

Chapter 8

BUSINESS AND ACTIVITY LICENSES AND REGULATIONS

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Section 8.1ART. Article I. In General

Section 8.1SEC. Licenses generally--Contents; restriction on term.

Except as otherwise provided in any particular section, every license issued under the terms of this Chapter shall contain the name of the Village, and shall be issued by the Village Clerk as provided in this Code. Such license shall set forth the license fee paid therefor, the name of the person licensed, the term for which it is to operate and continue, and the particular thing and place licensed. The license shall also contain a statement that the license is accepted subject to the terms and conditions of the provisions of this Code and other ordinances of the Village which are in force, or which may at any time come into force during the term of such license, and that the license is subject to revocation in accordance with the provisions of this Chapter. No license shall be issued for a term extending beyond the last day of the calendar year in which it is issued. (Ord. No. 2167, § 6.)

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(3730, Amended, 04/03/1995)

Section 8.2. Same--Standards for issuance.

For purposes of this Section 8-2, the term "applicant" shall mean (i) an individual, if the license is applied for by an individual; (ii) all officers, directors and all shareholders owning directly or indirectly five percent or more of the stock of the corporation, if the license is applied for by a corporation; (iii) all general partners and all limited partners owning five percent or more interest in the partnership, if the license is applied for by a partnership. The Manager shall direct issuance and the Clerk shall issue, licenses for the businesses or activities listed in this Chapter, when, from a consideration of the application and such other information as may be otherwise obtained, the Manager determines that:

(a) The applicant has such experience in that business or activity, in business generally, or in other similar activities, so that he might conduct such business or activity in full compliance with all ordinances of the Village including the Zoning Ordinance, and applicable law.

(b) The applicant is of good character and adequate fitness so that he might conduct such business or activity in full compliance with all ordinances of the Village including the Zoning Ordinance, and applicable law. Such good character and adequate fitness is demonstrated, for purposes of this section, by the applicant not having been:

(1) Convicted of a felony by a court of competent jurisdiction, based upon his/her conduct or involvement in such business or activity or related or similar business or activity, within the past ten years; or

(2) Convicted of a felony by a court of competent jurisdiction, unrelated to his/her 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 years; or

(3) Convicted of a misdemeanor or licensing ordinance violation, based upon his/her conduct or involvement in such business or activity or related or similar business or activity, within the past two years.

(c) The business or activity will not create an unreasonable danger of nuisance to the neighborhood in which it is located, nor will create a danger of substantial breach of the peace, riot or similar disorder.

(d) The business or activity will not be conducted for an unlawful purpose.

(e) The business or activity will not interfere with the safe and orderly movement of traffic and persons on the public ways of the Village.

(f) The business or activity will not create a hazard to the health or safety of the residents of the village, nor to the health of domestic or wild plants and animals in the Village. (Ord. No. 2167, § 6; Ord. No. 2479, § 1.)

(Ord. 4852, Amended, 02/20/2007, his to his/her(s))

Section 8.3. Processing of Application.

(a) Whenever any license is required or provided for by this Chapter, application shall be made in writing to the Village Clerk on a form as reasonably required and approved by the Village Manager. The fee shall be paid and the license shall then be issued and signed by the Clerk who shall attach thereto the seal of the Village, and each license shall specifically set forth the purpose for which it is granted and the location of the business or activity. The Clerk shall keep a record of all licenses issued, the person to whom issued, and the location of the business or activity. Insurance or a bond may be required by the terms of specific licensing provisions of this Code.

(b) An application shall not be considered proper or filed until all information and material required of the applicant pursuant to this Code has been submitted.

(c) Upon receipt of a proper application, the Village Clerk shall investigate the information

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contained in the application and shall determine whether the applicant and premises designated, if applicable, are in full compliance with all applicable laws of the Village. The nature and scope of the investigation shall be within the discretion of the Village Clerk. This investigation shall be completed within twenty business days after receipt of a proper application. Provided, the Village Clerk may extend this investigation period, not to exceed an additional ten business days, upon a finding that such additional period is needed to properly complete the investigation. Provided, whenever such an extension period is invoked, notice shall be provided to the applicant along with the specific reasons for such extension.

(d) If, within ten business days following completion of the investigation, the Village Clerk determines that the applicant and premises are in compliance with the applicable ordinances of the Village, the Village Clerk shall issue the license.

(e) If, within ten business days following completion of the investigation, the Village Clerk determines that the applicant or premises are not in compliance with the applicable ordinances of the Village, the Village Clerk shall notify the applicant in writing that its license has been denied, setting forth the reasons therefore, and advising the applicant of his or her right to appeal pursuant to Section 8-4. Unless a timely appeal is filed as provided in Section 8-4, such denial shall be final and effective on the eleventh day following receipt of the notice by the applicant. In the event of such denial, a fee as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule" shall be assessed. Except for this processing charge, any license fee paid by the applicant shall be returned following final expiration of any appeal period. (Ord. No. 2167, § 6; Ord. No. 2725, § 2.)

(Ord. 5132, Amended, 04/20/2010; 3730, Amended, 04/03/1995)

Section 8.4. Suspension or revocation of license.

(a) The Village Clerk may suspend or revoke any license issued under this Chapter if it is determined that:

(1) The licensee, or any employee or agent of the licensee, has failed or refused to comply with the terms and standards set by this Chapter, or has failed or refused to comply with other laws applicable to the business or activity licensed; or

(2) The licensee is convicted by a court of competent jurisdiction of a violation of any provision of this Chapter or applicable law.

(3) The licensee has knowingly furnished false or misleading information on any application required for any license issued under this Chapter.

(b) If the Village Clerk determines after investigation that cause exists for the suspension or revocation of a license, the Clerk shall notify the licensee in writing that its license will be revoked or suspended, setting forth the reasons therefor, and advising the applicant of the right to appeal pursuant to Section 8-8 of this Chapter. Unless a timely appeal is filed as provided in Section 8-8, such revocation or suspension shall be final and effective on the eleventh business day following receipt of the notice by the applicant. If a timely appeal is filed as provided in Section 8-8, such revocation or suspension shall not be final and effective until the appeal has been processed. Suspension of a license shall be for a period not to exceed thirty (30) days.

(c) In addition to the above-referenced grounds for revocation by the Village Clerk, if any licensee having obtained a license under this Chapter, shall thereafter be convicted by a court of competent jurisdiction of such offenses as are enumerated in Section 8-2(b)(1)(2)(3) hereof, his/her license under this Chapter shall automatically be revoked.

(d) Any revocation of a license shall preclude that licensee, or any subsequent entity that has 20% or more common identity/ownership interest with the owners of the licensee from receiving another license under this Chapter for one year from the date of such revocation; except that, upon automatic revocation, as provided above, the licensee shall not be permitted to receive another license for such periods of time as are enumerated in Section 8-2(b)(1)(2)(3) for the respective offenses. No revocation or suspension shall require return by the Village of any unearned license fee.

(e) Revocation or suspension of a license shall not preclude the imposition of a fine for violation of

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any part of this Chapter, Code, or applicable law by a court of competent jurisdiction. (Ord. No. 2167, § 6.) (Ord. 4852, Amended, 02/20/2007, his to his/her(s); 3945, Renumbered, 06/23/1997; 3730, Amended, 04/03/1995)

Section 8.5. Same--Display of license.

The license or some other evidence of licensing shall be displayed in a conspicuous place, readily visible during business hours to an inspecting officer. The police department may inspect the licensed premises at reasonable times and in a reasonable manner, to determine compliance with this Code and other applicable law. (Ord. No. 2167, § 6; Ord. No. 3268, § 1.)

Section 8.6. Same--Term; proration; renewal; transfer.

The term of all annual licenses issued under the provisions of this Chapter shall be from January 1 to December 31, and in every case shall expire at the end of the day on December 31 next following the date of issuance. The full yearly license fee shall be charged no matter when the license is applied for or issued.

A licensee may renew his/her license for an additional term subject to his/her continued compliance with the standards established in Section 8-2 herein and subject to such specific requirements for renewal as may be established for a particular license.

If a licensee under this Chapter shall remove his/her licensed business or activity to another location, he shall apply to the Village Clerk for a transfer of the license, such application to state the address of the new location.

If there is compliance with all applicable licensing and other ordinances of the Village at the new location, the Village Clerk shall make the necessary alterations and endorse the transfer on the license. No fee shall be required for the transfer of a license for a change of location.

If a licensee conveys ownership of his/her licensed business or activity, the new owner(s) shall apply for a new license in his/her name in accordance with the procedures and standards set forth in this chapter. There shall be no transfer of a license from one owner of a business to another. (Ord. No. 2167, § 6.) (Ord. 4852, Amended, 02/20/2007, his to his/her(s); 3730, Amended, 04/03/1995)

Section 8.6.1. Same--Renewal required in certain events.

(a) The occurrence of any one or more of the following events shall be deemed to constitute a change in the identity of the holder of a license issued under this chapter:

(i) With respect to any licensee that is a corporation, the replacement or addition of any officer or director of said corporation or any shareholder owning directly or indirectly (including ownership by members of the same household) five percent or more of the outstanding shares of any class of the capital stock of said corporation.

(ii) With respect to any licensee that is a general partnership, the replacement or addition of any general partner.

(iii) With respect to any licensee that is a limited partnership, the replacement or addition of any general partner or of any limited partner holding directly or indirectly (including ownership by members of the same household) more than a five percent interest in the earnings of said limited partnership.

(b) Upon the occurrence of any of the events described in paragraph (a) of this Section 8-6.1, the licensee shall as promptly as practicable, and in any event within five regular business days after the occurrence of such event, give the Village Clerk written notice describing such event in reasonable detail. Such notice shall be given to the Village Clerk, either by actual delivery or by registered or certified mail. Failure to deliver a notice required by the provisions of this paragraph (b) shall constitute a violation of this Chapter subjecting the licensee to revocation or suspension of the license. No additional license fee shall be payable by virtue of the occurrence of any of the events described in paragraph (a) of this Section 8-6.1, and the applicant may continue to conduct its business and operations under the license in effect immediately

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prior to such occurrence.

(c) Upon the occurrence of any of the events described in paragraph (a) of this Section 8-6.1, if it shall be determined that any applicant, as defined in Section 8-2 hereof, does not meet the standards for issuance of a license as established therein, the license in effect shall be automatically revoked upon written notice thereof to the licensee. (Ord. No. 2479, § 2.)

Section 8.7. Investigation; notification to police department of issuance.

The Manager may request the police department through the Chief of Police to investigate and report upon the character and fitness of any applicant for a license. The Clerk immediately upon issuance of a license shall notify the Police Department of such issuance. (Ord. No. 216, § 6.)
(3945, Amended, 06/23/1997)

Section 8.8. Appeals.

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

(b) Any licensee who receives a notice of revocation or suspension may file a written appeal with the Village Manager as provided herein. Such appeal shall be filed with the Village Manager, in writing, no later than ten (10) business days following receipt of the notice of revocation or suspension, and shall include: (1) a petition for an informal public hearing, and (2) a response to the notice. Such response shall include a brief statement addressing the substantive deficiencies cited in the notice of suspension or revocation and shall set forth the basis for why the license or permit should not be revoked or suspended.

(c) The Village Manager shall schedule an informal public hearing as soon as possible following receipt of such appeal. The purpose of the hearing will be to offer the applicant or licensee an opportunity to show cause why the application should not be denied, or why the license or permit should not be suspended or revoked. A record shall be made of the informal public hearing and documents may be submitted and/or testimony given, either in person or through sworn affidavit. This record may be made by electronic recording. The Village Manager shall have the power to administer oaths and to continue the hearing from time to time to permit the applicant to provide additional information.

(d) Within thirty days after such hearing, the Village Manager shall make written findings of fact and issue an appropriate order. If the Village Manager determines that the license or permit should be revoked or suspended, or issuance or renewal denied, the reasons supporting such determination shall be included in the written order. A copy of such order shall be served upon the licensee, permittee or applicant as the case may be.

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

(f) The Village Manager may delegate any duty or power set forth in this section, including but not limited to the conduct of the informal hearing and issuance of any final order, to such Village official as the Village Manager may designate. (Ord. No. 2167, § 6.)

(4463, Amended, 12/03/2002; 3945, Amended, 06/23/1997; 3945, Enacted, 06/23/1997)

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Section 8.9. Conditions of issuance; construction of Chapter and Article.

Unless otherwise expressly provided, every license issued under the provisions of this Code of the Village shall be subject to all the provisions of this Code relating thereto or the subject matter thereof which are currently in force or which may come into force at any time during the term of such license.

The specific provisions of this Chapter shall control over the general provisions of this Article where they conflict, and where no such conflict arises, the general provisions of this Article shall apply for all licenses issued under this Chapter. The standards and provisions of this Chapter shall not apply for liquor licenses and cab companies/taxicab driver's licenses.* (Ord. No. 2167, § 6.)

*See Chapter 3 of this code for liquor licenses and Chapter 22 for cab company/taxicab driver's licenses.

