

VILLAGE OF DOWNERS GROVE
Report for the Village
12/10/2019

SUBJECT:	SUBMITTED BY:
Chapter 15 Amendments	Enza Petrarca Village Attorney

SYNOPSIS

An ordinance has been prepared amending Chapter 15 of the Downers Grove Municipal Code.

STRATEGIC PLAN ALIGNMENT

The goals for 2019-2021 include *Exceptional Municipal Services*.

FISCAL IMPACT

N/A

RECOMMENDATION

Approval on the December 17, 2019 active agenda.

BACKGROUND

The Illinois Cannabis Regulation and Tax Act (the “Act”) becomes effective January 1, 2020, and as such, amendments need to be made to Chapter 15 in order to be compliant with State law. The Act makes it legal to purchase and possess certain quantities of cannabis in the State of Illinois. It also sets forth specific restrictions regarding the consumption of cannabis. For example, cannabis cannot be consumed in any motor vehicle, in any public place or in close proximity to anyone under the age of twenty-one (21). The proposed ordinance incorporates the provisions of the Act and also sets forth specific penalty provisions.

Chapter 15 has further been amended by deleting several obsolete provisions and updating others to be consistent with State law. The chapter has also been re-structured and re-numbered to mirror other chapters of the municipal code.

ATTACHMENTS

Ordinance

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ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 15 OF THE MUNICIPAL CODE

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 1.16 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~~ 15.205; Noise Regulations.
- (ix) Section ~~15.8;~~ 15.208 Drinking ~~in on~~ Public property and in parking areas of residential developments.
- (x) Section ~~15.23.1~~ 15.302; Possession of Cannabis, Tobacco Products, Alternative Nicotine Products, Smoking Materials or Drug Paraphernalia by any person under the age of twenty-one

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prohibited.

(xi) Section ~~15.23.2~~15.303; Purchase of Cannabis, Tobacco Products, Alternative Nicotine Products, Smoking Materials or Drug Paraphernalia by any person under the age of twenty-one prohibited.

(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) Chapter 15, Article ~~H~~V. Solicitation

(ii) Section 13.35; Open Burning Prohibited.

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

(iv) Section ~~15.2~~15.201; Curfew.

(v) Section ~~15.3~~15.202; Littering.

(vi) Section ~~15.4.(a), (b), (c), (d), & (f)~~15.203; Malicious mischief.

(vii) Section ~~15.5 (a), (d), (e) & (h)~~15.204; Disorderly conduct.

(viii) Section ~~15.6~~15.206; Damage to Property.

(ix) Section 15.211; Fireworks-Possession.

(x) Section ~~15.23~~15.207; Truancy.

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

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

(xiii) Section ~~15.27~~15.401; Theft (less than \$150)

(xiv) Section ~~15.28~~15.402; Retail Theft - Less than \$150.

~~(xv)~~xiii Section 17.45; Parking in Fire Lane.

~~(xvi)~~xiv 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)

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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) 15.301; ~~Sale of Tobacco Products, Alternative Nicotine Products, Smoking Materials or Drug Paraphernalia to any person under twenty-one (21)~~ Limitation on sale or display of certain materials with respect to minors; Demand for identification; warning signs.

(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~~ 15.216; ~~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

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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 15.1ART. is hereby renumbered to be Section 15.100.ART

15.1ART. Article I. In General

Section 15.101. is hereby added to read as follows:

15.101. Definitions.

"Alternative Nicotine Product." As defined under 720 ILCS 675/1.5(a): a product or device not consisting of or containing tobacco that provides for the ingestion into the body of nicotine, by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing or otherwise. "Alternative nicotine product" excludes cigarettes, smokeless tobacco or other tobacco products, as these terms are defined in this Ordinance and any product approved by the U.S. FDA as a non-tobacco product for sale as a tobacco cessation or dependence product or for other medical purposes and is marketed and sold solely for that purpose.

"Cannabis" is marijuana, hashish and other substances included in the definition of cannabis as set forth in the "Cannabis Regulation and Tax Act" (410 ILCS 705/1, et seq.)

"Cocaine spoon" is a spoon with a bowl so small that the primary use for which it is reasonably adapted or designed is to hold or administer cocaine, and which is so small as to be unsuited for the typical, lawful use of a spoon. A cocaine spoon may or may not be merchandised on a chain and may or may not be labeled as a "cocaine" spoon or "coke" spoon.

"Conceal merchandise" means that, although there may be some notice of its presence, that merchandise is not visible through ordinary observation.

"Controlled substance" is any drug or substance included in the definition of a controlled substance as set forth in the "Illinois Controlled Substance Act" (720 ILCS 570/100, et seq.).

"Drug paraphernalia" is all equipment, products, and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body cannabis or a controlled substance in violation of any Village, State or federal law. It includes but is not limited to:

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(1) Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is cannabis or a controlled substance or from which cannabis or a controlled substance can be derived;

(2) Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing cannabis or controlled substances;

(3) Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is cannabis or a controlled substance;

(4) Testing equipment used, intended for use or designed for use in identifying, or in analyzing the strength, effectiveness or purity of cannabis or controlled substances;

(5) Scales and balances used, intended for use, or designed for use in weighing or measuring cannabis or controlled substances;

(6) Dilutants and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances;

(7) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining cannabis;

(8) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances or combining cannabis with any controlled substance;

(9) Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of cannabis or controlled substances;

(10) Containers and other objects used, intended for use or designed for use in storing or concealing cannabis or controlled substances;

(11) Hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting controlled substances into the human body;

(12) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing cannabis or cocaine into the human body such as:

(a) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

(b) Water pipes;

(c) Carburetion tubes and devices;

(d) Smoking and carburetion masks;

(e) Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

(f) Miniature cocaine spoons and cocaine vials;

(g) Chamber pipes;

(h) Carburetor pipes;

(i) Electric pipes;

(j) Air-driven pipes;

(k) Chillums;

(l) Bongs;

(m) Ice pipes or chillers.

In determining whether an object is "drug paraphernalia", a court or other authority should consider, in addition to all other logically relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use;

(2) Prior convictions, if any, of an owner, or anyone in control of the object, under any Village, State or federal law relating to cannabis or controlled substances;

(3) The proximity of the object, in time and space, to a direct violation of any Village, State or federal law relating to cannabis or controlled substances;

(4) The proximity of the object to cannabis or a controlled substance;

(5) The existence of any residue of cannabis or controlled substances on the object;

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- (6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of any Village, State or federal law relating to cannabis or controlled substances; the innocence of an owner or of anyone in control of the object as to a direct violation of any such laws shall not prevent a finding that the object is intended for use, or designed for use as "drug paraphernalia";
- (7) Instructions, oral or written, provided with the object concerning its use;
- (8) Descriptive materials accompanying the object which explain or depict its use;
- (9) National or local advertising concerning its use;
- (10) The manner in which the object is displayed for sale;
- (11) 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;
- (12) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
- (13) The existence and scope of legitimate uses for the object in the community;
- (14) Expert testimony concerning its use.

"Film" is a movie, preview, trailer and/or advertisements.

"Full retail value" means the merchant's stated or advertised price of the merchandise.

"Harmful to minors" when applied to any book, magazine, periodical, film or other reading or viewing material shall mean that any such material, if read or viewed by the average person applying contemporary standards in the community, would be found to have the following characteristics:

- (1) Its predominant appeal is to prurient interests judged with reference to average minors of the same general age as the minor to whom the material is sold or in whose presence the material is displayed, the prurient interest being a shameful or morbid interest in nudity, sex or excretion;
- (2) It goes substantially beyond the customary limits of candor in description of nudity, sex or excretion; and
- (3) It is utterly without redeeming social value.

It is the intent of this definition to include materials depicting any type of conduct which has been from time to time held by the Illinois Supreme Court in its construction of state obscenity statutes to be harmful to minors.

It shall be presumed that a film is harmful to minors if that film is rated "X" or "NC17" by the Motion Picture Association of America and explicitly depicts nudity, sex or excretion.

"Juvenile" a person under the age of seventeen (17).

"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.

