the policy of the Village that the residents of the Village have the right to determine whether any solicitor shall be invited to their residence
- (b) The operation of any solicitor in conformance with the terms of this Article shall not be interpreted to be an endorsement of any solicitor by the Village, its elected officials or its employees.

Section 6. That Section 15.29. is hereby amended to read as follows:

15.29. Definitions.

For the purpose of this Article, the following words and phrases shall have the following meanings:

Charitable Organization shall mean a charitable organization as defined in the Illinois Solicitation for Charity Act, 225 ILCS 460/0.01 et seq.

Charitable Solicitation shall mean solely seeking to obtain donations, gifts or contributions of money or tangible personal property on behalf of a Charitable Organization.

Commercial solicitation shall mean the going upon any premises or to or in one or more private residences by any person without appointment by personal contact with the resident or occupant for the purpose of soliciting orders for the sale for profit of goods, books, magazines, or any other article or thing whatsoever, or for any service, or for the purpose of peddling or hawking any of the same, or for the purpose of making or requesting appointments or procuring interviews or arranging for demonstrations or explanations preliminary to any actual solicitation of orders, selling, peddling or hawking of any of the same.

Person shall mean any individual, organization, group, association, partnership, corporation, trust, or any combination thereof.

Residence shall mean and include every separate living unit occupied for dwelling purposes by one or more persons, contained within any type of building or structure, including the common areas inside multiple dwelling buildings.

Solicit or Soliciting shall mean the act of engaging in solicitation.

Solicitation shall mean the act of seeking to a) solicit funds or b) to propose or engage in a commercial transaction involving a sale, an offer for a sale, delivery of a commercial good or service, or a commercial exchange, subscription, or any similar transaction, except, as to both items a) and b) of this definition, when such activity is conducted within a building zoned to permit such activity and under the ownership and control of the solicitor. Solicitation does not mean political or religious activities such as religious proselytizing, the collection of signatures by political organizations or individuals in support of candidates for public office or referendum questions to be submitted to the voters, or otherwise engaging in

political activities related to specific individuals, issues, political parties or political action groups.

Solicitor shall mean any person engaged in solicitation.

(Ord. No. 2833, § 2.)

Section 7. That Section 15.30. is hereby amended to read as follows:

15.30. Registration required; exemption; application.

(a) ~~Except as otherwise provided in this Article, it shall be unlawful for any person desiring to engage in commercial solicitation as herein defined~~ solicitation within the Village without having first ~~obtained a permit from the Village as hereinafter provided~~ registered with the Village and obtained a certificate of registration from the Village as provided herein.

(b) ~~Persons under the age of fifteen (15) years engaged in charitable solicitation within the Village shall not be required to register with the Village. However, any such person shall comply with all other applicable provisions of this Article.~~

(~~b~~c) ~~Application for a commercial solicitation permit~~ registration shall be made to the individual designated by the Village Manager upon a form ~~provided~~ prescribed by the Village. The person shall truthfully state in full all of the required information ~~on in the application~~ the following information:

- ~~_____~~ (1) The name and address of the person applying for the permit.
- ~~_____~~ (2) The name and address of each person in charge of and supervising the commercial solicitation in the Village.
- ~~_____~~ (3) The names, addresses and dates of birth of all individuals who will engage in commercial solicitation in the Village for that person.
- ~~_____~~ (4) The nature and purpose of the commercial solicitation.
- ~~_____~~ (5) The requested dates for commercial solicitation.
- ~~_____~~ (6) The date, or approximate date, of the latest previous application for a commercial solicitation permit under this Article.
- ~~_____~~ (7) Whether a commercial solicitation permit issued to the person under this Article has ever been revoked.
- ~~_____~~ (8) Whether the person or any individual listed in subparagraph (3) hereof has ever been convicted of a violation of any of the provisions of this Article, or the ordinances of any other Illinois municipality regulating commercial solicitation.
- ~~_____~~ (9) Whether the person or any individual listed in subparagraph (3) hereof has been convicted of the commission of a felony under the laws of the State of Illinois or any other state, or of a federal law of the United States within five (5) years of the date of application.
- ~~_____~~ (10) Whether the person or any individual listed in subparagraph (3) hereof has been convicted of a misdemeanor under the laws of the State of Illinois or any other state or of a federal law of the United States which involves the use of a deadly weapon, traffic in narcotic drugs, or violence against another person, including criminal sexual assault and sexual abuse, within five (5) years of the date of application.
- ~~_____~~ (11) Any additional information that the individual designated by the Village Manager may deem necessary to process the application. (Ord. No. 2833, § 2.)