Section 8.10ART. Article II. Amusements

Section 8.11. Amusements--Licenses required.

No person shall engage in the following businesses or activities within the Village before obtaining a license therefor:

(a) Readings in the art of divination.

(Ord. No. 2167, § 6; Ord. No. 2549, § 2; Ord. No. 2691, § 1.)
(Ord. 5068, Amended, 08/04/2009)

Section 8.12. Same--License fees.

License fees to be charged for the purpose of licensing and regulating the activities listed in Section 8-11 hereof shall be set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule".

(Ord. No. 2167, § 6; Ord. No. 2549, § 3; Ord. No. 2691, § 2.)
(Ord. 5132, Amended, 04/20/2010; Ord. 5068, Amended, 08/04/2009)

Section 8.13. Application for License.

(a) Application for a license shall be made in writing to the Village Clerk, upon forms provided, and shall include the following:

(1) The name (including any nicknames or aliases), date of birth, address, including current and all prior addresses in last five (5) years, telephone number, and social security number of the applicant. In addition, the application shall include the registered agent of the applicant if the applicant is a corporation, and the general or managing partners, if the applicant is a partnership.

(2) The location of the activities.

(3) A complete statement of all convictions of the applicant as provided in this section. If the applicant is a corporation, such statement shall include applicant's officers, and directors thereof, and any stockholder or stockholders owning in the aggregate more than twenty percent (20%) of the stock of such corporation. If the applicant is a partnership, such statement shall include all general partners, and any limited partner owning more than twenty percent (20%) of the aggregate limited partner interest in such partnership. Such listing shall include the following:

(i) Any offense involving sexual misconduct with children or other sex offenses as defined in Article 11 of the Criminal Code of 1961, as amended.

(ii) A felony based upon conduct or involvement in such business or activity or related or similar business or activity, within the past ten (10) years; or

(iii) 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,

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or violence against another person, including rape, within the past five (5) years; or

(iv) 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.

(4) A description of the proposed amusement activities, including the anticipated age and number of patrons, hours of operation and all activities and business conducted at the same location, and the physical facilities to be used.

(5) A written statement setting forth all measures proposed to ensure that adequate traffic control, crowd protection and security, both inside and outside the amusement area, will be maintained.

(6) The name, address, telephone number and age of all managers shall be provided, along with a statement of any convictions as set forth under subsection (3), above. A manager is required to be on duty during business hours.

(7) A statement whether applicant has made similar application for a similar other license at a location other than described in this application and the disposition of such application.

(8) A current certificate of inspection for the location from the DuPage County Board of Health, if applicable.

(9) The license fee set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule".

(10) The fingerprinting fee set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule".

(11) In the event applicant is made aware that any information or document submitted as part of this application process is inaccurate or incomplete, applicant shall immediately notify the Village and provide appropriate corrections. Failure to accurately and completely provide, or as necessary update, required information may delay the processing of such application or result in its denial.

(12) In addition to the requirements of subsections (a) and (b) above, the applicant shall submit their fingerprints to be used in completing the investigation. Applicants are required to present themselves for fingerprints to be taken by the Downers Grove Police Department as provided by the Village Clerk. Applicants are required to pay a fingerprinting fee set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule". Provided, in the case of a renewal application, fingerprints and the fingerprint fee shall not be required from a renewal applicant whose fingerprints are on file, unless the Village determines in its sole discretion that cause exists to have the applicant fingerprinted. If the applicant is a corporation, fingerprints shall be required of applicant's officers, directors, and any stockholder or stockholders owning in the aggregate more than twenty percent (20%) of the stock of such corporation. If the applicant is a partnership, fingerprints shall be required of all general partners, and any limited partner owning more than twenty percent (20%) of the aggregate limited partner interest in such partnership.

(Ord. 5132, Amended, 04/20/2010; Ord. 5068, Amended, 08/04/2009; Ord. 4600, Amended, 07/06/2004; 4463, Amended, 12/03/2002)

Section 8.14. Processing of Application.

(a) An application shall not be considered proper or filed until all information and material required of the applicant pursuant to Section 8-13 has been submitted.

(b) Upon receipt of a proper application, the Village Clerk shall investigate the information contained in the application and shall determine whether the applicant and location designated, if applicable, are in full compliance with all applicable laws of the Village. The nature and scope of the investigation shall be within the discretion of the Village Clerk.

(c) The investigation, including any required inspections and background checks, shall be completed within 60 days after receipt of a proper application. Provided, the Village Clerk may extend this investigation period an additional period, not to exceed an additional 60 days, upon a finding that such additional period is needed to properly complete the investigation. Provided, whenever such an extension period is invoked, notice shall be provided to the applicant along with the specific reasons for such extension.

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(d) If, within 10 days following completion of the investigation, the Village Clerk determines that the applicant and location are in compliance with the applicable ordinances of the Village, the Village Clerk shall issue the license.

(e) If, within 10 days following completion of the investigation, the Village Clerk determines that the applicant or location are not in compliance with the applicable ordinances of the Village, the Village Clerk shall notify the applicant in writing that its license has been denied, setting forth the reasons therefore, and advising the applicant of his or her right to appeal pursuant to Section 8-8. Unless a timely appeal is filed as provided in Section 8-8, such denial shall be final and effective on the 11th day following receipt of the notice by the applicant.

(4463, Enacted, 12/03/2002)

Section 8.15. Limitation on Issuance and Renewal of License.

No amusement activity license shall be issued or renewed as follows:

- (a) To an applicant providing false or misleading information on the application.
- (b) To an applicant who has been convicted of the following offenses:
 - (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.
 - (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 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 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 years of age.
- (f) To a partnership, if any general partner thereof, or any limited partner owning more than 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 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.

(4463, Enacted, 12/03/2002)

Section 8.15ART. Article III. Mobile Food Vehicle Vendors

(Ord. 5545, Amended, 07/05/2016)

Section 8.16. General Provisions.

(Ord. 5545, Amended, 07/05/2016)

Section 8.16.1. Definitions.

Mobile food vehicle. A commercially manufactured, motorized mobile food unit from which ready-to-eat food is cooked, wrapped, packaged, processed, or portioned and sold for immediate consumption and open to the general public.

Mobile food vehicle vendor. The owner of a mobile food vehicle, hereinafter referred to as "Vendor." Mobile food vehicle vendors do not include street and sidewalk vendors or ice cream vendors. (Ord. 5545, Add, 07/05/2016)

Section 8.16.2. Permit Required; Application

(A) It shall be unlawful for any person to operate within the Village a mobile food vehicle, as defined in this Chapter, without first having obtained a permit from the Village for that purpose. The Village shall issue only ten (10) permits per year and they shall be issued on a first-come first-serve basis.

(B) Application shall be made by the Vendor in writing to the Village on a form as required and approved by the Village. A permit and application fee as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule" shall be submitted with the application. A permit shall be valid for twelve (12) months from the date of issuance and shall only be valid for one (1) mobile food vehicle. Application for renewal, along with the renewal fee as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule", shall be filed with the Village no later than thirty (30) days prior to the expiration of the permit.

(C) The Vendor shall be required to include in the application a true statement of certain facts including, but not limited to: whether the Vendor is a corporation, partnership or sole proprietorship; the state of incorporation of the Vendor if the Vendor is a corporation; whether the Vendor is organized and qualified to do business under the laws of the State of Illinois if the Vendor is a corporation; the names of the individuals who own the Vendor; the registered agent of the Vendor; the Vendor's principal place of business; and the principal office of the Vendor.

(D) The Vendor shall, with its application for a permit, register or cause to be registered the mobile food vehicle operated by, or operated for, such Vendor within the Village. The following information for the mobile food vehicle to be registered shall be provided:

(1) The year, make, model, color, license plate number and vehicle identification number of the vehicle.

(2) Name, address, and telephone number of the owner of the vehicle.

(E) A description of the food product(s) offered for sale, including the intended menu.

(F) Any Vendor operating in public parks, pursuant to Section 8.17(A)(2), shall submit his/her fingerprints to be used in completing the review of the application. Such individuals are required to present themselves for fingerprints to be taken by the Downers Grove Police Department or by a State approved agency. A fingerprint fee, as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule", shall be paid. Provided, in the case of a renewal application, fingerprints and the fingerprinting fees shall not be required from a renewal applicant whose fingerprints are on file, unless the Village determines that there may be reason to believe that the renewal applicant may have unreported convictions.

(G) The Vendor shall submit a signed statement that the Vendor shall hold harmless the Village and its officers and employees, and shall indemnify the Village, its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the permit. Vendor shall furnish a certificate of insurance showing that it maintains such public liability, food products liability, and property damage insurance as will protect Vendor, property owners, and the Village from all claims for damage to property or bodily injury, including death, which may arise from the

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operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than one million dollars (\$1,000,000.00) per occurrence. The policy shall further provide that it may not be cancelled except upon a thirty (30) day written notice served upon the Village Attorney. The Vendor, applicant(s), and any employee(s) or agent(s) that will be operating the mobile food vehicle shall also submit proof of automobile liability insurance. A permit issued pursuant to the provisions of this Section shall be invalid at any time the insurance required herein is not maintained and evidence of continuing coverage is not filed with the Village Attorney.

(H) The Vendor shall be required to submit a copy of the required DuPage County Health Department Permit to the Village with the application. The failure to obtain or revocation of the DuPage County Health Department permit shall constitute an automatic revocation or denial of the Downers Grove mobile food vehicle permit.

(I) Failure to fully comply with the application and disclosure requirements of this Section shall constitute grounds for the Village to deny issuance of a permit. The Vendor shall notify the Village within thirty (30) days of any changes to application information.

(J) Issuance or Denial of License. The Village shall, within sixty (60) days after submittal of a properly completed application, or within such other period of time as the Village and the applicant shall otherwise agree, either issue or deny issuance of a permit pursuant to this Article.

(Ord. 5650, Amended, 11/14/2017; Ord. 5599, Amended, 12/20/2016; Ord. 5545, Add, 07/05/2016)

Section 8.16.3. Investigation.

The Village shall investigate the Vendor, including each officer, general partner, sole proprietor and all persons having an ownership interest of five percent (5%) or more of any such applicant. If this investigation of the application materials reveals information showing any of the following, the application shall not be approved and no permit shall be issued to the Vendor:

(1) Any convictions of a felony within the past ten (10) years.

(2) Any convictions of misdemeanor, which misdemeanor involves any of the following offenses:

(a) Unlawful possession with the intent to deliver: any controlled substance, as such term is defined in the Illinois Controlled Substances Act (720 ILCS 570/100 et seq.), as amended from time to time; or cannabis, as defined in the Cannabis Control Act (720 ILCS 550/1 et seq.), as amended from time to time; or an intoxicating compound, as listed or defined in the Intoxicating Compounds Act (720 ILCS 690/0.01 et seq.), as amended from time to time, within the past five (5) years.

(b) Unlawful possession of any controlled substance, cannabis or intoxicating compound within the past five (5) years.

(c) Any offense involving moral turpitude, including, but not limited to any offense involving the misapplication, misappropriation or misuse of funds of another person within the past five (5) years.

(d) Driver's license suspended or revoked in any state within the past three (3) years as consequence of violations of law concerning the operation of a motor vehicle.

(3) Any requirements to register as a sex offender as required by the Sex Offender Registration Act, 730 ILCS 150 or has been convicted of criminal sexual assault and/or criminal sexual abuse, as such offenses are defined in the Illinois Criminal Code (720 ILCS 5/1-1 et seq.), or any like offense of another state or country.

(4) Any misrepresented or omitted material fact in the application for a permit.

(Ord. 5650, Amended, 11/14/2017; Ord. 5599, Amended, 12/20/2016; Ord. 5545, Add, 07/05/2016)

Section 8.16.4. Transfer of Permit.

The permit shall not be transferrable from person to person without the approval of the Village Manager or his/her designee and payment of the transfer fee as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule".

(Ord. 5545, Add, 07/05/2016)

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Section 8.17. Permitted Operating Locations.

(A) Mobile food vehicles are authorized to operate in the Village of Downers Grove only at the following locations:

(1) As depicted on the map in Section 8.17.1.

(2) Public Parks owned and operated by the Downers Grove Park District, subject to the Park District's consent.

(B) In addition to the above restrictions, no mobile food vehicle shall operate in a location that:

(1) would substantially obstruct a public way;

(2) would impair the movement of pedestrians or vehicles;

(3) would pose a hazard to public safety;

(4) is adjacent to a bus stop, taxi stand, or handicap loading zone;

(5) is within thirty (30) feet of an intersection;

(6) is within three (3) feet of a curb cut;

(7) is directly in front of a property entryway;

(8) is adjacent to or within five hundred (500) feet of the property line of a food establishment business. This requirement may be waived if the application is submitted with the written consent of the proprietor of the adjacent food establishment business. No person or corporation shall either pay or accept payment for the written consent provided herein;

(9) is within five hundred (500) feet of any festival, special event, or civic event that is permitted or sponsored by the Village except when the Vendor has obtained a temporary use permit from the Village; or

(10) is within five hundred (500) feet of the property lot line of any elementary, middle, and secondary schools (public or private).