"Litter" means any discarded, used or unconsumed substance or waste. Litter may also include, but is not limited to, any placard, handbill, circular, garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspaper, magazines, glass, metal, plastic or paper containers or other packaging, construction material, abandoned vehicle (as defined in the Illinois Vehicle Code, as amended), motor vehicle parts, furniture, oil, carcass of a dead animal, any nauseous or offensive matter of any kind, any object likely to injure any person or create a traffic hazard, or anything else of an unsightly or unsanitary nature, which has been discarded, abandoned or otherwise disposed of improperly.

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

"Merchandise" means any item of tangible personal property.

"Merchant" means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of such owner or operator.

"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 ordinance shall also be deemed to mean "legal guardian."

"Premises of a retail mercantile establishment" includes, but is not limited to, the retail mercantile establishment; any common use areas in shopping centers and all parking areas set aside by a merchant or on behalf of a merchant for the parking of vehicles for the convenience of the patrons of such retail mercantile establishment.

"Publicly displayed" when used with reference to drug paraphernalia, or books, magazines, periodicals, films and other reading or viewing materials which are harmful to minors shall mean display where such materials are openly available for viewing in store windows, on open racks designed for such display or on counters.

"Retail mercantile establishment" means any place where merchandise is displayed, held, stored, or offered for sale to the public.

"Shopping cart" means those push carts of the type or types which are commonly provided by grocery stores, drug stores or other retail mercantile establishments for the use of the public in transporting commodities in stores and markets and, incidentally, from the store to a place outside the store.

"Smoking materials" are articles or equipment commonly used in the consumption or ingestion of tobacco, cannabis or any smokable herb and shall include, but not be limited to, the following articles: marijuana pipes, hashish pipes, water pipes, chamber pipes, electric pipes, air driven pipes, bongs, ice pipes, cigarette papers and any device that can be used to deliver aerosolized or vaporized nicotine, cannabinoids or other substances to the person inhaling from the device, including, but not limited to an electronic cigarette, e-cigar, vape pen or hookah.

"Tobacco products" are any substances containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff or smokeless tobaccos including chewing tobacco and dipping tobacco.

"Trespass" includes, but shall not be limited to the following:

1. An entry upon the premises, or any part thereof, of another, including any public property in violation of a notice posted or exhibited at the main entrance to the premises or at any given point of approach or entry or in violation of any notice, warning or protest given orally or in writing by any owner or occupant thereof.
2. The pursuit of a course of conduct or action incident to the making of an entry upon the land of another in violation of a notice posted or exhibited at the main entrance to the premises or at any point of approach or entry, or in violation of any notice, warning or protest given orally or in writing by any owner or occupant thereof.
3. A failure or refusal to depart from the premises of another in case of being requested, whether

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orally or in writing, to leave by any owner or occupant thereof.

4. An entry into or upon any vehicle, aircraft or watercraft made without the consent of the person having the right to the possession or control thereof, or a failure or refusal to leave any such vehicle, aircraft or watercraft after being requested to leave by the person having such right.

"Under-ring" means to cause the cash register or other sales recording device to reflect less than the full retail value of the merchandise.

Section 15.200.ART. is hereby added to read as follows:

15.200.ART. Article II. Offenses.

Section 6. Section 15.2. is hereby renumbered to be Section 15.201.

15.2. Curfew.

(a) It shall be unlawful for a ~~person less than seventeen (17) years of age (hereinafter "minor")~~ juvenile to be present at or upon any public assembly, building, place, street or highway at the following times:

- (1) Between 12:01 a.m. and 6:00 a.m. Saturday;
- (2) Between 12:01 a.m. and 6:00 a.m. Sunday; and
- (3) Between 11:00 p.m. on Sunday to Thursday, inclusive, and 6:00 a.m. on the following day.

(b) It is a defense to a violation of 15.2(a) that the minor engaged in the prohibited conduct while:

- (1) accompanied and supervised by the minor's parent, legal guardian, custodian, sibling, stepbrother or stepsister at least eighteen (18) years of age;
- (2) accompanied and supervised by an adult at least twenty-one (21) years of age approved by the minor's parent, guardian or custodian;
- (3) participating in, going to, or immediately returning from:
 - (i) employment which the laws of this State authorize a person less than seventeen (17) years of age to perform;
 - (ii) an official school recreational activity;
 - (iii) a religious event;
 - (iv) an emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage;
 - (v) an activity involving the exercise of the minor's rights protected under the First Amendment to the United States Constitution or Article 1, Sections 3, 4, and 5 of the Constitution of the State of Illinois, such as the free exercise of religion, freedom of speech and the right of assembly;
 - (vi) an activity conducted by a non-profit or governmental entity that provides recreation, education, training or other care under the supervision of one (1) or more persons over seventeen (17) years of age;
- (4) married or had been married or is an emancipated minor under the Emancipation of Mature Minors Act, as amended.

A citation for violation of subparagraph (a) of this section may be issued by a police officer only if he reasonably believes that a violation occurred and none of the defenses enumerated in subparagraph (b) apply.

(c) It shall be unlawful for a parent, legal guardian or other person to knowingly permit or by insufficient control allow a minor in his/her custody or control to violate subparagraph (a) of this section and none of the defenses enumerated in subparagraph (b) hereof apply. (Ord. No. 2877, § 1.)

Section 15.3. is hereby renumbered to be Section 15.202.

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15.3. Littering.

No person shall place or cause to be placed upon any street, alley, park or other public property any litter, unless the litter is placed into a receptacle intended for the deposit of litter. ~~As used in this section, "litter" means any discarded, used or unconsumed substance or waste. "Litter" may include, but is not limited to, any placard, handbill, circular, garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspaper, magazines, glass, metal, plastic or paper containers or other packaging, construction material, abandoned vehicle (as defined in the Illinois Vehicle Code, as amended), motor vehicle parts, furniture, oil, carcass of a dead animal, any nauseous or offensive matter of any kind, any object likely to injure any person or create a traffic hazard, or anything else of an unsightly or unsanitary nature, which has been discarded, abandoned or otherwise disposed of improperly.~~ (Ord. No. 2877, § 1.)

Section 15.4. is hereby renumbered to be Section 15.203.**15.4. Malicious mischief.**

No person shall knowingly do any act which interferes with another person's lawful use of his/her own property or of property open to the general public, including but not limited to:

- (a) Throwing stones, nails, glass or other missiles in a place or manner which creates an unreasonable danger of or does cause injury to persons or damage to property of another;
- (b) Shooting any weapon or device for launching projectiles in a place or manner which creates an unreasonable danger of or does cause injury to persons or damage to property of another;
- (c) Depositing a stink bomb or other offensive smelling compound in any building, structure or vehicle;
- (d) Performing an act, such as ringing a doorbell, for the purpose of disturbing the occupant of a building; ~~or~~
- (e) Cruelly treating any animal by the infliction of physical pain, suffering or death, when not necessary for purposes of defense of person or property; ~~or~~
- (f) ~~Going upon any premises or to any private residence on which is prominently displayed a notice with the words "No Soliciting", or substantially similar language, without appointment, and having personal contact with the resident or occupant for the purpose of engaging in commercial or noncommercial solicitation (as defined in Articles II and III of this Chapter), canvassing or calling upon such premises or residence to communicate issues of general interest.~~ (Ord. No. 2877, § 1; Ord. No. 3297, § 12.)

Section 15.5. is hereby renumbered to be Section 15.204.**15.5. Disorderly conduct.**

A person commits disorderly conduct when he does any act in such unreasonable manner as to alarm or disturb another and to provoke, make or aid in making, a breach of the peace. Acts which shall be deemed to be disorderly conduct, and are prohibited, include, but are not limited to, the following:

- (a) *Abusive words or gestures.* Uttering profane, obscene or abusive words or performing profane, obscene or abusive gestures directed to and within the view or hearing of another, with the intent to provoke a breach of the peace.
- (b) *Disturbing passersby.* Disturbing passersby on any street, sidewalk or other place open to the public by placing any obstruction upon or across the same, or by throwing missiles of any kind, or by jeering at or deriding in any other manner, with intent to disturb any person in the lawful and orderly use of such street, sidewalk or place open to the public.
- (c) *Disturbing public assemblies.* Disturbing any orderly assembly of any kind.
- (d) *Fighting.* Engaging in or encouraging a fight in any street, park or other place open to the public.
- (e) *Keeping a disorderly place.* Causing or permitting any room, house, shop, building or place of any description (while having the control thereof) to become the gathering place of disorderly persons, or causing or permitting therein any unreasonable noise which breaches the peace.