Section 8. That Section 15.31. is hereby amended to read as follows:

15.31. Term; renewal.

Each ~~commercial solicitation permit~~ registration shall be in effect for no more than thirty (30) days. To renew a ~~permit~~ registration, a person shall complete a short form, indicating no changes in the information provided in the initial application, or if changes have occurred, a new application. ~~The Village may, as a condition of renewal of a commercial solicitation permit, require the person to show that the person and all~~

individuals soliciting for that person continue to meet the standards of issuance enumerated in Section 15-33. Renewal is subject to availability pursuant to Section 15-32.

Section 9. That Section 15.32. is hereby amended to read as follows:

15.32. Reserved.

Same—Maximum number of permits.

———At no time shall there be more than fifteen commercial solicitation permits outstanding.

Section 10. That Section 15.33. is hereby amended to read as follows:

15.33. Reserved.

Standards of issuance.

———No permit shall be issued to a person: (1) if the application is not truthfully completed as required by Section 15-30; (2) if the person has been convicted of a felony under the laws of the state of Illinois or any other state or under the federal law of the United States, within five years of the date of application; (3) if the person has been convicted of a misdemeanor which involves the use of a deadly weapon, traffic in narcotic drugs, or violence against another person, including criminal sexual assault and sexual abuse, within the past five years; (4) if the person has been convicted of a violation of any of the provisions of this or similar ordinances within two years of the date of application; (5) if the person engages for the purposes of commercial solicitation as herein defined any individual who has been convicted by a court of competent jurisdiction of such offenses as are enumerated in subparagraphs (2), (3) and (4) hereof; or (56) if any commercial solicitation permit issued hereunder has previously been revoked as herein provided in Section 15-35(e). (Ord. No. 2833, § 2.)

Section 11. That Section 15.34. is hereby amended to read as follows:

15.34. Reserved.

Denial of permit; appeal.

———(a) Within five (5)three (3) working days of the date of application for a commercial solicitation permit, the individual designated by the Village Manager shall notify the person of approval or denial of the permit. In the event that any commercial solicitation permit is denied for failure to comply with the standards set forth above, the notice shall include in writing the reasons for the denial.

———(b) If a commercial solicitation permit is denied, the person may within ten (10) days of the date such notice is sent cure the defect resulting in the denial, by any appropriate action including removal of any individual, engaging in solicitation for the person, who fails to meet the standards enumerated in Section 15-33(2), (3) and (4). If the person chooses not to cure the defect in the application, the person may file a written appeal addressed to the Village Manager. Based on his/her determination under the standards of Section 15-33 hereof, the Village Manager shall, within a reasonable time, either affirm the refusaldenial or order the individual designated by the Village Manager to issue the permit. (Ord. No. 2833, § 2.)

Section 12. That Section 15.35. is hereby amended to read as follows:

15.35. Reserved.

Suspension or revocation of permit.

———(a) The Village Manager may suspend or revoke any permit issued under this Article for any of the following reasons:

———(1) The permittee has failed or refused to truthfully complete the application;

~~_____ (2) The permittee, or any individual soliciting for the permittee, has failed or refused to comply with the regulations of this Article, or with other applicable law;~~

~~_____ (3) The permittee fails or refuses, within three (3) days of notice by the Village, to remove from the solicitation activities of the permittee, any individual who has failed or refused to comply with the regulations of this Article.~~

~~_____ (b) If the Village Manager determines after investigation that cause exists for the suspension or revocation of a permit, the Manager shall notify the permittee in writing that its permit will be revoked or suspended, setting forth the reasons therefor, and advising the permittee of the right to appeal pursuant to Section 15-35.1 of this ChapterArticle. Unless a timely appeal is filed as provided in Section 15-35.1, such revocation or suspension shall be final and effective on the sixth business day following receipt of the notice by the permittee. If a timely appeal is filed as provided in Section 15-35.1, such revocation or suspension shall not be final and effective until the appeal has been processed.~~

