

Chapter 4

TEMPORARY USE & PUBLIC GATHERINGS

Sections:

- 4.100ART. Article I. Temporary Use**
- 4.100SEC. General Provisions.**
- 4.101. Definitions.**
- 4.102. Permit Required.**
- 4.103. Outdoor Display of Merchandise.**
- 4.104. Outdoor Cafe.**
- 4.105. Exceptions.**
- 4.106. Denial, Revocation or Suspension of Permit.**
- 4.107. Appeals.**
- 4.108. Fees.**
- 4.109. Sales Tax.**
- 4.110. through 4.199. Reserved.**
- 4.200ART. Public Gatherings.**
- 4.200SEC. Parade and Open Air Meetings.**
- 4.201. Definitions.**
- 4.202. Permit Required.**
- 4.203. Application.**
- 4.204. Time of Holding.**
- 4.205. Standards for Issuance.**
- 4.206. Time for Approval or Denial; Appeal.**
- 4.207. Applications for conflicting activities - Priorities of scheduling, limitations on issuance.**
- 4.208. Alternative Permit.**
- 4.209. Content of Permit.**
- 4.210. Public conduct during parades or open air meetings.**
- 4.211. Revocation of permit.**
- 4.212. Enforcement.**
- 4.213. through 4.299. Reserved**
- Section 4.100ART. Article I. Temporary Use**

(Ord. 5068, Add, 08/04/2009)

Section 4.100SEC. General Provisions.

(Ord. 5068, Add, 08/04/2009)

Section 4.101. Definitions.

“Temporary Use” shall mean an activity, event, sale or similar use which is open to the public and conducted upon the exterior portion of a zoning lot or on Village-owned streets, rights-of-way, parking lots or other open space or may reasonably be expected to materially affect the ordinary use of public streets, rights-of-way, sidewalks or other Village property, or require the Village to allocate its personnel,

Downers Grove Municipal Code

equipment and/or property at levels of service that exceed the ordinary allocations of such resources for the benefit of the general public. Provided, it is for a limited and defined period of time, with the intent to discontinue such activity upon the expiration of a specific time period; and

1. It is an activity incidental to the principal use of the property or business and the applicant is the owner or lessee of the property; or
2. The business conducting the Temporary Use is a not-for-profit organization registered with the Illinois Secretary of State or qualified as tax exempt pursuant to the Internal Revenue Code; or
3. The activity is the sale of holiday trees during the months of November and December; or
4. It is intended to be a fundraising activity or event.
(Ord. 5266, Amended, 06/05/2012; Ord. 5068, Add, 08/04/2009)

Section 4.102. Permit Required.

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

(b) It shall be unlawful to conduct a Temporary Use within the corporate limits of the Village without first obtaining a Temporary Use Permit. Application for such permit shall be in accordance with the terms and conditions contained in Village of Downers Grove Administrative Regulation entitled "Temporary Use Permits: Procedures for Application, Approval and Issue". Any such permit may be subject to the approval of the Director of Community Development or his or her designee on the basis of the adequacy of the parcel size, parking provisions, traffic access and the absence of adverse impacts to adjacent property, the vicinity, or the general public health, safety and welfare. Provided that:

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

- (c) Except as provided in this Chapter, a Temporary Use Permit is required for the following:
1. Sales, shows, and exhibits of merchandise including, but not limited to, arts, crafts, plants and farm products.
 2. Carnivals, circuses, festivals, theatrical or musical performances or other live entertainment on the streets and public ways of the Village.
 3. Temporary tents, awnings, spectator stands or seating, sheds, canopies, shelters and similar structures, provided that such structures comply with all applicable building, health and safety ordinances of the Village.
 4. Outdoor Cafés in accordance with Section 4.104. An Outdoor Café is defined as an outdoor

Downers Grove Municipal Code

seating area in which food and beverages are served and consumed.

5. Athletic Events such as an organized exercise, race, sport or game reasonably anticipated to obstruct the normal flow of traffic. Such events include, but are not limited to, all footraces, marathons, walk-a-thons, bike-a-thons, sports-related celebrations and bike races.

6. Outdoor Display of Merchandise in accordance with Section 4.103.

7. Block Parties - defined as the closing of one block of a public street for no longer than an eight (8) hour period, that is entirely residential for community activities sponsored by the residents of such block.

8. Any event sponsored by an organization representing ten (10) or more businesses in the Village of Downers Grove.

9. Any other activity or event requiring a Temporary Use Permit as deemed necessary by the Director of Community Development.

(Ord. 5266, Amended, 06/05/2012; Ord. 5068, Add, 08/04/2009)

Section 4.103. Outdoor Display of Merchandise.