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(f) *Obstructing entrances.* Obstructing (or remaining about) any sidewalk, entrance to any school, church, club, or other room or building used for public assemblies, or entrance to other places open to the public after being requested by a police officer or any person in charge of such place to move on.

(g) *Public Intoxication.* Appearing on any street, highway or in a public place manifestly under the influence of alcohol, narcotics or any other drug not therapeutically administered.

(gh) *Unlawful assembly.* Assembling with three or more persons for purposes of disturbing the public peace.

(hi) *Urinating in public.* Urinating or depositing excrement upon streets, alleys, parks, or other places open to public view. (Ord. No. 2877, § 1.)

Section 15.5.1. is hereby renumbered to be Section 15.205.

15.5.1. Noise Regulations.

(a) No person shall make, cause to be made, or permit to be made, any unreasonable noise or sound which disturbs the peace.

(b) No person shall keep within the Village any dog or other animal which makes any unreasonable barking, howling or other noises which disturbs the peace.

(c) No person shall operate, permit to be operated or cause to be operated, on the exterior of any premises, any power tools, such as but not limited to gas or electric powered lawnmower, chain saws, power saws, sweepers or yard equipment other than between the hours of 7:00 a.m. and 9:00 p.m.; except that on Sundays such operation is prohibited prior to 8:00 a.m. and after 9:00 p.m.

(d) No person shall operate, permit to be operated or cause to be operated, on the exterior of any premises, any heavy construction equipment such as but not limited to tractors, augurs, backhoes, cement mixers or construction vehicles other than between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday. No such equipment shall be operated at any time on Sundays.

(e) No person shall operate, permit to be operated, or cause to be operated, any radio, stereo or sound amplification device in a manner which causes unreasonable noise or vibration and is detectable without the aid of any device or instrument at or beyond the lot line of the lot where such activity takes place.

(f) No person shall operate or permit the operation of any sound amplification system in or on any motor vehicle which can be heard outside the vehicle from seventy-five (75) feet or more.

(g) The provisions of this section shall not apply to any of the following:

(1) Any sound amplification system being operated to request assistance or warn of a hazardous situation.

(2) Any sound amplification systems on authorized emergency vehicles.

(3) Snow blowers, other snow removal equipment; or street cleaning devices.

(4) Road, municipal parking lot, railroad or utility construction or maintenance work (including work on State, County and railroad right-of-ways) conducted or authorized by the governmental unit, railroad or utility having jurisdiction. Provided, no such work shall be conducted between the hours of 7:00 p.m. and 7:00 a.m., Monday through Saturday or on Sundays except where a waiver has been granted by the Village as provided herein. Application for such waiver shall be made with the Director of Public Works, or such Director's designee, on forms and with such information as the Director may require. In granting a waiver, the Director may impose such conditions and restrictions as may be necessary to protect the public health, welfare and safety. Provided, a waiver shall only be granted in the following circumstances:

(i) Emergency work; or,

(ii) The construction area is not within five hundred (500) feet of any single or multi-family dwelling; or,

(iii) Safety and/or traffic control measures in accordance with Village and Illinois Department of Transportation standards are not feasible during the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday. Provided, twenty-four (24) hours advance written notice shall be delivered to

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all dwelling units within five hundred (500) feet of the construction area unless the work is of an emergency nature and notice is impractical. The notice shall be in the form approved by the Village Manager and shall be deemed served when given to any person over the age of eighteen (18) residing at such dwelling unit, or, in the event no such person can be located, by leaving a copy of the notice in a conspicuous location at the dwelling unit.

(iv) Village work or activities where the Village Manager determines that extended hours of work are necessary to complete the work in a timely fashion and to protect the public health, welfare and safety.

Section 15.6. is hereby renumbered to be Section 15.206.

15.6. Damage to property.

No person shall knowingly destroy, injure, remove or deface any public or private property within the Village without the owner's consent. Said offense shall include, but is not limited to actions by operating vehicles, cutting, tearing, breaking, digging, throwing, shooting, marking, painting or drawing when such actions have the effect of causing damage to property. (Ord. No. 2877, § 1.)

Section 15.6.1. is hereby repealed in its entirety

15.6.1. Removal of tire markings.

~~Removal of tire markings.~~

~~When a tire, or tires, of a motor vehicle have been marked by an agent of the village for the purpose of determining the length of time said motor vehicle has been parked in a designated parking space, it shall be unlawful for any person to remove said marking. (Ord. No. 3115, § 5.)~~

Section 15.7. is hereby repealed in its entirety

15.7. Reserved.

~~Reserved.~~

Section 15.23. is hereby renumbered to be Section 15.207.

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~~

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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.

(e~~b~~) 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~~a~~) of this section.

(d~~c~~) 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.

(e~~d~~) 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.

Section 15.8. is hereby renumbered to be Section 15.208.

15.8. Drinking on public property and in parking areas of residential developments.

(a) Except as permitted in the liquor control ordinance, no person shall drink any intoxicating liquors (1) in any building owned, operated, or leased by the Village, excluding residential property leased to private persons, (2) upon any street, (3) in any outdoor place open to the public within the Village, and (4) in any parking area of the following residential developments for which the owner, lessee or manager of the property has entered into an agreement with the Village for enforcement of this section: The Village Manager is authorized on behalf of the Village Council to execute agreements with property owners, lessees or managers for the enforcement of this section.

Prentiss Creek Apartment Complex, located at 2100 Prentiss Drive, Downers Grove, Illinois; this section shall be enforced in all parking areas of the property.

(b) ~~At its sole cost and expense, the owner or management of the residential developments listed above shall obtain and post appropriate regulatory signs in the designated parking areas in such a manner to provide proper notice of the regulations under this section. The location, size and number of signs required shall be as determined by the police department and included in the agreement between the Village and the owner or management provided each such sign shall not exceed nine square feet.~~

(c) ~~For purposes of this section, the term "parking area" shall mean all improved parking lots used for the parking of motor vehicles, the driveways and improved areas accessing the lots, and the twenty foot wide area bordering a parking lot which may include, but is not limited to, sidewalks or grassy or landscaped areas. "Parking area" shall not include garages or sheds. (Ord. No. 2877, § 1.)~~

Section 15.1SEC. is hereby renumbered to be Section 15.209.

15.1SEC. Brandishing of explosives, firearms, etc.

No person shall brandish, expose, throw or carelessly handle any explosive contrivance or firearms, anywhere in the Village in a manner so as to endanger the life, limb or property of any person. (R.O. 1925, § 179; Ord. No. 2877, § 1.)

Section 15.9. is hereby renumbered to be Section 15.210.

15.9. Firearms--Discharge.

Except as otherwise provided by State and federal laws, no No person shall fire or discharge any gun,

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pistol, fowling piece or other firearm, or any air gun, toy pistol on which percussion caps are used, air rifle, air pistol, spring pistol, pneumatic gun, BB gun, paintball gun, pellet gun or any implement that is not a firearm which impels a breakable paintball containing washable marking colors, or a pellet constructed of hard plastic steel, lead or other hard materials with a force that reasonably is expected to cause bodily harm, or other projectile-type weapon device which is calculated or intended to propel or project a bullet, pellet, arrow or similar projectile within the Village. (R.O. 1925, § 175; Ord. No. 2877, § 1.)

Section 15.10. is hereby repealed in its entirety

15.10. Same--Sale to minors.

~~Same--Sale to minors.~~

~~———— No person shall sell, loan or furnish to any minor any gun, pistol, fowling piece or other firearm, air gun or toy pistol on which percussion caps are used. (R.O. 1925 § 176; Ord. No. 2877, § 1.)~~

NOTE: For state law as to unlawful sale of firearms, see Ill. Comp. Stat., ch. 720, § 5/24-3.

Section 15.11. is hereby renumbered to be Section 15.211.

15.11. Fireworks

A. Permit required to discharge. It shall be unlawful to discharge, fire or give any exhibition of fireworks or pyrotechnics, as defined by the Fireworks Regulation Act,* within the Village without having first secured a permit therefor from the Village Manager.

B. Possession, storage and sale prohibited; exception. It shall be unlawful to possess, store, sell or offer for sale any fireworks or pyrotechnics in the Village, either at wholesale or retail; provided, that the storage of such materials for use in an exhibition for which a permit has been granted, shall not be construed as a violation of this section.