~~_____ (c) In addition to the above referenced grounds for revocation by the Manager, if the permittee or any individual soliciting for the permittee shall thereafter be convicted by a court of competent jurisdiction of such offenses as are enumerated in Section 15-33(2), (3) and (4) hereof, the permit under this ChapterArticle shall automatically be revoked.~~

~~_____ (d) If the Village Manager has reason to believe that any continued solicitation by the permittee will immediately threaten the safety and welfare of the community, the Manager may, upon the issuance of a written order stating the reason for such conclusion, and without notice or hearing, order the permittee to immediately cease solicitation activities, and advise the permittee of the right to appeal the decision pursuant to Section 15-35.1 of this ChapterArticle. Unless a timely appeal is filed as provided in Section 15-35.1, the permit shall be considered revoked on the sixth business day following receipt of the order by the permittee.~~

~~_____ (e) Any revocation of a permit shall preclude the permittee, or any subsequent entity that has 20% or more common identity/ownership interest with the owners of the permittee, from receiving another permit under this Article for two years from the date of revocation; except that:~~

~~_____ (1) Upon automatic revocation, as provided above, the permittee shall not be permitted to receive another permit for such periods of time as are enumerated in Section 15-33(2), (3) and (4) for the respective offenses; and~~

~~_____ (2) Automatic revocation due to violations enumerated in Section 15-33(2), (3) and (4) by an individual soliciting for the permittee shall be rescinded if the permittee removes the individual violator from its solicitation activities unless the felony or misdemeanor violation occurred in connection with solicitation activities.~~

~~_____ (f) Suspension of a permit shall be for a period not to exceed thirty (30) days. No revocation or suspension shall require return by the Village of any permit fee.~~

~~_____ (g) Revocation or suspension of a permit shall not preclude the imposition of a fine for violation of any part of this Article by a court of competent jurisdiction. (Ord. No. 2833, § 2.)~~

Section 13. That Section 15.35.1 is hereby amended to read as follows:

15.35.1 Reserved.

Appeals:

~~_____ (a) Any permit holder who received a notice of revocation or suspension may file an appeal with the Village Manager as provided herein. Such appeal shall be filed with the Village Manager, in writing, no later than five (5) business days following receipt of the notice of revocation or suspension, and shall include a response to the notice. Such response shall include a brief statement addressing the substantive deficiencies cited in the Village Clerk's notice and shall set forth the basis for why the permit should not be revoked or suspended.~~

~~_____ (b) The Village Manager shall schedule an informal public hearing as soon as possible following receipt of such appeal. The purpose of the hearing will be to offer the permittee an opportunity to show~~

~~cause why the permit should not be suspended or revoked. A record shall be made of the informal public hearing and documents may be submitted and/or testimony given, either in person or through sworn affidavit. This record may be made by electronic recording. The Village Manager shall have the power to administer oaths and to continue the hearing from time to time to permit the permittee to provide additional information.~~

~~(e) Within thirty (30) days after such hearing, the Village Manager shall make written findings of fact and issue an appropriate order. If the Village Manager determine that the permit should be revoked or suspended, the reasons supporting such determination shall be included in the written order. A copy of such order shall be served upon the permittee.~~

~~(d) The decision of the Village Manager as provided in subsection (e) above shall be the final administrative action of the Village with respect to the permit and shall be subject to the immediate appeal by the permittee to the circuit court. Such appeal to the circuit court shall be filed not later than thirty five (35) days following receipt of the Village Manager's findings and order. Failure to timely file such appeal as provided herein shall render the Village Manager's decision final.~~

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

Section 14. That Section 15.36. is hereby amended to read as follows:

15.36. Reserved.

~~Same Fees.~~

~~The fee for a commercial solicitation permit shall be set forth in Administrative Regulation entitled "User Fee, License and Fine Schedule", effective for up to one year from date of initial application. (Ord. No. 2833, § 2.)~~

Section 15. That Section 15.37. is hereby amended to read as follows:

15.37. Regulations.

All solicitors shall comply with the following regulations:

(a) *Duty to leave premises on request.* No person shall engage in solicitation upon any premises or at any residence after having been asked by an owner or occupant thereof to leave such premises or residence.