(C) Pedestrian walkways of no less than six (6) feet must be maintained around the mobile food vehicle location.

(D) No more than three (3) mobile food vehicles shall be allowed to operate per private parking lot located in the authorized locations. The private parking lot must remain in compliance with the zoning code, including the off-street parking requirements for the host parking lot. The mobile food vehicles shall not block required drive aisles and must be parked on a dust-free surface lot at all times.

(E) A Vendor shall not operate on private property within the permitted operating locations without first obtaining written consent to operate from the affected private property owner.

(Ord. 5599, Amended, 12/20/2016; Ord. 5545, Add, 07/05/2016)

Section 8.17.1. Maps.

<http://www.downers.us/public/docs/code/MobileFoodVendorsPermittedLocationMap.pdf>

(Ord. 5599, Amended, 12/20/2016; Ord. 5545, Add, 07/05/2016)

Section 8.18. Inspections.

(A) All mobile food vehicles shall be kept in a clean and sanitary condition. The Village Manager or his/her designee, bearing proper identification, shall be permitted to enter any mobile food vehicle at any reasonable time for the purpose of inspecting to determine whether the Vendor has complied with the terms of this Article. Additionally, the Vendor shall, on request, provide the Village Manager or his/her designee with the records of the mobile food vehicle to obtain information pertaining to sales and sales taxes. Denial of access to the mobile food vehicle or to said records shall be deemed a violation of this Article and grounds for suspension and/or revocation of the permit.

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(B) All food storage, preparation and distribution of food, and vehicle equipment must meet applicable Illinois Department of Public Health and DuPage County Health Department standards and requirements.

(C) All waste liquids, garbage, litter and refuse shall be kept in leak-proof, nonabsorbent containers which shall be kept covered with tight-fitting lids and disposed of properly. No waste liquids, garbage, litter or refuse shall be dumped or drained into sidewalks, streets, gutters, drains, trash receptacles, or any other place. A garbage receptacle shall be easily accessible for customer use. Each mobile food vehicle shall be equipped with sufficient garbage receptacles, and each Vendor shall be responsible for collecting all litter, garbage and refuse left by customers and related to its products located within a fifty foot (50') radius of the mobile food vehicle.

(Ord. 5545, Add, 07/05/2016)

Section 8.19. Operational Requirements.

(A) A Village permit for each mobile food vehicle to be operated in the Village must be prominently displayed and permanently affixed to the lower lefthand corner of the windshield of the mobile food vehicle.

(B) All sales from the mobile food vehicle shall occur on the side of the vehicle nearest the street curb.

(C) No mobile food vehicle shall impede visibility or the flow of vehicular, pedestrian or bicycle traffic in any location.

(D) It shall be unlawful for any person operating a mobile food vehicle while on duty to drink any alcoholic beverage, to shout or call to prospective customers, or to disturb the peace in any manner.

(E) No mobile food vehicle shall operate unless it bears a State license duly issued, and no such vehicle shall be operated unless it is equipped with proper brakes, lights, tires, horn, muffler, rear vision mirror and windshield wipers in good condition.

(F) Each mobile food vehicle shall have on each side, in letters readable from a distance of fifty (50) feet, the name of the Vendor operating it.

(G) Each mobile food vehicle shall have available for inspection a copy of the required DuPage County Health Department Permit.

(H) The hours of operation shall be limited to the hours between 7:00 a.m. to 10:00 p.m. No approved mobile food vehicle shall be left unattended on a public way, nor remain on a public way, outside of these allowed hours of operation.

(I) No Vendor shall use or maintain any outside sound amplifying equipment, lights, or noisemakers, such as bells, horns or whistles.

(J) No mobile food vehicle shall use external signage, attention getting devices, bollards, seating, or any other equipment not contained within the vehicle.

(K) The mobile food vehicle shall not have a drive-through.

(L) The Vendor shall obey any lawful order of a police officer to move to a different permitted location to avoid congestion or obstruction of a public way or remove the mobile food vehicle entirely from the public way if necessary to avoid such congestion or obstruction.

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(M) Any power required for the mobile food vehicle located on a public way shall be self-contained and shall not use utilities drawn from the public right-of-way.

(N) All identifying information, logos, advertising, decorations, or other displays on the exterior of a mobile food vehicle shall conform to the purposes set forth in the Downers Grove Zoning Ordinance regulating commercial signage, to the extent applicable. In particular, exterior displays shall be designed to minimize confusion or distraction that jeopardizes vehicular and pedestrian safety and shall be harmonious with the surroundings and consistent with the character of the community in which the mobile food vehicle operates.

(O) The Vendor must comply with all other applicable conditions and requirements imposed upon mobile food vendors under the law, must comply with Village ordinances and State law, and shall make all required sales tax returns and other reports as required by State law.
(Ord. 5545, Add, 07/05/2016)

Section 8.20. Violations.

(Ord. 5545, Add, 07/05/2016)

Section 8.20.1. Penalties.

Any person or entity who shall be guilty of a violation of any of the provisions of this Article, shall be subject to a fine of not less than seventy-five dollars (\$75.00) and not more than seven hundred fifty dollars (\$750.00). A separate offense shall be deemed committed for every day a violation continues.
(Ord. 5545, Add, 07/05/2016)

Section 8.20.2. Denial, Suspension or Revocation of Permit.

(A) A permit issued under the provisions of this Article may be revoked or suspended by the Village for a violation of any provision of this Article. If the Village determines after investigation that cause exists for the suspension or revocation of a permit, the Village shall notify the Vendor in writing that its permit will be revoked or suspended, setting forth the reasons therefor, and advising the Vendor of the right to appeal pursuant to Section 8.20.3 of this Chapter. Unless a timely appeal is filed as provided in Section 8.20.3, such revocation or suspension shall be final and effective on the eleventh (11th) business day following receipt of the notice by the Vendor. If a timely appeal is filed as provided in Section 8.20.3, such revocation or suspension shall not be final and effective until the appeal has been processed.

(B) An application may be denied or an approved permit may be revoked, suspended, or not renewed for any of the following reasons:

- (1) The application contains material omissions or false, fraudulent, or deceptive statements.
- (2) The mobile food vehicle is operated in such a manner that constitutes a public nuisance per the Downers Grove Municipal Code or State statutes.
- (3) The proposed operation is in violation of any federal, State, or local laws.

The provisions of this Section are not exclusive. This Section shall not preclude the enforcement of any other provisions of this Municipal Code or State and federal laws and regulations.

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- (C) Any permit issued shall be automatically revoked if the Vendor is convicted of such offenses enumerated in Section 8.16.3.
- (D) No revocation or suspension shall require return by the Village of any permit fee.
- (E) Any revocation of a permit shall preclude the permittee (or any subsequent company that has 20% or more common identity/ownership interest with the permittee) from receiving another permit under this Article for two (2) years from the date of revocation; except that upon automatic revocation, as provided above, the permittee (or any subsequent company that has 20% or more common identity/ownership interest with the permittee) shall not be permitted to receive another permit for ten (10) years from the date of revocation for violations of Section 8.16.3.
- (F) Revocation or suspension of a permit shall not preclude the imposition of a fine by a court of competent jurisdiction for violation of any part of this Article.
(Ord. 5545, Add, 07/05/2016)

Section 8.20.3. Appeals

- (A) Any permit holder who receives a notice of revocation or suspension or whose application has been denied may file an appeal with the Village Manager as provided herein. Such appeal shall be filed with the Village Manager, in writing, no later than ten (10) business days following receipt of the notice of revocation or suspension or denial of application, and shall include: (1) a petition for an informal public hearing, and (2) a response to the notice. Such response shall include a brief statement addressing the substantive deficiencies cited in the notice and shall set forth the basis for why the permit should not be revoked or suspended or why the application should not be denied. The applicant or permittee shall not operate within the Village during the pendency of the appeal.
- (B) The Village Manager shall schedule an informal public hearing as soon as possible following receipt of such appeal. The purpose of the hearing will be to offer the applicant or permittee an opportunity to show cause as to why the application should not have been denied or why the permit should not be suspended or revoked. A record shall be made of the informal public hearing and documents may be submitted and/or testimony given, either in person or through sworn affidavit. This record may be made by electronic recording. The Village Manager shall have the power to administer oaths and to continue the hearing from time to time to permit the applicant or Vendor to provide additional information.
- (C) Within thirty (30) days after such hearing, the Village Manager shall make written findings of fact and issue an appropriate order. If the Village Manager determines that the denial of the application should be upheld or that the permit should be revoked or suspended, the reasons supporting such determination shall be included in the written order. A copy of such order shall be served upon the applicant or permittee.
- (D) The decision of the Village Manager as provided in subsection (c) above shall be the final administrative action of the Village with respect to the permit and shall be subject to the immediate appeal by the applicant or permittee to the circuit court. Such appeal to the circuit court shall be filed not later than thirty-five (35) days following receipt of the Village Manager's findings and order. Failure to timely file such appeal as provided herein shall render the Village Manager's decision final.
- (E) The Village Manager may delegate any duty or power set forth in this Section, including but not limited to, the conduct of the informal hearing and issuance of any final order, to such Village officer or agent as the Village Manager may designate.
(Ord. 5545, Add, 07/05/2016)

Section 8.20.3ART. Article IV. Pawnbrokers

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Section 8.21. Pawnbroker defined.

A pawnbroker is defined as any person or company engaged in the business of receiving property in pledge or security for money or other thing advanced to the pawner or pledger. (Ord. No. 2937, § 1.)
(4143, Enacted, 08/02/1999)

Section 8.22. Same--Prohibited.

No person or company shall engage in business as a pawnbroker in the Village. (Ord. No. 2937, § 1.)

Section 8.22ART. Article V. Raffles

Section 8.23. Definitions.

For the purposes of this article, the terms recited herein shall have the definitions set forth in the Illinois Raffles Act, (the "Act") as now or hereafter amended. (230 ILCS 15/0.01 et seq.)
(3780, Amended, 09/18/1995; 3654, Enacted, 06/20/1994)

Section 8.24. Construction of article.

Nothing in this article shall be construed to authorize the conduct or operation of any gambling scheme, enterprise, activity or device other than raffles as provided for in this article.

Section 8.25. License--Required.

No person, firm or corporation shall conduct a raffle, or sell chances for a raffle, in the Village of Downers Grove without first having obtained a license therefor pursuant to the provisions of this article. Such licenses shall be issued pursuant and subject to the provisions of the Act. Licenses shall be issued only to bona fide religious, charitable, labor, business, fraternal, educational or veterans' organizations that operate without profit to their members and which have been in existence continuously for a period of 5 years immediately before making application for a license and which have had during that entire 5 year period a bona fide membership engaged in carrying out their objects, or to a non-profit fundraising organization that the licensing authority determines is organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident or disaster.

Section 8.26. Same--Application.

Application for a raffle license shall be made on forms provided by the Village at least fourteen calendar days prior to the sale of raffle chances. Such applications shall contain the following information:

- (a) Name and address of the applicant.
- (b) The area or areas within the Village in which raffle chances, tickets, and the like will be sold or issued.
- (c) The time period during which raffle chances will be sold or issued.
- (d) The time of determination of winning chances and the location or locations at which winning chances will be determined.

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(e) A sworn statement attesting to the not-for-profit character of the prospective licensee organization.

(f) A statement that the applicant agrees to comply with all laws of the State of Illinois, the United States, and the Village in the conduct of the raffle.

(3654, Enacted, 06/20/1994)

Section 8.27. Same--Issuance, denial.

Within fourteen calendar days from the date of an application for a license, the Village Manager or his/her designee shall either issue a license or advise the applicant in writing of the reason for denial of a license. No such license shall be issued except as authorized under the Act. Any appeal from a notice of denial shall be pursuant to Section 8-8.

(Ord. 4852, Amended, 02/20/2007, his to his/her(s); 4463, Amended, 12/03/2002; 3654, Enacted, 06/20/1994)

Section 8.28. Same--Restrictions.

(a) Each license is valid for one raffle, only.

(b) No more than six (6) raffle licenses shall be issued to any person, corporation or organization in any calendar year.

(c) The aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle shall not exceed fifty thousand dollars (\$50,000.00). Provided, the Village Council may authorize raffles in excess of fifty thousand dollars (\$50,000.00) upon request of the applicant.

(d) For raffles where the cost of a single chance is less than fifty dollars (\$50.00), the maximum number of days during which chances may be issued or sold and winners determined shall not exceed six (6) months. For raffles where the cost of a single chance is fifty (\$50.00) or more, the maximum number of days which chances may be issued or sold and winners determined shall not exceed twelve (12) months.

(e) Each licensee shall keep records as required under the Act.

(f) The conduct of raffles within the Village is subject to applicable restrictions and conditions as set forth in the Act.

(Ord. 5402, Amended, 08/12/2014; 3654, Enacted, 06/20/1994)

Section 8.29. Raffle manager; bond.