(Ord. No. 305, § 1; Ord. No. 2433, § 1; Ord. No. 2877, § 1.)

* Ill. Comp. Stat., ch. 425, § 30/2. 425 ILCS 30/1 et al.

Section 15.12. is hereby repealed in its entirety

15.12. Same--Possession, storage and sale prohibited; exception.

~~Same--Possession, storage and sale prohibited; exception.~~

~~———— It shall be unlawful to possess, store, sell or offer for sale any fireworks or pyrotechnics in the village, either at wholesale or retail; provided, that the storage of such materials for use in an exhibition for which a permit has been granted, shall not be construed as a violation of this section. (Ord. No. 305, § 1; Ord. No. 2433, § 1; Ord. No. 2877, § 1.)~~

Section 15.13. is hereby renumbered to be Section 15.212.

15.13. Gambling.

(a) No person shall, upon any premises or within any building within the Village occupied or controlled by him, set up, keep, maintain or operate or permit to be set up, kept, maintained or operated any card game or instrument, device or thing for the purpose of gambling or with which money or property, or anything representing money or property or anything of value shall in any manner be lost or won; provided, however, that the game commonly known as "bingo", when conducted in accordance with the provisions of the Illinois Bingo License and Tax Act¹, pull tab and jar games when conducted in accordance with the provisions of the

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Illinois Pull Tabs and Jar Games Act², "charitable games" when conducted in accordance with the provisions of the Illinois Charitable Games Act³, and lotteries when conducted by the State of Illinois in accordance with the Illinois Lottery Law, shall be permitted and shall not be construed as a violation of this section.

(b) Pursuant to Section 27 of the Video Gaming Act⁴, video gaming is hereby prohibited within the corporate boundaries of the Village.

(c) No person shall participate in the activities defined as gambling in subsection (a) and (b). (R.O. 1925, § 411; Ord. No. 301, § 1; Ord. No. 2121, § 1; Ord. No. 2812, § 3; Ord. No. 2877, § 1.)

NOTE: For state law as to gambling, see 720 ILCS 5/28-1-28-9~~Ill. Comp. Stat., ch. 720, §§ 5/28-1 to 5/28-9. As to authority of Village to suppress gambling, see Ill. Rev. Stat., ch. 24, § 11-501. (Repealed)~~

¹230 ILCS 25/1 et seq.

²230 ILCS 20/1 et seq.

³230 ILCS 30/1 et seq.

⁴230 ILCS 40/27

Section 15.14. is hereby repealed in its entirety

15.14. Houses of ill fame.

House of ill fame:

~~No person shall keep or maintain or be an inmate of or in any way contribute to the support of any house of ill fame or assignation.~~

~~Any person found in any house of ill fame or assignation shall be considered an inmate within the meaning of this section.~~

~~Every house of ill fame or house of assignation where men and women resort for the purpose of prostitution is declared to be a nuisance. (R.O. 1925, §§ 414, 415, 416; Ord. No. 2877, § 1.)~~

NOTE: For state law as to keeping a place of prostitution, see Ill. Comp. Stat., ch. 720, § 5/11-17. As to authority of village to prevent prostitution, see Ill. Comp. Stat., ch. 65, § 5/11-54.

Section 15.15. is hereby renumbered to be Section 15.213.

15.15. Public indecency.

(a) No person of the age of seventeen (17) years or older shall commit an act of public indecency in a public place, where such acts may reasonably be expected to be viewed by others, such acts to include the following:

- (1) An act of sexual intercourse; or
- (2) An act of deviate sexual conduct as defined by Article 11 of the Criminal Code of 1961, as amended*; or
- (3) A lewd exposure of the body done with intent to arouse or satisfy the sexual desire of the person; or
- (4) A lewd fondling or caress of the body of another person of either Sex. (R.O. 1925, § 413; Ord. No. 2489, § 5; Ord. No. 2877, § 1.)

NOTE: For state law as to public indecency, see 720 ILCS 5/11-9~~Ill. Comp. Stat., ch. 720, § 5/11-9.~~

* Ill. Comp. Stat., ch. 720, § 5/11-9.

Section 22. Section 15.16. is hereby renumbered to be Section 15.214.

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15.16. Obscenity.

(a) No person shall commit obscenity in the Village. A person commits obscenity when, with knowledge of the nature or content thereof, or recklessly failing to exercise reasonable inspection which would have disclosed the nature or content thereof, he or she:

(1) Sells, delivers or provides, or offers or agrees to sell, deliver or provide any obscene writing, picture, record or other representation or embodiment of the obscene; or

(2) Presents or directs an obscene play, dance or other performance or participates directly in that portion thereof which makes it obscene; or

(3) Publishes, exhibits or otherwise makes available anything obscene; or

(4) Performs an obscene act or otherwise presents an obscene exhibition of his or her body for gain; or

(5) Creates, buys, procures or possesses obscene matter or material with intent to disseminate it in violation of this section, or of the penal laws or regulations of any other jurisdiction; or

(6) Advertises or otherwise promotes the sale of material represented or held out by him or her to be obscene, whether or not it is obscene.

(b) A thing is obscene if, when considered as a whole by the average person applying contemporary community standards: (i) its predominant appeal is to prurient interest, that is, a shameful or morbid interest in nudity, sex or excretion, and it goes substantially beyond customary limits of candor in description or representation of such matters; and (ii) it depicts in a patently offensive way beyond the customary limits of candor, Specified Sexual Activities as defined in Section 8-2001 of this Code; and (iii) the work or exhibition as a whole is utterly without redeeming social importance.

(c) In determining whether an object, act or exhibition is obscene, a court or other authority should consider, in addition to other logically relevant factors:

(1) Circumstances of production, presentation, sale, dissemination, distribution or publicity which indicate that material is being commercially exploited for the sake of its prurient appeal.

(2) The character of the audience for which the material was designed or to which it was directed.

(3) What the predominant appeal of the material would be for ordinary adults or a special audience, and what effect, if any, it would probably have on the behavior of such people.

(4) The artistic, literary, scientific, educational or other merits of the material, or absence thereof.

(5) The degree, if any, of public acceptance of the material in the State.

(6) Appeal to prurient interest, or absence thereof, in advertising or other promotion of the material.

(7) Purpose of the author, creator, publisher or disseminator. (Ord. No. 2489, § 5; Ord. No. 2877, § 1.)

Section 15.17. is hereby renumbered to be Section 15.215.**15.17. Limitations of harmful films with respect to juvenile audiences.**

It shall be unlawful for any person to knowingly show or cause to be shown a film harmful to juveniles on a motion picture screen, for which showing or displaying an admission fee is charged, to a juvenile not accompanied by a parent or guardian.

1. A film is harmful to juveniles if, to the average person applying contemporary standards:

(a) Its predominant appeal is to the prurient interests judged with reference to average juveniles of the same general age as the juvenile to whom the film is shown, the prurient interest being a shameful or morbid interest in nudity, sex or excretion;

(b) It goes substantially beyond the customary limits of candor in description of nudity, sex or excretion; and

(c) Its redeeming social importance is substantially less than its prurient appeal.

2. Types of conduct that would come under the definition herein have been specified by the Illinois

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Supreme Court in its construction of similar state obscenity statutes, and are incorporated herein by reference.

3. A person knowingly shows a harmful film to a juvenile, if he has knowledge of the harmful content of the film and knowledge that the person to whom the film is shown is under seventeen (17) years of age, or if he fails to exercise reasonable care in ascertaining whether the content of the film is harmful or the age of the juvenile to whom the film is shown.

4. For purposes of proof of a violation of this Section it shall be presumed that:

(a) A film is harmful to juveniles if that film explicitly depicts nudity, sex or excretion and is rated "X" or "R" or "NC17" by the Motion Picture Association of America (MPAA).

(b) A person knowingly shows a harmful film if he has knowledge that the film explicitly depicts nudity, sex or excretion and is rated "X" or "R" or "NC17" by the MPAA.

(c) A person knowingly shows a film to a juvenile if he fails to require and inspect documentary evidence of age for that juvenile or if a juvenile employee is working on the premises at the time of showing.

(d) The redeeming social importance of the film shown to a juvenile is substantially less than its prurient appeal, where circumstances of production, presentation or publicity indicate that the film is being commercially exploited for the sake of its prurient appeal.