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

(a) Such outdoor display of merchandise shall be incidental to the primary business and be located only on private property. Except for holiday tree sales, the outdoor display of merchandise shall not be permitted on any vacant or abandoned lots.

(b) Merchandise shall meet all principal structure setback requirements of the underlying zoning district except that in the Fairview Concentrated Business District the required setback for the outdoor display of merchandise shall be four (4) feet.

(c) Merchandise shall not be located within required parking spaces or those spaces designated for disabled persons.

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

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

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

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

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

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

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

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

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

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

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

(Ord. 5068, Add, 08/04/2009)

Section 4.104. Outdoor Cafe.

An outdoor café is permitted as a Temporary Use consecutively between March 15 and November 15 in

Downers Grove Municipal Code

all business districts when associated with a restaurant and shall meet the following standards:

- (a) The outdoor café area shall be immediately adjacent to the principal restaurant building and shall have direct access via the principal restaurant.
- (b) The café shall be located at least five (5) feet from any drive aisle, parking space, or point of vehicular access.
- (c) Lighting which is directly related to the operation of the outdoor café shall be directed away from adjacent properties in such a manner and shall not create a public nuisance.
- (d) The outdoor café shall be placed on a hard dustless material, generally asphalt, concrete, or concrete paver.
- (e) The outdoor café shall be cleaned as needed or on a daily basis whichever is more frequent to maintain an orderly fashion and kept free of refuse.
- (f) If the outdoor café is self-service, a trash receptacle shall be provided.
- (g) The applicant shall not be permitted to sell or serve alcoholic liquor at the outdoor café except in conformance with an appropriate liquor license issued pursuant to Chapter 3 of the Downers Grove Municipal Code.
- (h) Outdoor entertainment is allowed subject to the following conditions:
 - 1. Entertainment is not allowed past 10 p.m.
 - 2. Amplification is not allowed.
 - 3. Outdoor entertainment may be shut down earlier if the Police Department receives any complaints.
- (i) Outdoor cafés shall be located entirely on private property, except that outdoor cafés in the DB Downtown Business District and Fairview Concentrated Business District may be located on public property provided that they comply with the above regulations and that they shall be required to enter into an encroachment license agreement with the Village in a form acceptable to the Village Attorney and may be required to pay a fee for the use of public property.
- (j) In the DB Downtown Business District outdoor cafés consisting of two (2) or fewer tables and located entirely on private property are exempt from obtaining a Temporary Use permit.
(Ord. 5068, Add, 08/04/2009)

Section 4.105. Exceptions.

The following do not require a Temporary Use permit:

- (a) Events or activities sponsored by the Village of Downers Grove.
- (b) Any activity, event, sale or similar use deemed by the Village Manager to not require a permit.
- (c) Ice cream vendors as specified in Chapter 19.48 of the Downers Grove Municipal Code.
- (d) Outdoor display of merchandise in the DB Downtown Business District in accordance with Section 4.103.
- (e) Outdoor display of vending machines and propane tanks in accordance with Section 4.103.
- (e) Outdoor Café in the DB Downtown Business District in accordance with Section 4.104.
- (f) A bonafide private function not exceeding two (2) days.
- (g) A garage or rummage sale conducted in conformance with the Downers Grove Zoning Ordinance.
- (h) A car wash conducted by a not-for-profit organization, provided that such event has been approved by the Public Works Department with regard to outdoor water usage.
(Ord. 5068, Add, 08/04/2009)

Section 4.106. Denial, Revocation or Suspension of Permit.

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

- (a) To an applicant providing false or misleading information on the application.

Downers Grove Municipal Code

(b) To an applicant who has been convicted of the following offenses (applicable to any event dealing primarily with children):

1. Any offense involving sexual misconduct with children or other sex offenses as defined in Article 11 of the Criminal Code of 1961, as amended; or
2. A felony based upon conduct or involvement in such business or activity or related or similar business or activity, within the past ten years; or
3. A felony unrelated to conduct or involvement in such business or activity or related or similar business or activity, but which felony involved the use of a deadly weapon, traffic in narcotic drugs, or violence against another person, including rape, within the past five (5) years; or
4. A misdemeanor or licensing ordinance violation, based upon conduct or involvement in such business or activity or related or similar business or activity, within the past two (2) years.

(c) To an applicant whose license issued under this ordinance has been revoked for cause.

(d) To an applicant who, at the time of application for renewal of any license issued hereunder, would not be eligible for such license upon a first application.

(e) To an applicant under the age of eighteen (18) years of age.