All operation and conduct of raffles shall be under the supervision of a single raffle manager designated by the organization. The raffle manager shall give a fidelity bond in an amount not less than the anticipated gross receipts for the raffle. The bond shall be in favor of the organization and conditioned upon the raffle manager's honesty and the performance of his/her duties. The terms of the bond shall provide that notice shall be given in writing to the Village not less than thirty days prior to its cancellation. Provided, the Village Manager may waive this bonding requirement when, due to the nature, past experience or competence of the organization involved, the Village Manager determines that such bond would be unnecessarily burdensome. The Village Manager shall give notice of such waiver to the Mayor and Village Council not less than 48 hours before the license becomes effective. Within such 48 hour period, the mayor or any member of the Village Council may, through notice to the Village Manager, cause this waiver to be stayed. In such case the matter will be formally presented to the Village Council at their next regular council meeting for decision.

(Ord. 4852, Amended, 02/20/2007, his to his/her(s); 3654, Enacted, 06/20/1994)

Section 8.30ART. Article VI. Entertainment Licenses

Downers Grove Municipal Code

Section 8.31. Definitions.

- (a) *Code*. The Downers Grove Municipal Code, as from time to time amended.
- (b) *License*. An entertainment license as provided in this ordinance.
- (c) *Entertainment Facility*. Commercial premises which are open to the public, the primary function of which is to offer, provide, procure, make available, allow, suffer or permit entertainment of the following nature: dances, concerts, pre-recorded music, or the enjoyment of entertainment provided by dancers or other performers, any and all of which provides patrons an opportunity to engage in social activities such as dancing, or the enjoyment of live or pre-recorded music, or the enjoyment of entertainment provided by dancers or other performers. An entertainment facility includes, but is not limited to, facilities which assess a cover charge, minimum purchase requirements, and/or other similar charge as a condition for entrance. As an incidental function an entertainment facility may sell and serve food and beverages, (excluding alcoholic beverages) to its patrons. The term entertainment facility does not include the following: Adult Entertainment Establishment, premises holding a Downers Grove liquor license; hotels; theaters which the patrons sit in parallel rows of fixed seats; full service restaurants where the only entertainment consists of background music which is incidental to the primary function of serving food and no cover charge, minimum purchase and/or other similar charge is assessed for entrance; outdoor performances; a banquet, party or celebration conducted for invited guests which is not open to the public; dances, concerts or other events sponsored or operated by a governmental entity, an educational institution or a nonprofit or charitable group duly licensed with the State and having a five (5) year history in the Village. Unless otherwise distinguished herein, the term entertainment facility shall include adolescent entertainment facilities, pre-adolescent entertainment facilities, adult entertainment facilities and mixed entertainment facilities.
- (f) *Pre-adolescent entertainment facility*. An entertainment facility which admits persons between the ages of 13 and 15 years of age. This term may include, but is not limited to, facilities commonly referred to as "teen clubs", "juice bars" and "teen dance halls".
- (g) *Adolescent entertainment facility*. An entertainment facility which admits persons between the ages of 16 and 18 years of age. This term may include, but is not limited to, facilities commonly referred to as "teen clubs", "juice bars" and "teen dance halls".
- (h) *Adult entertainment facility*. An entertainment facility which admits persons over 18 years of age. Adult entertainment facility shall not include an Adult Entertainment Establishment as that term is defined in the Downers Grove Adult Use Licensing Ordinance.
- (i) *Mixed entertainment facility*. An entertainment facility which, during prescribed hours of business, may operate as a pre-adolescent entertainment facilities, an adolescent entertainment facilities or an adult entertainment facilities.
- (j) *Ordinance*. Article VI of the Downers Grove Municipal Code, commonly referred to as the Entertainment Facilities Ordinance, as from time to time amended.
- (k) *Licensed Premises*. Any place where an entertainment facility is operated or maintained pursuant to a license granted under this ordinance. Such term shall include all hallways, bathrooms, parking areas and other adjacent portions of the premises which are accessible to the public during operating hours.
- (l) *Chief*. The Chief of Police of the Village of Downers Grove, or such Chief's designee.
- (m) *Transfer of ownership or control of an entertainment facility*. Any of the following:
- (1) the sale, lease, or sublease of the business;
 - (2) the transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
 - (3) the establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.
 - (4) any person not previously listed as an applicant pursuant to Section 8-31.3 acquires an

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ownership interest in the business of twenty percent or more.

(n) *Village Manager*. The Downers Grove Village Manager, or the Village Manager's designee.

(o) *Special Event*. An activity at the licensed premises of a temporary and non-routine nature.

(4144, Amended, 08/09/1999; 3785, Enacted, 10/16/1995)

Section 8.31.01. Administration - Variations.

(a) The Chief shall be responsible for interpretation and administration of this ordinance and may establish rules and regulations consistent with the ordinance.

(b) In the event the Chief fails to act upon any application, request or other matter within the time period set forth in the ordinance, such inaction shall be deemed a denial of such application, request or other matter.

(c) The Chief may grant a variance from the strict compliance with the provisions of this ordinance. Such variance may include expanding the hours of operations during the special event and/or modifying the age restrictions on patrons. No other provision of the ordinance may be varied under this section. A variance application fee shall be paid at the time of such requests in an amount set forth in Section 8-31.7. The following shall govern any request for variation:

(1) Not less than twenty-one days before a proposed special event, the licensee shall submit a request for variation detailing the proposed special use, including hours and manner of operation, age of patrons and security measures. The Chief may require such additional information as the Chief determines to necessary to evaluate the request.

(2) The Chief shall deny a request for a variation if the Chief determines that it poses a threat to the public health safety or welfare. In determining whether such a threat exists, the Chief may consider the following: past operations and problems of the licensed establishment; security; crowd control; parking; neighborhood impact; proposed manner of operation.

(3) The Chief shall review the request and approve, approve as modified or deny such request within 10 days following receipt. Any denial shall be in writing, setting forth the reasons therefore, and advising the applicant of his or her right to appeal pursuant to Section 8-8. Unless a timely appeal is filed as provided in Section 8-8, such denial shall be final and effective on the 11th day following receipt of the notice by the applicant. In the event the Chief approves such request, the Chief may condition the approval upon such changes in the special event and manner of operation as determined necessary to protect the public health safety and welfare. This may include, but is not limited to, requiring additional security or other measures as determined necessary or desirable to reduce any potential adverse impacts or problems as a result of the variance. In the event the Chief notifies the applicant that the request is approved subject to conditions, and the licensee refuses to accept such conditions, the notice shall be treated as a denial.

(4) A variance may be granted for up to twelve days. Provided, no variance, either individually or in combinations with all other variances granted to a licensed premises, shall be granted for more than twelve days in any license year. In the event a license is issued after the beginning of the license year, the maximum number of days for which a variance may be granted shall be reduced by one for each month or part thereof between such issuance date and the commencement of the license year.

(5) The variance may be revoked by the Chief in the event the licensed premises fails to conduct the special event in accordance with operational plan as approved by the Chief; or in the event such operation, once commenced, creates or threatens to create a breach of the peace.

(4463, Amended, 12/03/2002; 3785, Enacted, 10/16/1995)

Section 8.31.02. Same--Licenses required.

It is unlawful for any person to own, operate, manage or maintain an entertainment facility in the Village without first obtaining an entertainment facility license from the Village. No person shall engage in the business of operating an entertainment facility in the village without a valid and current license therefor

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issued by the Village pursuant to the terms of this ordinance. A separate license shall be required for each entertainment facility location regardless of whether such multiple establishments are operated by the same person.

(3785, Enacted, 10/16/1995)

Section 8.31.03. Application for License.

(a) Application for a license shall be made in writing to the Chief, upon forms provided, and shall include the following:

(1) The name (including any nicknames or aliases), date of birth, address, including current and all prior addresses in last five years, telephone number, and social security number of the applicant. In addition, the application shall include the registered agent of the applicant if the applicant is a corporation, and the general or managing partners, if the applicant is a partnership.

(2) The location of the entertainment facility.

(3) A complete statement of all convictions of the applicant as provided in this section. If the applicant is a corporation, such statement shall include applicant's officers, and directors thereof, and any stockholder or stockholders owning in the aggregate more than twenty percent of the stock of such corporation. If the applicant is a partnership, such statement shall include all general partners, and any limited partner owning more than twenty percent of the aggregate limited partner interest in such partnership. Such listing shall include the following:

(i) Any offense involving sexual misconduct with children or other sex offenses as defined in Article 11 of the Criminal Code of 1961, as amended.

(ii) 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

(iii) 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 years; or

(iv) 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 years.

(4) A description of the proposed entertainment facility, including the anticipated age and number of patrons, hours of operation and all activities and business conducted at the same location, and the physical facilities to be used.

(5) A written statement setting forth all measures proposed to ensure that adequate traffic control, crowd protection and security, both inside and outside the licensed premises, will be maintained, and that the ages of the patrons admitted to the entertainment facility will be monitored.

(6) A statement of whether the business will be conducted by a manager. In such case the manager's name, address, telephone number and age shall be provided, along with a statement of any convictions as set forth under subsection (3), above.

(7) A statement whether applicant has made similar application for a similar other license at a location other than described in this application and the disposition of such application.

(8) A current certificate of inspection for the location from the DuPage County Board of Health, if applicable.

(9) The license fee as provided in Section 8-31.7.

(10) A site plan for the licensed premises, including a floor plan showing all entrances, exits and public areas.

(11) The operation and training manuals to be used for the establishment, setting forth procedures for complying with this ordinances, including, but not limited to, security and age verification.

(b) In the event applicant is made aware that any information or document submitted as part of this application process is inaccurate or incomplete, applicant shall immediately notify the Village and provide appropriate corrections. Failure to accurately and completely provide, or as necessary update, required information may delay the processing of such application or result in its denial.

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(c) In addition to the requirements of subsections (a) and (b) above, the applicant shall submit their fingerprints to be used in completing the investigation. Applicants are required to present themselves for fingerprints to be taken by the Downers Grove Police Department as provided by the Chief. If the applicant is a corporation, fingerprints shall be required of applicant's officers, directors, and any stockholder or stockholders owning in the aggregate more than twenty percent of the stock of such corporation. If the applicant is a partnership, fingerprints shall be required of all general partners, and any limited partner owning more than twenty percent of the aggregate limited partner interest in such partnership. Applicant shall pay the fingerprint fee as provided in Section 8-31.7 for each person required to submit fingerprints. Provided, in the case of a renewal application, fingerprints and the fingerprint fee shall not be required from a renewal applicant whose fingerprints are on file, unless the Chief determines that there may be reason to believe that the renewal applicant may have unreported convictions.

(3785, Enacted, 10/16/1995)

Section 8.31.04. Processing of Application.

(a) An application shall not be considered proper or filed until all information and material required of the applicant pursuant to Sections 8-31.3 has been submitted.

(b) Upon receipt of a proper application, the Chief shall investigate the information contained in the application and shall determine whether the applicant and location designated, if applicable, are in full compliance with all applicable laws of the Village. The nature and scope of the investigation shall be within the discretion of the Chief, and may include, but is not limited to, a criminal history background check and premise inspection. Provided, the application shall be referred to the Fire Department and the Community Development Department to determine if the proposed entertainment facility complies with all applicable fire, building and zoning ordinances of the Village.

(c) The investigation, including any required inspections and background checks, shall be completed within 60 days after receipt of a proper application. Provided, the Chief may extend this investigation period an additional period, not to exceed an additional 60 days, upon a finding that such additional period is needed to properly complete the investigation. Provided, whenever such an extension period is invoked, notice shall be provided to the applicant along with the specific reasons for such extension.

(d) If, within 10 days following completion of the investigation, the Chief determines that the applicant and location are in compliance with the applicable ordinances of the Village, the Chief shall issue the license.

(e) If, within 10 days following completion of the investigation, the Chief determines that the applicant or location are not in compliance with the applicable ordinances of the Village, the Chief shall notify the applicant in writing that its license has been denied, setting forth the reasons therefore, and advising the applicant of his or her right to appeal pursuant to Section 8-8. Unless a timely appeal is filed as provided in Section 8-8, such denial shall be final and effective on the 11th day following receipt of the notice by the applicant. The fee paid by the applicant pursuant to Section 8-31.7 shall be returned, less the fingerprint fee and a processing fee set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule".

(Ord. 5132, Amended, 04/20/2010; 4801, Amended, 08/01/2006, "code services" to "community development"; Ord. 4533, Amended, 09/16/2003; 4463, Amended, 12/03/2002; 3785, Enacted, 10/16/1995)

Section 8.31.05. Limitation on Issuance and Renewal of License.

No entertainment facility license shall be issued or renewed as follows:

(a) To an applicant who has been convicted of the following offenses:

(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.

(2) A felony based upon conduct or involvement in such business or activity or related or

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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 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 years.

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

(c) 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.

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

(e) To an applicant where grounds for revocation exists as provided under Section 8-31.15.

(f) To a partnership, if any general partner thereof, or any limited partner owning more than 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 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.
(3785, Enacted, 10/16/1995)

Section 8.31.06. Premise Restrictions.