(Ord No. 2167, § 6; Ord. No. 2691, § 3; Ord. No. 2877, § 1.)

Section 15.18. is hereby repealed in its entirety

15.18. Same--Definitions.

~~Same--Definitions.~~

~~For purposes of Section 15-17 the following terms shall have the meanings ascribed as follows:~~

~~(a) A film includes films, movies, previews, trailers and advertisements.~~

~~(b) A juvenile is a person under the age of seventeen years.~~

~~(c) A film is harmful to juveniles if, to the average person applying contemporary standards:~~

~~—— (1) Its predominant appeal is to the prurient interests judged with reference to average juveniles of the same general age as the juvenile to whom the film is shown, the prurient interest being a shameful or morbid interest in nudity, sex or excretion;~~

~~—— (2) It goes substantially beyond the customary limits of candor in description of nudity, sex or excretion; and~~

~~—— (3) Its redeeming social importance is substantially less than its prurient appeal.~~

~~Types of conduct that would come under the definition herein have been specified by the Illinois Supreme Court in its construction of similar state obscenity statutes, and are incorporated herein by reference.~~

~~(d) A person knowingly shows a harmful film to a juvenile, if he has knowledge of the harmful content of the film and knowledge that the person to whom the film is shown is under seventeen years of age, or if he fails to exercise reasonable care in ascertaining whether the content of the film is harmful or the age of the juvenile to whom the film is shown. (Ord. No. 2167, § 6; Ord. No. 2691, §§ 3, 4; Ord. No. 2877, § 1.)~~

Section 15.19. is hereby repealed in its entirety

15.19. Same-Presumptions.

~~Same-Presumptions.~~

~~—— For purposes of proof of a violation of Section 15-17 it shall be presumed that:~~

~~(a) A film is harmful to juveniles if that film explicitly depicts nudity, sex or excretion and is rated "X" or "R" or "NC17" by the Motion Picture Association of America.~~

~~(b) A person knowingly shows a harmful film if he has knowledge that the film explicitly depicts nudity, sex or excretion and is rated "X" or "R" or "NC17" by the MPAA.~~

~~(c) A person knowingly shows a film to a juvenile if he fails to require and inspect documentary evidence of age for that juvenile or if a juvenile employee is working on the premises at the time of showing.~~

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~~(d) The redeeming social importance of the film shown to a juvenile is substantially less than its prurient appeal, where circumstances of production, presentation or publicity indicate that the film is being commercially exploited for the sake of its prurient appeal. (Ord. No. 2167, § 6; Ord. No. 2691, §§ 3, 4; Ord. No. 2877, § 1; Ord. No. 3346, §§ 6, 7.)~~

Section 15.20.1 is hereby renumbered to be Section 15.216.

15.20.1 Limitation on the rental of hotel/motel rooms.

It shall be unlawful for any hotel/motel to rent, lease or sign a contract for the use of a public sleeping unit, hotel or motel room or suite to any individual under the age of twenty-one (21).

Section 15.28.1. is hereby renumbered to be Section 15.217.

15.28.1. Trespass to real property.

~~(a) It shall be unlawful for any person, firm or corporation to commit a trespass within the Village upon public or private property. to enter the land, any part thereof or building (other than a residence) of another, after receiving notice from the owner or occupant of the land or building that such entry is forbidden.~~

~~(b) It shall be unlawful for any person to remain upon the land, any part thereof or building (other than the residence) of another, after receiving notice from the owner or occupant to depart.~~

~~(c) A person shall be deemed to have received notice from the owner or occupant within the meaning of paragraphs (a) and (b), if such person has been notified personally, either orally or in writing, or if a printed or written notice forbidding entry has been conspicuously posted or exhibited at the main entrance of the land or forbidden part thereof. (Ord. No. 3179, § 1.)~~

Section 15.28.2. is hereby renumbered to be Section 15.218.

15.28.2. Attachment to street light poles of any device or material prohibited.

No person shall attach any device or material to any street light pole located within the DB Downtown Business District, DC Downtown Core District or the DT Downtown Transition District of the Village as defined in the Comprehensive Zoning Ordinance of the Village of Downers Grove, passed and approved April 19, 1965, as amended. Such device or material shall include, but not be limited to, boxes, vending machines and any other type of dispensers for newspapers and other publications, bicycles, garbage receptacles, benches, signs and advertisements. This restriction shall not apply to the American flag, seasonal decorations, banners related to Village sponsored events, or signs regulating parking or traffic, when attachment of such items is authorized by the Village Council. (Ord. No. 3239, § 1; Ord. No. 3409, § 1.)

Section 15.28.4. is hereby renumbered to be Section 15.219.

15.28.4. Teasing, Striking or Tampering with Police Animals Prohibited.

It shall be unlawful for any person to willfully and maliciously taunt, torment, tease, beat, strike or administer or subject any desensitizing drugs, chemicals or substances to any animal used by a law enforcement officer in the performance of his/her functions or duties, or when placed in confinement off duty; or to interfere or meddle with any such animal used by a law enforcement department or agency or any handler thereof in the performance of the functions or duties of the department or agency.

Section 15.220. is hereby added to read as follows:

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15.220. Sale and Display of Certain Materials - with respect to minors prohibited.

(a) It shall be unlawful for any person to sell, barter, give, exchange, rent, lease or otherwise deliver to any minor books, magazines, periodicals, films and other reading or viewing materials which are harmful to minors as defined in this Ordinance.

(b) It shall be unlawful for any person to publicly display or cause to be displayed any of the materials enumerated in this section in any business establishment within the Village which permits or allows any minor to enter into and upon its place of business.

(c) It shall be unlawful for any person to permit any employee under the age of eighteen (18) years of age or for any such employee under the age of eighteen (18) years to register the sale or rental, to any person whatsoever, by mechanical or electronic means, of any materials listed in this section.

(d) Any person contemplating the sale or furnishing of any materials described in this Section who believes or has reason to believe that a sale or delivery of such materials is prohibited because of the age of the prospective recipient, shall before making such sale or delivery, demand presentation of some form of positive identification, containing proof of age, issued by a public officer in the performance of his/her official duties.

Mere exhibiting of a rental club card for film rental or similar document shall not constitute evidence of age sufficient to grant permission to rent films harmful to minors.

(e) Every person engaged in the business of selling any materials described in this Section shall display at all times in a prominent place in his/her place of business the following printed cards, as applicable, which shall read substantially as follows:

SALE TO MINORS OF BOOKS, MAGAZINES, PAMPHLETS, FILMS OR OTHER READING OR VISUAL MATERIALS HARMFUL TO MINORS IS PROHIBITED. YOU MUST BE EIGHTEEN (18) AND HAVE PROOF OF AGE.

Section 15.300.ART is hereby added to read as follows:**15.300.ART Article III. Tobacco and Cannabis****Section 15.20. is hereby renumbered to be Section 15.301.****15.20. Limitation on sale or display of certain materials with respect to minors; Demand for identification; warning signs.**

~~Smoking materials are articles or equipment commonly used in the consumption or ingestion of tobacco, cannabis or any smokable herb and shall include, but not be limited to, the following articles: marijuana pipes, hashish pipes, water pipes, chamber pipes, electric pipes, air driven pipes, bongs, ice pipes, cigarette papers and any device that can be used to deliver aerosolized or vaporized nicotine, cannabinoids, or other substances to the person inhaling from the device, including, but not limited to an electronic cigarette, e-cigar, vape pen or hookah.~~

(a) It shall be unlawful for any person to sell, barter, give, exchange, rent, lease or otherwise deliver to any person under the age of twenty-one (21) any of the following materials as defined in ~~Section 15-21~~this Ordinance:

- (1) Smoking materials;
- (2) Drug paraphernalia;

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- (3) Tobacco products;
- (4) Alternative nicotine products.
- (b) ~~It shall be unlawful for any person to sell, barter, give, exchange, rent, lease or otherwise deliver to any minor books, magazines, periodicals, films and other reading or viewing materials which are harmful to minors as defined in Section 15-21.~~
- (c) ~~It shall be unlawful for any person to publicly display or cause to be displayed any of the materials enumerated in subparagraphs (a)(2) and (b) of this section in any business establishment within the Village of Downers Grove which permits or allows any minor to enter into and upon its place of business.~~
- (d) ~~It shall be unlawful for any person to permit any employee under the age of eighteen years of age or for any such employee under the age of eighteen (18) years to register the sale or rental, to any person whatsoever, by mechanical or electronic means, of any materials listed in paragraph (a) hereof.~~
- (d) Any person contemplating the sale or furnishing of any materials described in this Section who believes or has reason to believe that a sale or delivery of such materials is prohibited because of the age of the prospective recipient, shall before making such sale or delivery, demand presentation of some form of positive identification, containing proof of age, issued by a public officer in the performance of his/her official duties.
- (e) Every person engaged in the business of selling any materials described in this Section shall display at all times in a prominent place in his/her place of business the following printed cards, as applicable, which shall read substantially as follows:

SALE TO ANY PERSON UNDER THE AGE OF TWENTY-ONE (21) OF TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, SMOKING MATERIALS OR DRUG PARAPHERNALIA IS PROHIBITED. YOU MUST BE TWENTY-ONE (21) AND HAVE PROOF OF AGE.