(b) *Duty to honor no soliciting signs.* No person shall ~~come enter~~ upon any premises nor engage in solicitation upon any premises or at any residence located thereon, if such premises or residence is posted against solicitation by means of a notice, prominently displayed, upon which is printed the legend, "No Soliciting", or substantially similar language. Said posting shall be exhibited at or near the main entrance to the premises or on or near the main door to any residence located thereon, ~~and shall consist of a sign at least two inches by four inches in size, which bears the above legend in letters at least one third inch in height. Signs complying with the foregoing requirements shall be made available for sale at cost at the office of the cashier in the Village hall.~~

(c) *Fraudulent misrepresentation and misstatement prohibited.* No person shall cheat, deceive, or fraudulently misrepresent, whether through himself or through an employee or representative, while soliciting in the Village, nor barter, sell or peddle any goods, books, magazines, or services other than those specified in the ~~permit~~ application.

(d) *Duty to wear badges.* Every person issued a ~~permit~~ certificate of registration or any individual soliciting for such person shall wear conspicuously on the outside of his or her outer garments a ~~commercial-solicitation badge~~ provided by the Village. Such badge shall include at least the following information printed legibly: the name of the individual issued the badge, the organization issued the ~~permit~~ registered with the Village, the purpose of the solicitation, and the date of the expiration of the ~~registration permit~~. Each badge shall also contain a statement indicating that the card is not an

endorsement by the Village or any of its employees. Badges issued under this ~~a~~Article shall be nontransferable.

(e) *Restrictions on individuals who may solicit.* No person shall use any individual for ~~commercial~~ solicitation as herein defined unless such individual is listed on that person's application pursuant to Section 15-30(b)(3).

(f) *Time limits.* ~~Except as otherwise provided herein, No person shall engage in commercial solicitation as herein defined at any time prior to 9:00 a.m. or after 6:00 p.m., local time on a Saturday or weekday, or any time on a Sunday or state or national holiday.~~

(g) *Immediate Identification.* ~~Every solicitor shall immediately identify himself/herself and the purpose of the solicitation to each person being solicited.~~

(h) *Impeding Traffic Prohibited.* ~~No person shall solicit anywhere in the Village in a manner that completely or substantially impedes the flow of pedestrian or vehicular traffic in, on or around any sidewalk or public property, way or place. No person engaged in solicitation shall have the exclusive right to any sidewalk or other public property, way or place, nor the right to establish a permanent stationary location for such solicitation.~~

(i) *Soliciting from vehicles.* ~~No person shall stand on any street or highway within the Village for purposes of soliciting employment or business from the occupant of any vehicle.~~

(j) *Public Health and Safety.* ~~No person shall engage in solicitation within the Village in such a manner that creates a danger or threat of any kind to the public health, safety and welfare.~~

(Ord. No. 2833, § 2.)

Section 16. That Section 15.38. is hereby amended to read as follows:

15.38. Solicitation on Public Rights-of-Way and Highways.

(a) *Registration Required.* ~~No person shall engage in charitable solicitation on any public right-of-way or street/highway within the Village without first having registered for and obtained a certification of registration therefor. The application for a permit to solicit on a public right-of-way or street/highway shall be made only by the charitable organization on behalf of all of the individuals who shall be soliciting. Such application shall include the names and addresses of all such individuals.~~

(b) *Duration of Registration Limited.* ~~Certificates of resitration issued pursuant to this section shall be limited to no more than three (3) consecutive days.~~

(c) *Hours.* ~~No person shall engage in charitable solicitation on any public right-of-way or street/highway within the Village between sunset and sunrise.~~

(d) *Locations.* ~~Charitable Solicitation on public streets/highways within the Village shall be allowed only at intersections at which all traffic is required to come to a full and complete stop. Neither the solicitor nor the business or organization represented by the solicitor shall engage in charitable solicitation at any more than four (4) such intersections at one time within the Village. The Village Manager or his/her designee shall have the power to limit the number of solicitors to be active at any one time and at any one location, this shall be done on a first come-first serve basis.~~