(a) No entertainment facility shall be located on any premises for which a an Adult Establishment license a massage establishment license, or a license to sell alcoholic liquor has been issued.

(b) Adequate toilets and sink facilities shall be provided.

(c) The licensed facility premises shall be in compliance with all applicable codes, ordinances and laws including but not limited to, zoning, health and sanitation, building, fire and life safety codes.

(4144, Amended, 08/09/1999; 3785, Enacted, 10/16/1995)

Section 8.31.07. Fees.

(a) The annual fee for a pre-adolescent entertainment facility license shall be set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule". Such license shall be valid from July 1 through the following June 30.

(b) The annual fee for an adolescent entertainment facility license shall be set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule". Such license shall be valid from July 1 through the following June 30.

(c) The annual fee for an adult entertainment facility license shall be set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule". Such license shall be valid from July 1 through the following June 30.

(d) The annual fee for an mixed entertainment facility license shall be set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule". Such license shall be valid from July 1 through the following June 30.

(e) A fingerprint fee equal to that from time to time assessed by the Village set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule" shall be paid for each person required to submit fingerprints under this ordinance.

(f) A fee for a request for a variance shall be set forth in Administrative Regulation entitled

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"User-Fee, License and Fine Schedule".

(Ord. 5132, Amended, 04/20/2010; Ord. 4600, Amended, 07/06/2004; 3785, Enacted, 10/16/1995)

Section 8.31.08. General Regulations.

The following regulations shall be applicable to holders of any entertainment facility license issued in the Village:

(a) The licensed premises shall be open to the public only during permitted hours of operation as set forth in this ordinance. The licensed premises shall be presumed to be operating as an entertainment facility, and subject to the provisions of this ordinance, during all times that it is open to the public.

(b) No person shall possess or consume, and the licensee shall not permit or allow, alcoholic beverages or controlled substances to be present on any licensed premises. It shall be the obligation of the licensee to refuse admittance and to remove from the licensed premises any person who is, or appears to be, under the influence of, or affected by the use of, alcohol or drugs, or whose conduct poses a physical danger to the safety of other present.

(c) The licensee shall provide proper and adequate illumination and ventilation of all portions of the licensed premises which are available for public use.

(d) No licensee shall knowingly permit any person to remain in or upon licensed premises who commits any act of public indecency or obscenity as provided in this Code.

(e) The licensee shall comply with the conditions and regulations set forth in this section or shall not suffer or permit noncompliance with such conditions and regulations on or within the licensed premises.

(f) All police officers of the Village shall have free access to all entertainment facilities for the purpose of inspection and to enforce compliance with the provisions of this Ordinance at all times that the licensed premises are open to the patrons.

(g) The licensee shall provide an adequate number of licensed security personnel are employed and in attendance upon the licensed premises as necessary to maintain order and ensure compliance with the laws of the State of Illinois and ordinances of the Village of Downers Grove and to patrol the sidewalks and public areas abutting the entertainment facility.

(h) No licensee shall permit any person, other than an employee, to leave the entertainment facility and return unless that person pays a readmission fee equal to, or greater than, one-half (1/2) the original price of admission.

(i) An entertainment facility shall have an occupancy limit established by the applicable Village codes, or a minimum of 10 square feet of floor space per person within the licensed premises, whichever is greater. For the purpose of this subsection, licensed premises shall not include kitchen area, storage areas, hallways, or any area used by the licensee and/or his/her employees and not open to the licensee's patrons.

(j) An entertainment facility shall provide seating for 30% of the maximum permitted occupancy.

(i) The licensee shall notify the Chief, not less than one week in advance, of any changes to the operations manual, floor plan or hours of operation.

(j) The licensee shall be responsible for the acts and/or omissions of its officers, employees and agents taken in the operation of an entertainment facility. Any such actions and/or omissions shall be deemed to be the actions of the licensee.

(Ord. 4852, Amended, 02/20/2007, his to his/her(s); 3785, Enacted, 10/16/1995)

Section 8.31.09. Additional Regulations - Pre-adolescent Entertainment Facilities.

In addition to the regulations set forth in section 8-31.8, the following regulations shall be applicable to holders of any pre-adolescent entertainment facility license issued in the Village:

(a) A pre-adolescent entertainment facility shall be operated only between the hours of 12:00 p.m. and 10:30 p.m. on Sunday; 3:00 p.m. and 10:30 p.m. on Monday through Thursday; 3:00 p.m. and 11:30 p.m. on Friday; and 12:00 p.m. and 11:30 p.m. on Saturday.

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(b) The licensee shall not permit, either by act or omission, any person under the age of thirteen (13) years to enter or remain on the licensed premises without a parent or legal guardian present.

(c) The licensee shall not permit, either by act or omission, any person over the age of fifteen (15) years to enter or remain on the licensed premises, except a parent or legal guardian accompanying a person under the age of fifteen (15) years; or bona fide employees or entertainers hired by the licensee.

(d) The licensee shall require photo identification showing the age of each person admitted or seeking to be admitted.

(3785, Enacted, 10/16/1995)

Section 8.31.10. Additional Regulations - Adolescent Entertainment Facilities.

In addition to the regulations set forth in section 8-31.8, the following regulations shall be applicable to holders of any adolescent entertainment facility license issued in the Village:

(a) An adolescent entertainment facility shall be operated only between the hours of 12:00 p.m. and 10:30 p.m. on Sunday; 3:00 p.m. and 10:30 p.m. on Monday through Thursday; 3:00 p.m. and 11:30 p.m. on Friday; and 12:00 p.m. and 11:30 p.m. on Saturday.

(b) The licensee shall not permit, either by act or omission, any person under the age of fifteen (15) years to enter or remain on the licensed premises without a parent or legal guardian present.

(c) The licensee shall not permit, either by act or omission, any person over the age of eighteen (18) years to enter or remain on the licensed premises, except a parent or legal guardian accompanying a person under the age of eighteen (18) years; or bona fide employees or entertainers hired by the licensee.

(d) The licensee shall require photo identification showing the age of each person admitted or seeking to be admitted.

(3785, Enacted, 10/16/1995)

Section 8.31.11. Additional Regulations - Adult Entertainment Facilities.

In addition to the regulations set forth in section 8-31.8, the following regulations shall be applicable to holders of any adult entertainment facility license issued in the Village:

(a) An adult entertainment facility shall be operated only between the hours of 12:00 p.m. on Sunday and 12:00 a.m. on Monday morning; 3:00 p.m. on Monday through Thursday and 12:00 a.m. the following morning; 3:00 p.m. on Friday and 1:00 a.m. Saturday morning; and 12:00 p.m. on Saturday and 1:00 a.m. on Sunday morning.

(b) The licensee shall not permit, either by act or omission, any person under the age of nineteen (19) years to enter or remain on the licensed premises without a parent or legal guardian present.

(c) The licensee shall require photo identification showing the age of each person admitted or seeking to be admitted.

(3785, Enacted, 10/16/1995)

Section 8.31.12. Additional Regulations - Mixed Entertainment Facilities.

In addition to the regulations set forth in Section 8-31.8, the following regulations shall be applicable to holders of any mixed entertainment facility license issued in the Village:

(a) The licensee shall comply with the provisions of Section 8-31.9 during such hours as the facility is being operated as a pre-adolescent entertainment facility.

(b) The licensee shall comply with the provisions of Section 8-31.10 during such hours as the facility is being operated as an adolescent entertainment facility.

(c) The licensee shall comply with the provisions of Section 8-31.11 during such hours as the facility is being operated as an adult entertainment facility.

(d) The licensee shall notify the Chief, and update as changes are made, regarding which hours the

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licensed premises will be used as an adolescent entertainment facility and which hours the licensed premises will be used as an adult entertainment facility.

(3785, Enacted, 10/16/1995)

Section 8.31.13. Transfer--Changes in Ownership or Management.

(a) Any license issued pursuant to this ordinance shall be applicable only to the specific licensee and location designated, and may not be sold, transferred, or otherwise assigned.

(b) A transfer in the ownership or control of a entertainment facility shall constitute a change in the licensee and the existing license shall be deemed surrendered and extinguished. A new application and license shall be filed and processed as provided in Sections 8-31.3 and 8-31.4 prior to such transfer taking effect. Any transfer in the ownership or control of a entertainment facility in violation of this section shall constitute operation of such business without a license.

(d) Notice shall be provided prior to any change of the designated manager conducting business for the entertainment facility licensee. The new manager must be qualified to operate the entertainment facility as provided in Section 8-31.5. The licensee shall, not less than ten business days before such change is to take effect, give the Chief written notice of such change. The notice shall include any information concerning the new manager which is required in this ordinance.

(3785, Enacted, 10/16/1995)

Section 8.31.14. General Penalty.

Any person violating any provision of this ordinance shall be fined not less than \$100.00 nor more than \$500.00 for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. In addition to any other penalty, a licensee violating any provision of this ordinance may be subject to having their license revoked, suspended or not renewed by the Chief.

(3785, Enacted, 10/16/1995)

Section 8.31.15. Suspension or revocation of license.

(a) The Chief shall suspend a license for a period not to exceed thirty days if the Chief determines after investigation that the licensee, or an employee of the licensee has violated or is not in compliance with Section 8-31.8 of this ordinance.

(b) The Chief shall revoke a license if the Chief determines that:

(1) A licensee has violated or is not in compliance with Section 8-31.8 of this ordinance and the license has been suspended within the preceding twenty four months.

(2) A licensee gave false or misleading information in the material submitted to the Chief during the application process.

(3) A licensee is delinquent in payment to the city for ad valorem taxes or sales taxes related to the entertainment facility.

(c) When the Chief revokes a license, the revocation shall continue for one year and the licensee, or any subsequent entity that has 20% or more common identity/ownership interest with the owners of the licensee, shall not be issued a license for two years from the date revocation became effective. If, subsequent to revocation, the Chief finds that the basis for the revocation has been corrected or abated, an applicant may be granted a license if at least ninety days have elapsed since the date the revocation became effective.

(d) If the Chief determines that cause exists for suspension or revocation of a license, the Chief shall notify the licensee in writing that its license will be revoked or suspended, setting forth the reasons therefore, and advising the applicant of the right to appeal pursuant to Section 8-8 of this Chapter. Unless a timely appeal is filed as provided in Section 8-8, such revocation or suspension shall be final and effective on the

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eleventh business day following receipt of the notice by the applicant. If a timely appeal is filed as provided in Section 8-8, such revocation or suspension shall be not be final and effective until the appeal has been processed.

(3945, Amended, 06/23/1997; 3785, Enacted, 10/16/1995)

Section 8.31.16. Expiration of License--Renewal.

(a) Each license shall expire on June 30 and may be renewed only by making application as provided in Section 8-31.3. Provided, in lieu of full submittal, applicant may, on forms provided by the Village, certify that the information previously provided remains true and valid. This renewal application shall be processed as provided in Section 8-31.4. Application for renewal should be made at least thirty days before the expiration date, and when made less than thirty days before the expiration date, the expiration of the license will not be affected.

(b) When the Chief denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. Provided, if subsequent to denial the Chief finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license.

(3785, Enacted, 10/16/1995)

Section 8.31.17. Reserved.

(3945, Amended, 06/23/1997; 3785, Enacted, 10/16/1995)

Section 8.31.17ART. Article VII through VIII. Reserved

Section 8.32. through 8-34. Reserved

Section 8.34ART. Article IX. Reserved

(Ord. 5487, Amended, 01/01/2016)

Section 8.35. Reserved.

(Ord. 5487, Amended, 01/01/2016)

Section 8.36. Reserved.

(Ord. 5487, Amended, 01/01/2016)

Section 8.37. Reserved.

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(Ord. 5487, Amended, 01/01/2016)

Section 8.38. Reserved.

(Ord. 5487, Amended, 01/01/2016; Ord. 5322, Amended, 06/18/2013; Ord. 5132, Amended, 04/20/2010; Ord. 4695, Amended, 07/05/2005; 3629, Amended, 02/14/1994)

Section 8.39. Reserved.

(Ord. 5487, Amended, 01/01/2016; Ord. 5322, Amended, 06/18/2013; Ord. 5132, Amended, 04/20/2010; 4801, Amended, 08/01/2006, "code services" to "community development"; Ord. 4514, Amended, 06/03/2003)

Section 8.39ART. Article X and Article XI. Reserved.

Section 8.40. through 8-46. Reserved.

Section 8.46ART. Article XII. Amusement Devices

Section 8.47. Definitions.