- (f) Every person engaged in the business of selling tobacco products as described in this Section through the use of vending machines or self-service dispensing devices, shall cause to be affixed, in a prominent place, on each such vending machine or device, a sticker which shall read substantially as follows:

SALE TO ANY PERSON UNDER THE AGE OF TWENTY-ONE (21) OF TOBACCO PRODUCTS OR ALTERNATIVE NICOTINE PRODUCTS IS PROHIBITED. YOU MUST BE TWENTY-ONE (21) AND HAVE PROOF OF AGE.

- (g) Failure to display the printed card or cards required under paragraph (e) of this section, or to affix the sticker(s) required under paragraph (f) shall constitute a separate offense for each day such violation continues.

(R.O. 1925 § 434; Ord. No. 2455, § 1; Ord. No. 2877, § 1; Ord. No. 2885, § 1; Ord. No. 3292, § 1.)

Section 15.23.1. is hereby renumbered to be Section 15.302.

15.23.1. Possession of Cannabis, Tobacco Products, Alternative Nicotine Products, Smoking Materials or Drug Paraphernalia by any Person Under the Age of Twenty-One Prohibited.

It shall be unlawful for any person under the age of twenty-one (21) years to possess any tobacco products, alternative nicotine products, smoking materials, ~~or drug paraphernalia; or cannabis; unless authorized by the Compassionate Use of Medical Cannabis Program Act or by the Community College Cannabis Vocational Pilot Program within the corporate limits of the Village.~~ provided that the possession by a person under the age of twenty-one (21) years under the direct supervision of the parent or guardian of such person in the privacy of the parent's or guardian's home shall not be prohibited. The definition of "tobacco products", "alternative nicotine products", smoking materials and drug paraphernalia for purposes of this section shall be as defined in Section 15-21(a)(d)(j)(k).

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Section 33. Section 15.23.2. is hereby renumbered to be Section 15.303.**15.23.2. Purchase of Cannabis, Tobacco Products, Alternative Nicotine Products, Smoking Materials or Drug Paraphernalia by any Person Under the Age of Twenty-One Prohibited.**

A. It shall be unlawful for any person under the age of twenty-one (21) years to purchase, attempt to purchase or otherwise obtain or attempt to obtain any tobacco products, alternative nicotine products, smoking materials or drug paraphernalia or cannabis within the corporate limits of the Village of Downers Grove. The definition of "tobacco products", "alternative nicotine products", "smoking materials" or "drug paraphernalia" for the purposes of this section shall be as defined in Section 15-21(a)(d)(j)(k).

B. It also shall be unlawful for any person under twenty-one (21) years of age to misrepresent his or her identity of age, or to use any false, fraudulent, or not actually their own identification for the purpose of purchasing, attempting to purchase, or otherwise obtaining or attempting to obtain any tobacco products, alternative nicotine products, smoking materials, drug paraphernalia, cannabis or any cannabis product.

C. It shall be unlawful for any person after purchasing or otherwise obtaining cannabis or any cannabis product to sell, give, or deliver such cannabis or any cannabis product to another person under twenty-one (21) years of age within the corporate limits of the Village unless authorized by the Compassionate Use of Medical Cannabis Program Act or by the Community College Cannabis Vocational Pilot Program.

Section 34. Section 15.24. is hereby repealed in its entirety**15.24. Reserved.**

Reserved.

Section 15.25. is hereby renumbered to be Section 15.304.**15.25. Cannabis.**

(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, repackaging, 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;~~

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~~— 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 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) Possession of drug paraphernalia:~~

~~— (1) 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.~~

~~— (2) 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).~~

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(e) Possession of cannabis:

~~(1) 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.~~

~~(2) A person who possesses more than ten (10) grams but less than thirty (30) grams of cannabis shall be fined not less than 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.~~

(a) Except if otherwise authorized by the Cannabis Regulation and Tax Act, it shall be unlawful for any person who is twenty-one (21) years of age or older and a resident of the State of Illinois to knowingly possess more than thirty (30) grams of cannabis flower; more than 500 milligrams of THC contained in cannabis-infused product; or more than five (5) grams of cannabis concentrate. The possession limits are to be considered cumulative.

(b) Except if otherwise authorized by the Cannabis Regulation and Tax Act, it shall be unlawful for any person who is twenty-one (21) years of age or older and a non-resident of the State of Illinois to knowingly possess more than fifteen (15) grams of cannabis flower; more than 2.5 grams of cannabis concentrate; and more than 250 milligrams of THC contained in a cannabis-infused product. The possession limits are to be considered cumulative.

(c) No person who is twenty-one (21) years of age or older shall knowingly possess cannabis or any cannabis product in the corporate limits of the Village:

(1) in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act;

(2) on the grounds of any preschool or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act;

(3) in a vehicle not open to the public unless the cannabis is in a reasonably secured, sealed container and reasonably inaccessible while the vehicle is moving; or

(4) in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises

(d) No person who is twenty-one (21) years of age or older shall knowingly use cannabis or any cannabis product in the corporate limits of the Village:

(1) in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act;

(2) on the grounds of any preschool or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Program Act;

(3) in any motor vehicle;

(4) in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises;

(5) in any public place; or

(6) knowingly in close physical proximity to anyone under twenty-one (21) years of age who is not a registered medical cannabis patient under the Compassionate Use of Medical Cannabis Program Act;

As used in this Section, "public place" means any place where a person could reasonably be expected to be observed by others. "Public place" includes all parts of buildings owned in whole or in part, or leased, by the State or a unit of local government. "Public place" does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises.

(e) No person who is twenty-one (21) years of age or older and either a resident or non-resident of the

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State of Illinois shall knowingly obtain, seek to obtain, or possess an amount of cannabis from a dispensing organization or craft grower that would cause him or her to exceed the possession limit under this Section, including cannabis that is cultivated by a person under the Cannabis Regulation and Tax Act or obtained under the Compassionate Use of Medical Cannabis Program Act.

(f) It is unlawful for any parent or guardian to knowingly permit his or her residence, any other private property under his or her control, or any vehicle, conveyance, or watercraft under his or her control to be used by an invitee of the parent's child or the guardian's ward, if the invitee is under the age of twenty-one (21), in a manner that constitutes a violation of the Cannabis Regulation and Tax Act. A parent or guardian is deemed to have knowingly permitted his or her residence, any other private property under his or her control, or any vehicle, conveyance, or watercraft under his or her control to be used in violation of the Cannabis Regulation and Tax Act if he or she knowingly authorizes or permits consumption of cannabis by underage invitees.

(g) It shall be unlawful for any person, regardless of age, to:

(1) smoke cannabis in any place where smoking is prohibited under the Smoke Free Illinois Act;

(2) operate, navigate, or be in actual physical control of any motor vehicle, aircraft or motorboat while using or under the influence of cannabis in violation of Section 11-501 or 11-502.1 of the Illinois Vehicle Code;

(3) facilitate the use of cannabis by any person who is not allowed to use cannabis under the Cannabis Regulation and Tax Act or the Compassionate Use of Medical Cannabis Program Act; or

(4) transfer cannabis to any person contrary to the Cannabis Regulation and Tax Act or the Compassionate Use of Medical Cannabis Pilot Program Act.

(Ord. No. 2389, § 1; Ord. No. 2877, § 1.)