(e) *Minimum Age.* ~~Persons engaged in the act of charitable solicitation for such agency shall be at least sixteen (16) years of age and shall wear a high visibility safety vest.~~

(f) *State Registration.* ~~Every business or organization represented by a solicitor engaged in charitable solicitation on any public right-of-way or street/highway within the Village shall be registered with the Illinois Attorney General as a charitable organization pursuant to the Illinois Solicitation for Charity Act, 225 ILCS 460/0.01 et seq.~~

(g) *Statewide Activity.* ~~Every business or organization represented by a solicitor engaged in charitable solicitation on any public right-of-way or street/highway within the Village shall be~~

engaged in statewide fundraising activities.

- (h) *Liability.* Every solicitor engaged in charitable solicitation on any public right-of-way or street/highway within the Village, and the business or organization represented by the solicitor, shall be liable for all injuries to any person or property that occurs during or as a result of the solicitation and that is casually related to an act of ordinary negligence of the solicitor or the business or organization the solicitor represents.
- (i) *Insurance.* Prior to engaging in any charitable solicitation a certificate of insurance demonstrating proof of insurance in at least the following amounts and naming the Village of Downers Grove as an additional insured must be submitted to the Village:
- a. Personal injury coverage of at least one million dollars (\$1,000,000.00) per occurrence and five hundred thousand dollars (\$500,000.00) per person; and
 - b. Property damage coverage of at least one hundred thousand dollars (\$100,000.00).

Section 17. Section 15.38ART. is hereby repealed in its entirety

15.38ART. Article III. Noncommercial Solicitation

Article III. Noncommercial Solicitation

Section 18. Section 15.39. is hereby repealed in its entirety

15.39. Noncommercial Solicitation--Definitions.

~~Noncommercial Solicitation--Definitions.~~

~~———— For the purpose of this article, the following words and phrases shall have the following meanings:~~

~~———— *Noncommercial solicitation* shall mean the going upon any premises or to or in one or more private residences by any person without appointment by personal contact with the resident or occupant for the purpose of requesting directly, or indirectly, money, credit, property, financial assistance, or other thing of value on the plea or representation that such money, credit, property, financial assistance, or other thing of value will be used for a noncommercial purpose, such as a political, charitable, or religious purpose. Noncommercial solicitation shall not include canvassing or calling from house to house only for the purpose of communicating issues of general interest to the public.~~

~~———— *Residence* shall mean and include every separate living unit occupied for dwelling purposes by one or more persons, contained within any type of building or structure, including the common areas inside multiple dwelling buildings.~~

~~———— *Person* shall mean any individual, organization, group, association, partnership, corporation, trust, or any combination thereof. (Ord. No. 2833, § 4.)~~

Section 19. Section 15.40. is hereby repealed in its entirety

15.40. Same--Registration required; application.

~~Same--Registration required; application.~~

~~———— (a) Any person desiring to engage in noncommercial solicitation as herein defined within the Village shall register with the individual designated by the Village Manager for the purpose of identification only.~~

~~———— (b) Application for a certificate of registration shall be made to the individual designated by the Village Manager upon a form provided by the Village. The person shall truthfully state in full on the application the following information, or in lieu thereof, a statement of the reason or reasons why such information cannot be furnished:~~

~~———— (1) The name and address of the person applying for the certificate.~~

~~———— (2) The name and address of each person in charge of and supervising the noncommercial solicitation in the Village.~~

~~———— (3) The nature and purpose of the noncommercial solicitation.~~

~~_____ (4) The requested dates for noncommercial solicitation.~~

~~_____ (5) The date, or approximate date, of the latest previous application for a certificate under this article.~~

~~_____ (c) Except as provided by Section 15-42 hereof, upon receipt of an application, the individual designated by the Village Manager shall forthwith issue the person a certificate of registration. (Ord. No. 2833, § 4.)~~

Section 20. Section 15.41. is hereby repealed in its entirety

15.41. Same--Term; renewal.

~~Same--Term; renewal.~~

~~_____ Each registration certificate shall be in effect for no more than thirty (30) days. To renew a certificate of registration, a person shall complete a short form, indicating no changes in the information provided in the initial application, or if changes have occurred, a new application. (Ord. No. 2833, § 4.)~~