(a) The term "*amusement device*", as used herein, shall mean any mechanical or electronic device, which may be operated by the public generally for the purpose of a game or amusement or as a test of skill, whether or not such device requires insertion of any coin, token, disc or similar object. The term "amusement device" shall specifically include, without limitation, devices commonly known as video games, pinball machines, and similar devices. The term "amusement device" shall not include vending machines not operated for amusement or as a test of skill; mechanical or electronic musical devices or jukeboxes, television, motion picture, movie, videotape or videodisc machines, rides, athletic skill devices including, without limitation, golf driving or putting devices, baseball batting cages, tennis, handball or racquetball courts or other similar mechanical or electronic devices. "Amusement device" shall not include video gaming terminals as defined in 230 ILCS 40/1 et al. (Ord. No. 2816, § 2)

(b) The term "*person*" as used herein shall include the following: Any person, firm, corporation or association which owns any amusement device; the person, firm, corporation or association in whose place of business any such device is placed for use by the public; and the person, firm, corporation or association having control over such device. (Ord. No. 2167, § 6; Ord. No. 2622, § 1; Ord. No. 2816, § 1.)
(Ord. 5101, Amended, 12/01/2009)

Section 8.48. Amusement devices--Licenses required.

No person shall engage in the business of keeping or providing any amusement device as defined in Section 8-47 for public use within the Village without first having obtained a license therefor from the Village Clerk. For purposes of this section, any person that keeps or provides more than five amusement devices for public use within the Village shall be conclusively presumed to be engaged in the business of keeping or providing amusement devices for public use. (Ord. No. 2167, § 6; Ord. No. 2494, § 1; Ord. No. 2685, § 1; Ord. No. 2816, § 1.)

(Ord. 4697, Amended, 07/05/2005)

Section 8.49. Same--Application; issuance.

(a) Application for the issuance of the licenses required by Section 8-48 shall be filed on a form or forms approved by the Village Manager for the purpose of providing reasonable information concerning the applicant. An application for an amusement device business license shall be signed by (i) the applicant, if the applicant is an individual; (ii) the president and secretary, if the applicant is a corporation; (iii) a general partner, if the applicant is a partnership. Such application shall contain the following information:

1. Principal kind of business engaged in and what percentage of the business will be attributable to the amusement devices.
2. Statement of whether the business will be conducted by a manager or managers, and the name, address, date of birth and authority of each such manager.
3. Statement of personal history of each manager conducting business, each of whom shall meet the personal standards for issuance of a license required of an applicant pursuant to Section 8-2(a)(b) of this Chapter.
4. The location of the place of business, the place where the amusement devices are to be kept or displayed, and the total number of devices which are to be kept or displayed on the premises.

(b) If the applicant is a corporation, the applications filed shall contain the following information in addition to such information as is required in paragraph (a) herein:

1. Corporate name and address and date of incorporation.
2. Name, date of birth and address of each corporate officer and director and of each person, firm or organization owning directly or indirectly five percent or more of the corporation's stock.
3. Statement of whether any officer, manager, director or shareholder owning directly or indirectly five percent or more of the stock of the corporation has ever been convicted of any of the offenses enumerated in Section 8-2(b) of this Chapter.

(c) If the applicant is a partnership, the applications filed shall contain the following information in addition to such information as is required in paragraph (a) herein:

1. Name, date of birth and address of each general partner and each limited partner owning directly or indirectly five percent or more interest in the partnership.
2. Statement of whether any general partner or any limited partner owning directly or indirectly five percent or more interest in the partnership or any manager of the partnership has ever been convicted of any of the offenses enumerated in Section 8-2(b) of this Chapter.

(d) If the applicant is an individual, the applications filed shall contain the following information in addition to such additional information as is required in paragraph (a) herein:

1. Name, date of birth and address of the applicant.
2. Statement of whether the applicant has ever been convicted of any of the offenses enumerated in Section 8-2(b) of this Chapter.

(e) The Village Clerk, the Chief of Police and the Director of Community Development shall investigate the information contained in the application and shall determine the following:

1. That the premises designated by the applicant as the location of the business comply with the provisions of the Zoning Ordinance of the Village; and
2. That the premises and the managers comply with the provisions of Section 8-51(a) of this Chapter; and
3. That the applicant and each manager meet the standards for issuance of licenses established pursuant to Section 8-2 of this Chapter.

(f) Subject to the limitation established as to the maximum number of amusement device business licenses to be issued by Section 8-49.1 of this Chapter, if the investigation shows the compliance of the applicant, its business and its managers with each of the requirements established in paragraph (e) herein, the Village Clerk shall issue the license upon payment by the applicant of the license fee required hereunder.

(g) If a license is denied, the applicant may file a written appeal of the decision to the Village

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Manager within ten (10) days of receipt of the decision. The written appeal shall set forth the reasons why the applicant believes the decision to deny the license should be reversed. The Village Manager shall respond to the appeal within fourteen (14) days either affirming or reversing the decision to deny the license. (Ord. No. 2167, § 6; Ord. No. 2399, § 2; Ord. No. 2494, § 2; Ord. No. 2541, § 12; Ord. No. 2685, § 2; Ord. No. 2816, § 1.)

(4801, Amended, 08/01/2006, "code services" to "community development"; Ord. 4533, Amended, 09/16/2003; 4463, Amended, 12/03/2002; 4045, Amended, 07/06/1998; 3730, Amended, 04/03/1995)

Section 8.49.01. Same--Maximum number of amusement device business licenses to be issued by the Village Clerk.

There shall be outstanding at any one time a maximum of one amusement device business license for every five thousand population in the Village as determined by the latest available federal census, regular or special. (Ord. No. 2494, § 3; Ord. No. 2816, § 3.)

Section 8.50. Same--Fee; additional devices.

(a) If at any time after issuance of an amusement device business license, a licensee shall seek to keep on display devices on the licensed premises in excess of the total number of devices applied for pursuant to Section 8-49(a)(4) hereof, the licensee shall notify the Village Clerk of the number of additional devices to be kept and pay such fee as may be required for such additional devices pursuant to paragraph (b) of this section.

(b) The fee for the license required by Section 8-48 shall be determined as follows:

(1) For a business providing twenty or less amusement devices the fee shall be set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule";

(2) For a business providing more than twenty but less than thirty such devices, the fee shall be set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule";

(3) For a business providing at least thirty but less than forty such devices, the fee shall be set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule";

(4) For a business providing forty or more such devices, the fee shall be set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule".

The license shall be valid from January 1 to December 31, or for such time as the mayor may determine appropriate given the findings of the investigation required by Section 8-49(e) and the standards of Section 8-2, such time not to be less than two months nor to extend beyond the next following December 31. (Ord. No. 2167, § 6; Ord. No. 2399, § 3; Ord. No. 2685, § 3; Ord. No. 2816, § 1.)

(Ord. 5132, Amended, 04/20/2010)

Section 8.51. Conditions and regulations; violation; penalty.

(a) In addition to any other condition or regulation contained in this Code or in the statutes of the State of Illinois, the following conditions and regulations shall be applicable to and shall govern and control the business of keeping or providing amusement devices for public use within the Village:

1. The amusement devices shall be an accessory use to the primary business located on the premises.

2. The walls, ceiling or floor, or any combination thereof, of the building or structure, or portion thereof, containing such devices shall be insulated or otherwise constructed so that no noise or vibration that is detectable without the aid of any mechanical device or instrument will be allowed beyond the outer perimeter of the licensed premises.

3. No amusement device shall be used for purposes of or in connection with the wagering of money, goods or merchandise upon the outcome of the use or manipulation of such device or otherwise

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used for purposes of gambling as defined in Section 15-16.

4. No person under fifteen years of age shall be allowed on the licensed premises during regularly scheduled school hours unless accompanied by a parent, teacher, guardian or an adult member of the immediate family of such person.

5. At all times during the hours of operation of the licensed premises, there shall be present one of the managers who has filed the required application information with the Village Clerk pursuant to Section 8-49(a) and has been determined to meet all standards of Section 8-2(a)(b) of this chapter. Each such manager shall be not less than twenty-five years of age in order to provide adequate control and supervision of the licensed premises and the use of the amusement devices present therein.

6. Upon a change of a manager conducting business for the licensee, the licensee shall, within ten regular business days, give the Village Clerk written notice of such change by actual delivery or by registered or certified mail. The licensee shall thereafter, as promptly as practicable, but in any event within five regular business days, provide the information concerning the new manager which is required in Section 8-49(a) of this Chapter.

7. No amusement device business shall be located within one thousand feet of any public or private school or within two hundred feet of any residential structure. Such distances shall be measured along a straight line, without regard to intervening structures or objects, from the nearest customer entrance to the amusement device business to the nearest property line of a school or to the nearest residential structure in the Village.

(b) It shall be unlawful for any person licensed to engage in the business of keeping or providing amusement devices for public use within the Village to fail to comply with the conditions and regulations set forth in subsection (a) of this section or to suffer or permit noncompliance with such conditions and regulations on or within the licensed premises. (Ord. No. 2167, § 6; Ord. No. 2399, § 4; Ord. No. 2494, § 4; Ord. No. 2541, § 13; Ord. No. 2685, § 4; Ord. No. 2816, § 1; Ord. No. 3019, § 1.)

(Ord. 4697, Amended, 07/05/2005; 4045, Amended, 07/06/1998; 4013, Amended, 03/16/1998; 3951, Amended, 06/30/1997)

Section 8.51.01. Exemptions from certain provisions of this article.

Licensees holding an amusement device business license on December 31, 1980, shall not be subject to the limitations established in Section 8-51 (6) of this article for the location licensed on such date. (Ord. No. 2494, § 5; Ord. No. 2780, § 1; Ord. No. 2816, § 1.)

Section 8.52. Suspension or revocation of license.

Nothing in the provisions of this Chapter shall preclude the right of the Village Clerk to suspend or revoke the license of the licensee, as follows:

(a) The Village Clerk may temporarily suspend any license issued under the terms of this Article when there is reason to believe that the continued operation of a particular licensed premises will immediately threaten the welfare of the community or create an imminent danger of violation of applicable law. In such case, the Village Clerk may, upon the issuance of a written order stating the reason for such determination, and without notice or hearing, order the licensed premises closed for not more than seven days; provided that the licensee shall be given an opportunity to petition the Village Manager for an informal public hearing during the seven day period, and further provided that if such licensee shall also be engaged in the conduct of other businesses on the licensed premises, such order shall not be applicable to such other businesses.

(b) The Village Clerk may suspend or revoke any license issued under the terms of this Article pursuant to the provisions of Section 8-4 of this Chapter. (Ord. No. 2167, § 6; Ord. No. 2244, § 1; Ord. No. 2816, § 1.)

(4463, Amended, 12/03/2002; 3945, Amended, 06/23/1997; 3730, Amended, 04/03/1995)

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Section 8.52ART. Article XIII. Movie Arcades

Section 8.53. Definitions.

(a) The term "*movie arcade*" as used herein shall mean any business open to the public wherein film or videotape viewing devices as defined herein are operated.

(b) The term "*film or videotape viewing device*" as used herein shall mean any electrical or mechanical device which projects or displays any film, videotape, or reproduction into a viewing area which is designed for occupancy by no more than five persons.

(c) The term "*viewing area*" as used herein shall mean the area where a patron or customer would ordinarily be positioned while watching a film, videotape, or reproduction by means of a film or videotape viewing device. (Ord. No. 3101, § 1.)

Section 8.54. Movie arcade--License required; fee.

(a) No person shall engage in the business of operating a movie arcade within the Village before obtaining a license therefor.

(b) The license fee for a movie arcade shall be set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule". (Ord. No. 3101, § 1.)
(Ord. 5132, Amended, 04/20/2010)

Section 8.55. Same--Application; standards of issuance.

(a) Application for the license required in Section 8-54(a) shall be made in writing and shall state the following:

(1) The name, address and telephone number of the applicant, or of the registered agent of the applicant if the applicant is a corporation.

(2) The location of the movie arcade.

(3) A statement of whether the business will be conducted by a manager, and if so, the name, address and telephone number of the manager.

(b) The Village shall review the information contained in the application and shall determine the following:

(1) That the premises designated by the applicant as the location for the business fully comply with all applicable building and zoning ordinances of the Village.

(2) That the premises comply with the provisions of Section 8-56 hereof.

(c) Any denial of the issuance of any license may be appealed pursuant to Section 8-8(a). (Ord. No. 3101, § 1.)

Section 8.56. Same--Conditions and regulations; violation; penalty.

(a) The following regulations shall govern and control the business of operating a movie arcade in the Village:

(1) All viewing areas must be visible from a continuous main aisle. No viewing area may be obscured by any curtain, door, wall, or other enclosure.

(2) The licensee shall maintain illumination in that portion of the premises in which the viewing areas are located, which illumination shall be generally distributed in all parts of such premises which are available for use by the public. Such illumination shall be not less than five foot candles at floor level within the viewing areas and not less than ten foot candles at floor level within the aisle area of a

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movie arcade, at all times when the premises are open or when any member of the public is permitted to enter and remain there.

(3) Signs shall be prominently posted in the arcade area stating that public sexual activity is prohibited in such area.

(4) No opening shall be permitted in the wall located between any two viewing areas.

(5) The licensee shall not provide paper towel dispensers, other paper supplies, or cloth towels in the viewing areas or aisle areas of the arcade.

(b) It shall be unlawful for any person licensed to engage in the business of operating a movie arcade within the Village to fail to comply with the conditions and regulations set forth in paragraph (a) of this section or to suffer or permit noncompliance with such conditions and regulations on or within the premises.