Section 15.21. is hereby repealed in its entirety

15.21. Same--Definitions.

~~Same--Definitions.~~

~~—The following words and phrases shall have the meanings respectively ascribed to them by this section:~~

~~(a) Smoking materials are articles or equipment commonly used in the consumption or ingestion of tobacco, cannabis or any smokable herb and shall include, but not be limited to, the following articles: marijuana pipes, hashish pipes, water pipes, chamber pipes, electric pipes, air driven pipes, bongs, ice pipes, cigarette papers and any device that can be used to deliver aerosolized or vaporized nicotine, cannabinoids or other substances to the person inhaling from the device, including, but not limited to an electronic cigarette, e-cigar, vape pen or hookah.~~

~~(b) *Cannabis* is marijuana, hashish and other substances included in the definition of cannabis as set forth in the "Illinois Cannabis Control Act" (720 ILCS 550/1, et seq.)~~

~~(c) A *controlled substance* is any drug or substance included in the definition of a controlled substance as set forth in the "Illinois Controlled Substance Act" (720 ILCS 570/100, et seq.).~~

~~(d) *Drug paraphernalia* is all equipment, products, and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body cannabis or a controlled substance in violation of any village, state or federal law. It includes but is not limited to:~~

~~—(1) Kits used, intended for use or designed for use in planting, propagating, cultivating, growing~~

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~~or harvesting of any species of plant which is cannabis or a controlled substance or from which cannabis or a controlled substance can be derived;~~

~~—— (2) Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing cannabis or controlled substances;~~

~~—— (3) Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is cannabis or a controlled substance;~~

~~—— (4) Testing equipment used, intended for use or designed for use in identifying, or in analyzing the strength, effectiveness or purity of cannabis or controlled substances;~~

~~—— (5) Scales and balances used, intended for use, or designed for use in weighing or measuring cannabis or controlled substances;~~

~~—— (6) Dilutants and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances;~~

~~—— (7) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining cannabis;~~

~~—— (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances or combining cannabis with any controlled substance;~~

~~—— (9) Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of cannabis or controlled substances;~~

~~—— (10) Containers and other objects used, intended for use or designed for use in storing or concealing cannabis or controlled substances;~~

~~—— (11) Hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting controlled substances into the human body;~~

~~—— (12) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing cannabis or cocaine into the human body such as:~~

~~—— (a) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;~~

~~—— (b) Water pipes;~~

~~—— (c) Carburetion tubes and devices;~~

~~—— (d) Smoking and carburetion masks;~~

~~—— (e) Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;~~

~~—— (f) Miniature cocaine spoons and cocaine vials;~~

~~—— (g) Chamber pipes;~~

~~—— (h) Carburetor pipes;~~

~~—— (i) Electric pipes;~~

~~—— (j) Air-driven pipes;~~

~~—— (k) Chillums;~~

~~—— (l) Bongs;~~

~~—— (m) Ice pipes or chillers.~~

~~—— In determining whether an object is "drug paraphernalia", a court or other authority should consider, in addition to all other logically relevant factors, the following:~~

~~—— (1) Statements by an owner or by anyone in control of the object concerning its use;~~

~~—— (2) Prior convictions, if any, of an owner, or anyone in control of the object, under any village, state or federal law relating to cannabis or controlled substances;~~

~~—— (3) The proximity of the object, in time and space, to a direct violation of any village, state or federal law relating to cannabis or controlled substances;~~

~~—— (4) The proximity of the object to cannabis or a controlled substance;~~

~~—— (5) The existence of any residue of cannabis or controlled substances on the object;~~

~~—— (6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object to deliver it to persons whom he knows, or should reasonably know, intend to use the object to~~

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facilitate a violation of any village, state or federal law relating to cannabis or controlled substances; the innocence of an owner or of anyone in control of the object as to a direct violation of any such laws shall not prevent a finding that the object is intended for use, or designed for use as "drug paraphernalia";

- (7) Instructions, oral or written, provided with the object concerning its use;
- (8) Descriptive materials accompanying the object which explain or depict its use;
- (9) National or local advertising concerning its use;
- (10) The manner in which the object is displayed for sale;
- (11) 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;
- (12) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
- (13) The existence and scope of legitimate uses for the object in the community;
- (14) Expert testimony concerning its use.

(e) *A cocaine spoon* is a spoon with a bowl so small that the primary use for which it is reasonably adapted or designed is to hold or administer cocaine, and which is so small as to be unsuited for the typical, lawful use of a spoon. A cocaine spoon may or may not be merchandised on a chain and may or may not be labeled as a "cocaine" spoon or "coke" spoon.

(f) *A minor* is any male or female person who has not yet attained eighteen years of age.

(g) The term *publicly displayed* when used with reference to drug paraphernalia, or books, magazines, periodicals, films and other reading or viewing materials which are harmful to minors shall mean display where such materials are openly available for viewing in store windows, on open racks designed for such display or on counters.

(h) *A film* is any motion picture or video tape for sale or rent or for viewing on premises by use of motion picture devices or other coin-operated means.

(i) The term *harmful to minors* when applied to any book, magazine, periodical, film or other reading or viewing material shall mean that any such material, if read or viewed by the average person applying contemporary standards in the community, would be found to have the following characteristics:

- (1) Its predominant appeal is to prurient interests judged with reference to average minors of the same general age as the minor to whom the material is sold or in whose presence the material is displayed, the prurient interest being a shameful or morbid interest in nudity, sex or excretion;
- (2) It goes substantially beyond the customary limits of candor in description of nudity, sex or excretion; and
- (3) It is utterly without redeeming social value.

It is the intent of this definition to include materials depicting any type of conduct which has been from time to time held by the Illinois Supreme Court in its construction of state obscenity statutes to be harmful to minors.

It shall be presumed that a film is harmful to minors if that film is rated "X" or "NC17" by the Motion Picture Association of America and explicitly depicts nudity, sex or excretion.

(j) *Tobacco products* are any substances containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff or smokeless tobaccos including chewing tobacco and dipping tobacco.

(k) *Alternative Nicotine Product*. As defined under 720 ILCS 675/1.5(a): a product or device not consisting of or containing tobacco that provides for the ingestion into the body of nicotine, by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing or otherwise. "Alternative nicotine product" excludes cigarettes, smokeless tobacco or other tobacco products, as these terms are defined in Section 1 of this Act and any product approved by the U.S. FDA as a non-tobacco product for sale as a tobacco cessation or dependence product or for other medical purposes and is marketed and sold solely for that purpose. (Ord. No. 2455, § 1; Ord. No. 2877, § 1; Ord. No. 2885, 2; Ord. No. 3292, § 2; Ord. No. 3346, § 8.)

Section 15.22. is hereby repealed in its entirety

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15.22. Same--Demand for identification; warning signs.

~~Same--Demand for identification; warning signs:~~

~~(a) Any person contemplating the sale or furnishing of any materials described in Section 15-20 of this Code who believes or has reason to believe that a sale or delivery of such materials is prohibited because of the age of the prospective recipient, shall before making such sale or delivery, demand presentation of some form of positive identification, containing proof of age, issued by a public officer in the performance of his/her official duties.~~

~~----- Mere exhibiting of a rental club card for film rental or similar document shall not constitute evidence of age sufficient to grant permission to rent films harmful to minors.~~

~~(b) Every person engaged in the business of selling any materials described in Section 15-20 of this Code shall display at all times in a prominent place in his/her place of business the following printed cards, as applicable, which shall read substantially as follows:~~

~~----- SALE TO ANY PERSON UNDER THE AGE OF TWENTY-ONE (21) OF TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, SMOKING MATERIALS OR DRUG PARAPHERNALIA IS PROHIBITED. YOU MUST BE TWENTY-ONE (21) AND HAVE PROOF OF AGE.~~

~~----- SALE TO MINORS OF BOOKS, MAGAZINES, PAMPHLETS, FILMS OR OTHER READING OR VISUAL MATERIALS HARMFUL TO MINORS IS PROHIBITED. YOU MUST BE 18 AND HAVE PROOF OF AGE.~~

~~(c) Every person engaged in the business of selling tobacco products as described in Section 15-20 of this Code through the use of vending machines or self-service dispensing devices, shall cause to be affixed, in a prominent place, on each such vending machine or device, a sticker which shall read substantially as follows:~~