(f) To a partnership, if any general partner thereof, or any limited partner owning more than twenty percent (20%) of the aggregate limited partner interest in such partnership, would not be eligible to receive a license hereunder.

(g) To a corporation, if any officer or director, or any stockholder or stockholders owning in the aggregate more than twenty percent (20%) of the stock of such corporation, would not be eligible to receive a license hereunder.

(h) To a corporation unless it is incorporated in Illinois, or unless it is a foreign corporation which is qualified under the "Business Corporation Act of 1983" to transact business in Illinois.

(i) To an applicant whose place of business is conducted by a manager unless the manager possesses the same qualifications required by the licensee.

(j) To an applicant who is not a beneficial owner of the business to be operated by the licensee.
(Ord. 5068, Add, 08/04/2009)

Section 4.107. Appeals.

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

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

Failure to timely file such appeal as provided herein shall render the Village Manager's decision final.

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

(Ord. 5068, Add, 08/04/2009)

Section 4.108. Fees.

The following Temporary Use Permits shall be subject to fees as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule":

Downers Grove Municipal Code

- a. Application:
 - General application fee
 - Block party permit
 - Late fee

- b. Events/Activities:
 - Circus/Amusement/Live Entertainment
 - Temporary Signs
 - Tents
 - Fee for use of public property*

- c. Other:
 - Additional Inspection fee
 - Fingerprinting Fee

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

*The fee for the use of public property will not be assessed for not-for-profit organizations, provided that their use of the public property does not reduce revenue generating opportunities for the Village.
(Ord. 5149, Amended, 09/07/2010; Ord. 5138, Amended, 05/18/2010; Ord. 5132, Amended, 04/20/2010; Ord. 5068, Add, 08/04/2009)

Section 4.109. Sales Tax.

The Temporary Use Permit holder shall be strictly responsible for collecting and remitting all sales tax proceeds in the manner provided by law.
(Ord. 5068, Add, 08/04/2009)

Section 4.110. through. 4.199. Reserved.

(Ord. 5068, Add, 08/04/2009)

Section 4.200ART. Public Gatherings.

(Ord. 5068, Add, 08/04/2009)

Section 4.200SEC. Parade and Open Air Meetings.

(Ord. 5068, Add, 08/04/2009)

Section 4.201. Definitions.

(a) The term "parade", as used in this Chapter, shall be defined as any parade, march, demonstration, ceremony, exhibition, pageant, or procession, exercising First Amendment rights, in or upon any street, sidewalk, park or other public place in the Village. This definition does not include activities subject to a Temporary Use permit as provided in Article I of this Chapter.

Downers Grove Municipal Code

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

(Ord. 5266, Amended, 06/05/2012; Ord. 5068, Add, 08/04/2009)

Section 4.202. Permit Required.

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

(Ord. 5068, Add, 08/04/2009)

Section 4.203. Application.

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

(Ord. 5068, Add, 08/04/2009)

Section 4.204. Time of Holding.

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

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

(Ord. 5068, Add, 08/04/2009)

Section 4.205. Standards for Issuance.

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

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

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

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

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

Downers Grove Municipal Code

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

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

(Ord. 5068, Add, 08/04/2009)

Section 4.206. Time for Approval or Denial; Appeal.

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

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

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

(Ord. 5068, Add, 08/04/2009)

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

If the Village Manager shall receive more than one application for a parade or open air meeting on the same day, the application received first in time shall be given preference over the others. The Village Manager may set time limits for each parade or open air meeting which is to occur during one day which shall not, without the consent of the group seeking the permit, be less than three (3) hours.

(Ord. 5068, Add, 08/04/2009)

Section 4.208. Alternative Permit.

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

(Ord. 5068, Add, 08/04/2009)

Section 4.209. Content of Permit.

Downers Grove Municipal Code

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

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

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

(Ord. 5068, Add, 08/04/2009)

Section 4.210. Public conduct during parades or open air meetings.

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

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

(c) The Village Manager shall have the authority to prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the route of a parade or location of an open air meeting.

The Village Manager shall order the posting of signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

(Ord. 5068, Add, 08/04/2009)

Section 4.211. Revocation of permit.

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

(b) If the Village Manager determines, after investigation that cause exists for the suspension or revocation of a parade or open air meeting permit, the Village Manager shall notify the permittee in writing that its permit will be revoked, setting forth the reasons therefor, and advising the applicant of the right to appeal pursuant to Section 4.206 of this Chapter.

(Ord. 5068, Add, 08/04/2009)

Section 4.212. Enforcement.

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

(Ord. 5068, Add, 08/04/2009)

Section 4.213. through 4.299. Reserved

(Ord. 5068, Add, 08/04/2009)