(c) Any licensee who receives a notice of suspension or revocation of their license may appeal pursuant to Section 8-8(b). (Ord. No. 3101, § 1; Ord. No. 3206, § 1.)

Section 8.57. Reserved.

(Ord. No. 3101, § 1.)

Section 8.57ART.1. Article XIV. Reserved

Section 8.57ART.2. Article XV. Scavengers

Section 8.58. Scavenger licenses required; classifications; fees.

(a) No person shall engage in the scavenger business within the Village without first obtaining a license pursuant to this Article. The scavenger business for which such a license is required includes the collection and disposal of garbage, recyclables and compostable material from all premises within the Village, whether the activity therein is residential, commercial, manufacturing or other, whether under contract with the Village or with the person in control of any premises or under contract with a lessor; however, such license shall not be required for collection and disposal of liquid or other industrial wastes for which specialized equipment or handling is necessary.

(b) For purposes of this section, scavenger licenses shall be, and are hereby, divided into the following classes:

(1) Class "A" licenses, which shall authorize the scavenger to collect garbage, recyclables and compostable materials from all premises within the Village. The number of licenses authorized under this classification shall not exceed one in number.

(2) Class "B" licenses, which shall authorize the scavenger to collect garbage, recyclables and compostable materials from premises within the Village, exclusive of single-family dwellings and attached single-family dwellings as defined in the Comprehensive Zoning Ordinance of the Village of Downers Grove.

(c) The annual license fee, for Class "A" and Class "B" scavenger licenses shall be as set forth by Administrative Regulation entitled "User-Fee, License and Fine Schedule". (Ord. No. 2713, § 1; Ord. No. 3297, § 1; Ord. No. 3373, § 2.)

(Ord. 5132, Amended, 04/20/2010; 3796, Amended, 10/30/1995)

Section 8.59. Reserved.

Section 8.60. Same--Nontransferable.

The license issued under this article shall be purely a personal privilege, authorizing scavenger service in the Village only by the licensee and his/her employees. The license shall not be divisible or alienable, nor shall it authorize scavenger service in the Village by contractors of a licensee. (Ord. No. 2713, § 1.)

(Ord. 4852, Amended, 02/20/2007, his to his/her(s))

Section 8.61. Scavenger Licenses - Original applications and renewals.

(a) Applications for the issuance of the scavenger licenses required by Section 8-58 shall be made to the Village, on a form or forms prescribed by the Village Manager for the purpose of providing information reasonably necessary to determine the applicant's satisfaction of the general conditions listed in Section 8-2 and the special conditions in Section 8-62 below. Applications shall state the method and place of disposal of the refuse, yardwaste, and recyclables collected in the Village. The scavenger license fee shall be submitted with the application.

If a person or entity operates a scavenger service within the Village without a license and then seeks to obtain a license, the person or entity shall submit with the application and license fee a late original application filing fee shall be as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule".

(b) A licensee may renew the scavenger license at the expiration thereof, provided he is then entitled to receive a license and subject to the following conditions:

(1) Applications for renewal of a scavenger license shall be made to the Village, on a form or forms prescribed by the Village Manager for the purpose of providing information reasonably necessary to determine the applicant's satisfaction of the general conditions listed in Section 8-2 and the special conditions in Section 8-62 below. Applications shall state the method and place of disposal of the refuse, yardwaste, and recyclables collected in the Village.

(2) Application for renewal along with the required license fee shall be filed with the Village no later than the first Friday of December each year. Applications for renewal filed after this deadline shall be considered a late filing but shall be accepted by the Village. Provided, any licensee submitting a late filing shall, in addition to the license fee, pay a late renewal application filing fee shall be as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule". (Ord. No. 2713, § 1.) (Ord. 5132, Amended, 04/20/2010; 3796, Amended, 10/30/1995; 3686, Amended, 10/03/1994; 3622, Amended, 12/20/1993)

Section 8.62. Same--Conditions for issuance.

To be eligible for the scavenger license required herein, the applicant must submit evidence of the following:

(a) The year, make and model of each vehicle owned or leased by the applicant and proposed to be operated within the Village, together with evidence that such vehicle has a valid safety inspection certificate from the State of Illinois and a statement that each such vehicle which has an obstructed view to the rear is equipped with a reverse signal alarm audible above and distinguishable from the surrounding noise level if the vehicle is to be operated in reverse gear at any time on the public streets of the village.

(b) Financial responsibility of the applicant, as evidenced by financial statements for the two-year period prior to the application.

(c) Satisfactory service in the scavenger business, either within the village or other communities as evidenced by letters of reference from administrators of municipalities or significant private customers served by the applicant in the three years prior to the application.

(d) The present ability and a plan for providing and offering recycling services to multi-family

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structures, including, but not necessarily limited to: (1) the number of multi-family structures the scavenger does currently or may in the future serve; (2) the number of units in each structure; (3) types and sizes of bins or other containers the scavenger provides; (4) the necessary number of pickups per week to meet the minimum amount of recycling capacity required for each multi-family structure according to the formula in Section 8-67.1(b); and (5) a list of proposed processors or purchasers of the recyclable materials. For scavenger license renewals, the Village Manager may waive any of the above requirements if production of the evidence required would be unnecessary as the Village currently has sufficient information on file. (Ord. No. 2713, § 1; Ord. No. 2856, § 1; Ord. No. 3297, § 2; Ord. No. 3373, § 2.) (3622, Amended, 12/20/1993; 3515, Amended, 11/02/1992; 3421, Amended, 01/06/1992)

Section 8.63. Same--Issuance.

(a) The Village Manager shall review or cause to be reviewed applications, and may require an applicant to submit such additional information as may be reasonably necessary to determine the applicant's qualifications.

(b) The Village Manager shall report to the Village Council concerning any pending application for a Class A license. Any report related to application for renewal of a Class A license shall include a summary of the licensee's past performance in the Village, complaints received, the licensee's response to complaints and other information relevant to the quality of service provided. On the basis of the Village Manager's report and any additional information which may reasonably be required, the Village Council shall direct the Village Manager or his/her designee to issue or renew the scavenger license to the applicant who satisfies the conditions in Sections 8-2 and 8-62 and who, in the opinion of the Village Council, is most qualified to provide scavenger service in accordance with the regulations of this article and other ordinances of the Village.

(c) The Village Manager or his/her designee shall issue or renew Class B scavenger licenses to applicants who satisfy the conditions in Sections 8-2 and 8-62, and who, in the opinion of the Village Manager, are qualified to provide scavenger service in accordance with the regulations of this article and other ordinances of the Village. The Village Manager shall notify the Village Council of his/her intent to issue a Class B scavenger license one (1) week prior to issuance of such license. (Ord. No. 2713, § 1.) (Ord. 4852, Amended, 02/20/2007, his to his/her(s); 3796, Amended, 10/30/1995)

Section 8.64. Same--Liability insurance required before issuance of license.

Prior to issuance of a license, the applicant shall present to the Village a certificate of insurance, issued by an insurance company licensed to do business in the State of Illinois, that evidences insurance covering the applicant against public liability and property damage with limits of liability not less than the following:

	<u>Each Person</u>	<u>Each Occurrence</u>
Personal Injury	\$500,000.00	\$1,000,000.00
Property Damage	100,000.00	

Each such certificate shall have an endorsement to the effect that such insurance may not be cancelled by the user thereof without at least ten days prior written notice to the Village.

An applicant with a self-insurance program may satisfy the requirement of this section by submitting a statement from the administrator of such program that the applicant can satisfy claims in the amounts set forth above. (Ord. No. 2713, § 1.) (3796, Amended, 10/30/1995)

Section 8.65. Reservation of right to award exclusive contract for collection of refuse, recyclables and landscape waste.

The Village Council reserves the right to establish a comprehensive program, to be operated by the Village and the Village's exclusive contract waste hauler, to provide for residential collection of refuse, recyclables and landscape waste, and to provide for the separation of certain designated recyclable materials from normal household refuse and placement of such materials in specially designated containers. The exclusive contract waste hauler referred to in this section shall be the only scavenger eligible for the Class "A" license available under Section 8-58 of this Code. (Ord. No. 2713, § 1; Ord. No. 3297, § 3.)

Section 8.66. Scavenger vehicles to be watertight.

Any vehicles used by a scavenger service shall be completely enclosed and watertight. (Ord. No. 2713, § 1.)
(4220, Amended, 10/03/2000)

Section 8.67. Operation of scavenger vehicles generally.

(a) It shall be unlawful for any scavenger vehicle or vehicles to park before any building, place of business or other premises an unreasonable length of time in loading.

(b) It shall be unlawful for any scavenger to dispose of or store any refuse in any place within the Village limits or to park overnight within the Village, any scavenger vehicle containing refuse; provided, that the Village Manager may grant written permission for these activities upon a request in writing from the licensee, if he finds that such permission would be in the best interest of the Village and would not be detrimental to the general welfare.

(c) All scavenger vehicles shall be cleaned and disinfected when not in use in order that these vehicles do not become offensive. Any laxity on the part of the driver or owner of the scavenger vehicle in keeping such vehicle clean and inoffensive shall be considered a violation of this article. (Ord. No. 2713, § 1.)

(d) It shall be unlawful for any scavenger to operate or engage in the scavenger business in any Residence Districts or in any Business Districts, Office/Research Districts or Manufacturing Districts within 1,000 feet of any Residence Districts, as defined in the Downers Grove Zoning Ordinance, prior to 6:00 a.m. and after 7:00 p.m. on Monday through Friday and prior to 7:00 a.m. and after 7:00 p.m. on Saturdays, Sundays and national holidays.

(4220, Amended, 10/03/2000)

Section 8.67.01. Recycling services for multi-family structures.

(a) If requested by the owner of a multi-family structure, a scavenger shall provide collection and recycling services for the following items:

PAPER NON-PAPER

newspaper clear/colored HDPE bottles
chipboard (or paperboard) clear/colored PET bottles
corrugated cardboard/kraftbags clear/colored glass bottles/jars
magazines and catalogs aluminum foil/formed containers
telephone directories metal food and beverage cans
junk mail

(b) The minimum gallon amount of weekly recycling capacity (base capacity) a scavenger must

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make available for each multi-family structure is nine (9) gallons for every dwelling unit. The weekly capacity may be met by a combination of container sizes and number of pick-ups, such as containers totalling half the minimum capacity picked up twice a week.

(c) On a quarterly basis, or on demand by the Village, scavengers shall report to the Village the following information on a form provided by the Village:

- (1) Total weight or volume of recyclables collected from multi-family structures;
- (2) Total weight or volume of refuse collected from multi-family structures;
- (3) Average market price received by the scavenger for each of the recyclable materials, if any;
- (4) A summary of recycling services provided to each multi-family structure.

The report for the quarter running October 1 to December 31 must be received by the Village by February 1 of the next year; for the quarter running January 1 to March 31, it must be received by May 1; for the quarter running April 1 to June 30, it must be received by August 1; for the quarter running July 1 to September 30, it must be received by November 1.

(d) "Owner" is defined for purposes of this section as any person or entity such as a condominium or homeowners association, jointly and severally having an ownership interest in the property or being otherwise responsible for refuse or garbage collection.

"Multi-family structure" is defined for purposes of this section as a building with more than one residential living unit which does not participate in the Downers Grove curbside refuse, recyclables and landscape waste collection and disposal services. (Ord. No. 3373, § 2.)
(3622, Amended, 12/20/1993)

Section 8.67.01ART. Article XVI. Going Out of Business/Removal Sales

Section 8.68. Application; definitions.

(a) The provisions of this Article are adopted pursuant to the Illinois Fraudulent Sales Act.* The provisions of that Act apply to any license issued hereunder to the extent that the provision is consistent with, and does not conflict with, the provisions of this Article.

(b) For the purposes of this Article, the following terms have the meanings ascribed as follows:

(1) A *going out of business sale* means any sale, whether described by such name or by any other name (such as, but not limited to, "closing out sale," "liquidation sale," "lost our lease sale," "forced to vacate sale"), held in such a manner as to induce a belief that upon disposal of the stock of goods on hand, the business will cease and be discontinued at the premises where the sale is conducted.

(2) *Goods* includes all goods, wares, merchandise and other personal property, excepting choices in action and money.

(3) *Person* includes a person, firm, corporation, partnership, association or two or more persons having a joint or common interest.

(4) A *removal sale* means any sale held in such a manner as to induce a belief that upon disposal of the stock of goods on hand, the business will cease and be discontinued at the premises where the sale is conducted, and thereafter will be moved to and occupy another location. (Ord. No. 2167, § 6; Ord. No. 3045, § 1.)

*See Ill. Comp Stat., ch 815, §§ 350/.01 et seq.

Section 8.69. License required; exemptions.

(a) Except as otherwise provided in subsection (b) herein, no person shall directly or indirectly advertise or cause to be advertised, represent or cause to be represented, or hold out to the public in any manner that any sale of goods is an insurance, salvage, removal, going out of business, insolvent's, assignee's,

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or creditor's sale of goods, or that it is a sale of goods which have been damaged by fire, smoke, water or otherwise, unless such person shall first have obtained a license from the Village to conduct such sale under one of such descriptive names.