~~----- SALE TO ANY PERSON UNDER THE AGE OF TWENTY-ONE (21) OF TOBACCO PRODUCTS OR ALTERNATIVE NICOTINE PRODUCTS IS PROHIBITED. YOU MUST BE TWENTY-ONE (21) AND HAVE PROOF OF AGE.~~

~~(d) Failure to display the printed card or cards required under paragraph (b) of this section, or to affix the sticker(s) required under paragraph (c) shall constitute a separate offense for each day such violation continues. (Ord. No. 2455, § 1; Ord. No. 2877, § 1; Ord. No. 2885, § 3; Ord. No. 3292, § 3.)~~

Section 15.26. is hereby repealed in its entirety**15.26. Community antenna television system--Unlawful acts enumerated.**

~~Community antenna television system--Unlawful acts enumerated.~~

~~----- No person shall commit or cause or permit to be committed any of the following acts:~~

~~(a) The erection, maintenance or operation of a community antenna television system as defined in the Illinois Compiled Statutes, Chapter 65, Section 5/11-42-11, in the Village without the enactment by the Village Council of a franchise ordinance granting the same.~~

~~(b) The unauthorized connection, whether physically, electronically, acoustically, inductively or otherwise with any part of the facilities of any entity granted a Village community antenna television system franchise for the purpose of taking or receiving television or radio signals, pictures, programs or sounds, or two way services and data transmission, or for the purpose of enabling others to receive such signals, pictures, programs or sounds.~~

~~(c) The wilful tampering with, removal of, or injury to any cables, wires or equipment used for distribution of television or radio signals, pictures, programs or sounds without the consent of the entity~~

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~~granted the community antenna television system franchise by the Village.~~

~~Any action or conduct by any person in violation of the provisions of this Section, including without limit, erection or maintenance of any equipment or commencement or continuation of any work in violation hereof, shall be unlawful and shall be prohibited in the Village. Each and every day or portion thereof during which any violation of this Section is committed, continued or permitted, shall be deemed a separate offense and upon conviction shall be punished as provided in Section 1-15. (Ord. No. 2456, § 1; Ord. No. 2877, § 1.)~~

Section 15.400.ART. is hereby added to read as follows:

15.400.ART. Article IV. Theft.

Section 15.27. is hereby renumbered to be Section 15.401.

15.27. Theft.

(a) Theft prohibited. No person shall commit theft. A person commits theft when he knowingly:

- (1) Obtains or exerts unauthorized control over property of the owner; or
- (2) Obtains, by deception, control over property of the owner; or
- (3) Obtains, by threat, control over property of the owner; or

(4) Obtains control of stolen property knowing the property to have been stolen by another under such circumstances as would reasonably induce him to believe that the property was stolen; and

(a) Intends to deprive the owner permanently of the use or benefit of the property; or

(b) Knowingly uses, conceals or abandons the property in such manner as to deprive the owner permanently of such use or benefit; or

(c) Uses, conceals or abandons the property knowing such use, concealment or abandonment probably will deprive the owner permanently of such use or benefit. (Ord. No. 3076, § 1.)

Section 15.28. is hereby renumbered to be Section 15.402.

15.28. Retail theft.

~~(a) Definitions. For the purposes of this section, the words and phrases defined herein shall have the meaning ascribed to them in this section unless a contrary meaning is clear from the context.~~

~~(1) Conceal merchandise means that, although there may be some notice of its presence, that merchandise is not visible through ordinary observation.~~

~~(2) Full retail value means the merchant's stated or advertised price of the merchandise.~~

~~(3) Merchandise means any item of tangible personal property.~~

~~(4) Merchant means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of such owner or operator.~~

~~(5) Premises of a retail mercantile establishment includes, but is not limited to, the retail mercantile establishment; any common use areas in shopping centers and all parking areas set aside by a merchant or on behalf of a merchant for the parking of vehicles for the convenience of the patrons of such retail mercantile establishment.~~

~~(6) Retail mercantile establishment means any place where merchandise is displayed, held, stored, or offered for sale to the public.~~

~~(7) Shopping cart means those push carts of the type or types which are commonly provided by grocery stores, drug stores or other retail mercantile establishments for the use of the public in transporting commodities in stores and markets and, incidentally, from the store to a place outside the store.~~

~~(8) Under ring means to cause the cash register or other sales recording device to reflect less than~~

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~~the full retail value of the merchandise.~~

~~(b)~~ ~~(a)~~ Retail theft prohibited. No person shall commit retail theft. A Pperson commits the offense of retail theft when he/she knowingly:

(1) Takes possession of, carries away, transfers or causes to be carried away or transferred, any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment with the intention of retaining such merchandise or with the intention of depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the full retail value of such merchandise; or

(2) Alters, transfers, or removes any label, price tag, marking, indicia of value or any other markings which aid in determining value affixed to any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment and attempts to purchase such merchandise personally or in consort with another at less than the full retail value with the intention of depriving the merchant of the full retail value of such merchandise; or

(3) Transfers any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment from the container in or on which such merchandise is displayed to any other container with the intention of depriving the merchant of the full retail value of such merchandise; or

(4) Under-rings with the intention of depriving the merchant of the full retail value of the merchandise; or

(5) Removes a shopping cart from the premises of a retail mercantile establishment without the consent of the merchant given at the time of such removal with the intention of depriving the merchant permanently of the possession, use, or benefit of such cart.

~~(eb)~~ Presumptions. If any person:

(1) Conceals upon his/her person or among his/her belongings, unpurchased merchandise displayed, held, stored or offered for sale in a retail mercantile establishment; and

(2) Removes that merchandise beyond the last known station for receiving payments for the merchandise in that retail mercantile establishment, such person shall be presumed to have possessed, carried away or transferred such merchandise with the intention of retaining it or with the intention of depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the full retail value of such merchandise. (Ord. No. 3076, § 2.)

Section 15.28.ART. is hereby renumbered to be Section 15.500.ART,

15.28.ART. Article V. Solicitation

Section 15.28.3 is hereby repealed in its entirety

15.28.3 Reserved.

~~Reserved.~~

Section 15.28.SEC. is hereby renumbered to be Section 15.501.

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

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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 15.29. is hereby renumbered to be Section 15.502.

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.

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 15.30. is hereby renumbered to be Section 15.503.

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 solicitation within the Village without having 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.

(c) Application for a registration shall be made to the Village upon a form prescribed by the Village. The person shall truthfully state in full all of the required information in the application. (Ord. No. 2833, § 2.)

Section 15.31. is hereby renumbered to be Section 15.504.

15.31. Term; renewal.

Each registration shall be in effect for no more than thirty (30) days. To renew a 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.

Section 15.32. is hereby renumbered to be Section 15.505.

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15.32. 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 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.
- (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 application.
- (d) *Duty to wear badges.* Every person issued a certificate of registration or any individual soliciting for such person shall wear conspicuously on the outside of his or her outer garments a 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 registered with the Village, the purpose of the solicitation, and the date of the expiration of the registration. 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 Article shall be nontransferable.
- (e) *Restrictions on individuals who may solicit.* No person shall use any individual for solicitation as herein defined unless such individual is listed on that person's application.
- (f) *Time limits.* Except as otherwise provided herein, no person shall engage in solicitation as herein defined at any time prior to 9:00 a.m. or after 8:00 p.m.
- (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 15.33. is hereby repealed in its entirety**15.33. Reserved.**

~~Reserved.~~

Section 15.600ART is hereby added to read as follows:**15.600ART Article VI. Penalties for Violation of This Chapter****Section 15.34. is hereby renumbered to be Section 15.601.**

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15.34. Penalties for certain violations.

(a) Any person who violates any of the provisions of this ~~Article~~ **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 counseling;
- (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.

(c) Offenses Committed on Public Property.

In addition to any other penalty provided by law, any person committing any of the offenses enumerated in Chapter 15 of this Code or any offense as set forth in the Criminal Code of 1961, on or directly related to public property, may be issued an order to leave the public property upon which the offense occurred and/or shall not be permitted to re-enter upon the property for a period of three (3) to fifteen (15) days.

(Ord. No. 2877, § 1.)

Section 15.35. is hereby repealed in its entirety

15.35. through 15.58. Reserved.

~~Reserved.~~

Section 2. That Chapter 15 has been renumbered and any provision affected by the alteration of code section numbers throughout the Municipal Code shall be amended and updated accordingly.

Section 3. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

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Section 4. 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