Section 21. Section 15.42. is hereby repealed in its entirety

15.42. Same--Denial of certificate; appeal.

~~Same--Denial of certificate; appeal.~~

~~_____ (a) The failure of a person to complete the application truthfully shall be the sole basis for the denial of a certificate of registration. In the event that any certificate of registration is denied, the individual designated by the Village Manager shall immediately notify the person in writing of the reasons for said denial.~~

~~_____ (b) If a certificate of registration is denied, the person may within ten (10) days of the date such notice is sent cure the defect resulting in the denial. If the person chooses not to cure the defect in the application, the person may file a written appeal addressed to the Village Manager. The Manager shall then, within a reasonable time, either affirm the refusal or order the individual designated by the Village Manager to issue the certificate.~~

~~_____ (c) If a determination is not made by the Village Manager concerning issuance of the certificate within thirty (30) days after the date of denial, an interim certificate of registration shall be issued, which shall be valid until such determination is made. (Ord. No. 2833, § 4.)~~

Section 22. Section 15.43. is hereby repealed in its entirety

15.43. Suspension or revocation of registration.

~~Suspension or revocation of registration.~~

~~_____ (a) The Village Manager may suspend or revoke any registration granted under this Article if the person or any individual soliciting on behalf of that person violates any of the provisions of this Article during the period of registration.~~

~~_____ (b) If the Village Manager determines after investigation that cause exists for the suspension or revocation of the registration, the Manager shall notify the person in writing that its registration will be revoked or suspended, setting forth the reasons therefor, and advising the person of the right to appeal pursuant to Section 15-35.1 of this Chapter. Unless a timely appeal is filed as provided in Section 15-35.1, such revocation or suspension shall be final and effective on the sixth business day following receipt of the notice by the person so registered. If a timely appeal is filed as provided in Section 15-35.1, such revocation or suspension shall not be final and effective until the appeal has been processed. (Ord. No. 2833, § 4.)~~

Section 23. Section 15.44. is hereby repealed in its entirety

15.44. Same--Regulations.~~Same--Regulations.~~

~~— (a) *Duty to leave premises on request.* No person shall engage in solicitation upon any premises or at any residence after having been asked by an owner or occupant thereof to leave such premises or residence.~~

~~— (b) *Duty to honor no-soliciting signs.* No person shall come upon any premises nor engage in solicitation upon any premises or at any residence located thereon, if such premises or residence is posted against solicitation by means of a notice, prominently displayed, upon which is printed the legend, "No Soliciting", or substantially similar language. Said posting shall be exhibited at or near the main entrance to the premises or on or near the main door to any residence located thereon, and shall consist of a sign at least two inches by four inches in size, which bears the above legend in letters at least one-third inch in height. Signs complying with the foregoing requirements shall be made available for sale at cost at the office of the cashier in the Village hall.~~

~~— (c) *Fraudulent misrepresentation.* No person who engages in solicitation shall use any plan, scheme or ruse to make any statement which indicates or implies that the purpose of such person's visit is other than to engage in solicitation, as herein defined.~~

~~— (d) *Duty to bear registration cards.* Every person issued a certificate or any individual soliciting for such person shall wear conspicuously on the outside of his or her outer garments a registration card provided by the Village. Such card shall include at least the following information printed legibly: the name of the individual issued the card, the organization issued the certificate of registration, the purpose of the solicitation and the date of the expiration of the card. Each card shall also contain a statement indicating that the card is not an endorsement by the Village or any of its employees. Cards issued under this article shall be nontransferable.~~

~~— (e) *Time limits.* No person shall engage in noncommercial solicitation as herein defined at any time prior to 9:00 a.m. or after 9:00 p.m., local time. (Ord. No. 2833, § 4; Ord. No. 3071, § 2.)~~

Section 24. Section 15.45. is hereby renumbered to be Section 15.38.1.**15.45. Penalties for certain violations.**

(a) Any person who violates any of the provisions of this ~~Chapter~~**Article** 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 25. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 26. 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