(b) No license shall be required for the following:

- (1) Sales directly ordered by any court including any bankruptcy court;
- (2) Sales by any person acting under the direction and supervision of state or federal courts in the course of their official duties;
- (3) Sales by a person regularly engaged in insurance or salvage sales of goods, or sales of goods which have been damaged by fire, smoke, water, or otherwise, who acquired the goods for the account of others as a result of fire or other casualty. (Ord. No. 2167, § 6.)

Section 8.70. Application for license; fee; duration of sale.

(a) Any person desiring a license under this Article shall file an application with the Village Clerk on forms provided by the Village. No license shall be issued to any person:

- (1) to conduct a sale in the trade name or style of a person in whose goods the applicant for the license has acquired a right or title hereto within six months prior to the time of making application for such a license;
- (2) to continue a sale in the name of a licensee under this Article in whose goods such person acquired a right or title while such a sale is in progress; or
- (3) to conduct a sale, other than an insurance sale, a salvage sale or a sale of damaged goods, on the same premises within one year from the conclusion of a prior sale of the nature covered by this Article.

Subsections (a)(1), (a)(2) and (a)(3) above shall not apply to any person who acquired a right, title or interest in goods as an heir, legatee or pursuant to an order or process of a court of competent jurisdiction.

(b) The license application fee set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule" shall be paid at the time the application is submitted to the Village Clerk.

(c) A license issued under this Article shall be valid for a period not more than sixty consecutive days from the start of such sale and the sale may be conducted only during the period set forth in the license. The license shall not be renewable under any circumstances. (Ord. No. 2167, § 6; Ord. No. 3045, § 1.) (Ord. 5132, Amended, 04/20/2010; 3687, Enacted, 10/10/1994)

Section 8.70.01. Regulations.

(a) All licensees shall comply with the following regulations:

(1) A copy of the application for a license to conduct a sale under this Article, including the inventory filed therewith, shall be posted in a conspicuous place in the sales room or place where the inventoried goods are to be sold; provided, however, that such copy need not show the purchase price of the goods.

(2) The license issued hereunder shall be attached to the front door of the premises where the sale is conducted in such a manner that it is clearly visible from the street. Any advertisement or announcement published in connection with the sale shall conspicuously show on its face the number of the license and the date of its expiration.

(3) It shall be unlawful to substitute for, or add to, the goods described in the inventory sheets filed with the Village Clerk;

(4) It shall be unlawful to change the time or place for the sale from that indicated in the application for the license;

(5) For the sale of goods damaged by fire, smoke, water or otherwise, or in the case of an insurance sale or a salvage sale, the goods to be sold at such sale shall be clearly and distinctly segregated,

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marked or identified, and advertised, if at all, so that both on display and in advertising such goods may be readily distinguished from other stocks, and their identity readily ascertained. It shall be unlawful to commingle such goods with other stocks of the licensee in such a manner to cause the goods to lose their separate identity, either on display or in advertising.

(6) No person in contemplation of conducting any going out of business, removal, assignee's or creditor's sale, or during the continuance of such a sale, shall order or purchase any goods for the purpose of selling them at such sale, and any unusual purchase, or additions to the stock of such goods within sixty days before the filing of such application for a license to conduct such a sale, shall be presumptive evidence that such purchases or additions were made in contemplation of such sale and for the purpose of selling them at such sale.

(b) Violations of subsections (a)(3), (a)(4), (a)(5), and (a)(6) above shall void any license issued under this Article and such license shall cease to apply to such sale.

(3687, Enacted, 10/10/1994)

Section 8.70.02. Discontinuance of business.

If the application is for a license to conduct a going out of business sale or a removal sale, the business shall be discontinued at the premises where the sale is conducted upon the conclusion of the sale for which the license was issued.

(3687, Enacted, 10/10/1994)

Section 8.70.03. Bankruptcy sales.

It shall be unlawful for any person to advertise, or otherwise to represent, for sale, or to sell, any goods at a bankruptcy, executor's, administrator's receiver's or trustee's sale, except pursuant to, and in compliance with, federal or state statutory authority or judicial process, or as an assignee's or insolvent's sale except when there is a bona fide assignment for the benefit of creditors.

(3687, Enacted, 10/10/1994)

Section 8.70.03ART. Article XVII. Tree Removal

Section 8.71. Tree removal--License required.

No person shall engage in the business of tree removal before obtaining a license therefor from the Village Clerk. (Ord. No. 2167, § 6; Ord. No. 2277, § 2.)

Section 8.72. Same--Application for license; statement of insurance.

The license required under Section 8-71 herein shall be issued by the Village Clerk subject to the standards for issuance of Section 8-2 hereof, and only upon submission of the following documents upon application:

(a) The written application form for such license, which form shall require the name, address, and telephone number of the applicant, the particular type of work contemplated by the applicant, and such other information as the manager may require pursuant to Section 8-3 hereof.

(b) One of the following:

(1) A certificate of insurance, issued by an insurance company authorized to do business in the State of Illinois, that evidences public liability coverage of the applicant for personal injury and property damage. Such certificate shall show the policy number, policy period, the limits of liability, and the amount of any self-insured retention; or

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(2) A statement, signed by the contractor, if an individual, or by one authorized to sign on behalf of a partnership or corporation, that the contractor is not covered by public liability insurance, and providing the address to which claims against the contractor for personal injury or property damage should be sent.

The certificate of insurance or statement filed in accordance with this section shall be open to public inspection. Within fifteen days of any change in insurance coverage which causes the most recently filed certificate or statement to be inaccurate, the licensee shall file a new certificate or statement with the Village Clerk. (Ord. No. 2167, § 6; Ord. No. 2277, § 2; Ord. No. 2725, §2.)

Section 8.73. Same--Fee for license.

The annual license fee for a tree removal license shall be set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule". (Ord. No. 2167, 6; Ord. No. 2277, § 2; Ord. No. 2523, § 1.)
(Ord. 5132, Amended, 04/20/2010)

Section 8.74. Reserved.

(4000, Amended, 01/19/1998)

Section 8.75. Reserved.

(Ord. No. 2390, § 1; Ord. No. 3383, § 1.)
(Ord. 5068, Amended, 08/04/2009; Ord. 4669, Amended, 05/03/2005; 3730, Amended, 04/03/1995)

Section 8.76. Reserved.

(Ord. No. 2390, § 1; Ord. No. 3383, § 1.)
(Ord. 5068, Amended, 08/04/2009; 4801, Amended, 08/01/2006, "code services" to "community development"; Ord. 4669, Amended, 05/03/2005; Ord. 4533, Amended, 09/16/2003; 4427, Amended, 07/02/2002; 3874, Amended, 08/12/1996; 3730, Amended, 04/03/1995)

Section 8.77. Reserved.

(Ord. No. 2390; § 1; Ord. No. 3383, § 1.)
(Ord. 5068, Amended, 08/04/2009; 4801, Amended, 08/01/2006, "code services" to "community development"; 4427, Amended, 07/02/2002)

Section 8.78. Reserved.

(Ord. No. 2390, § 1 Ord. No. 2987, § 2; Ord. No. 3383, § 1.)
(Ord. 5068, Amended, 08/04/2009; 4427, Amended, 07/02/2002; 3730, Amended, 04/06/1995)

Section 8.78.01. Sales tax.

The licensee shall be strictly responsible for collecting and remitting all sales tax proceeds in the manner provided by law. (Ord. No. 3383, § 1.)

Section 8.79. through 8-85. Reserved.

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(4144, Amended, 08/09/1999; 3616, Amended, 12/13/1993; 3586, Amended, 08/30/1993; 3572, Amended, 06/21/1993)

Section 8.1900ART. Article XIX. Adult Use Licensing Ordinance

(4144, Renumbered, 08/09/1999)

Section 8.1900SEC. Short Title.

This Ordinance shall be known as, and may be referred to as the "Village of Downers Grove Adult Use Licensing Ordinance."

(4463, Enacted, 12/03/2002)

Section 8.1901. Definitions.

For the purposes of this Ordinance, the following terms, phrases, and words shall have the meanings given herein.

Adult booth. Any area of an Adult Entertainment Establishment set off from the remainder of such Establishment by one or more walls or other dividers or partitions and used to show, play, or otherwise demonstrate Adult Materials or to view any live performance that is distinguished or characterized by an emphasis on the exposure, depiction, or description of Specified Anatomical Areas or the conduct or simulation of Specified Sexual Activities.

Adult Entertainment Establishment or Adult Establishment. Any of the following Commercial Establishments, as defined herein:

1. *Adult Cabaret.* Any Commercial Establishment including, but not limited to a lounge, theater, concert hall, men's or women's club, auditorium, or similar commercial establishment, regardless of its seating capacity that as a substantial or significant portion of its business features or provides any of the following:

(i) Persons who appear Nude or Semi-Nude.
(ii) Live performances that are distinguished or characterized by an emphasis on the exposure, depiction, or description of Specified Anatomical Areas or the conduct or simulation of Specified Sexual Activities.

(iii) The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

(iii) Films, motion pictures, video or audio cassettes, slides, computer displays, or other visual representations or recordings of any kind that are distinguished or characterized by an emphasis on the exposure, depiction, or description of Specified Anatomical Areas, or the conduct or simulation of Specified Sexual Activities.

(iv) The actual or simulated touching, caressing or fondling of the breast, buttocks, anus or genitals.

(v) The actual or simulated displaying of the breasts, pubic hair, anus, vulva or genitals.

(vi) A role playing interaction, including but not limited to servers, hosts, hostesses, dancers, singers, models or other performance artists, or an establishment which offers customers role playing interaction.

2. *Adult Store.* Any Commercial Establishment (i) that contains one or more Adult Booths or; (ii) that as a substantial or significant portion of its business offers for sale, rental, or viewing any Adult Materials.

3. *Adult Theater.* Any Commercial Establishment that as a substantial or significant portion of its business features or provides films, motion pictures, video or audio cassettes, slides, or other visual representation or recordings of any kind that are distinguished or characterized by an emphasis on the

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exposure, depiction, or description of Specified Anatomical Areas, or the conduct or simulation of Specified Sexual Activities.

Adult Establishment Employee. Any individual, including entertainers, who work in or at, or render any services directly related to the operation of, an Adult Entertainment Establishment; provided, however, that this definition shall not include persons delivering goods, materials (other than Adult Materials), food and beverages, or performing maintenance or repairs, to the Licensed Premises.

Adult Establishment License. A license issued for an Adult Entertainment Establishment pursuant to the provisions of this Ordinance.

Adult Entertainment Patron. Any individual, other than an Adult Entertainment Establishment Employee, present in or at any Adult Entertainment Establishment at any time when such Adult Entertainment Establishment is open for business; provided, however, that this definition shall not include persons delivering goods, materials (other than Adult Materials), food and beverages, or performing maintenance or repairs, to the Licensed Premises.

Adult Material. Any of the following, whether new or used:

1. The following materials that are distinguished or characterized by an emphasis on the exposure, depiction, or description of Specified Anatomical Areas, or the conduct or simulation of Specified Sexual Activities; (i) Books, magazines, periodicals, or other printed matter, or digitally-stored materials; or (ii) Films, motion pictures, video or audio cassettes, slides, computer displays, or other visual representations or recordings of any kind,

2. Instruments, novelties, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities, or that depict or describe Specified Anatomical Areas.

Adult Use Commissioner. The Village Manager of the Village of Downers Grove, or the Village Manager's designee.

Commercial Establishment. Any place where admission, services, performances, or products are provided for or upon payment of any form of consideration.

Days. Calendar days, unless otherwise specifically set forth in this Ordinance.

Licensed Premises. The place or location described in an Adult Establishment License where an Adult Entertainment Establishment is authorized to operate.

Effective Date. The Effective Date of this Ordinance shall be deemed to be July 1, 1999.

Licensee. Any person or entity that has been issued an Adult Establishment License pursuant to the provisions of this Ordinance.

Nude or State of Nudity. A state of dress or undress that exposes to view (i) less than completely and opaquely covered human genitals; pubic region; anus; or female breast below a point immediately above the top of the areolae, but not including any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided that the areolae is not exposed; or (ii) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Reviewing Departments. The Village Manager, the Legal Department, Fire Department, the Police Department and the Community Development Department.

Role Playing Interaction. An arrangement, service or program where a server, host, hostess, dancer, singer, model or Massage Establishment Employee, engages a customer in a meeting or conversation involving, depicting, simulating or participating in any "specified sexual activities".

Semi-Nude. A state of dress or undress in which clothing covers no more than the human genitals, pubic region, anus, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices by other minor accessory apparel such as hats, gloves and socks.

Specified Anatomical Areas. Any of the following:

1. Less than completely and opaquely covered human genitals; pubic region; buttocks; anus; or female breast below a point immediately above the top of the areolae, but not including any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areolae is not exposed.

2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered, or any device or covering that, when worn, simulates human male genitals in a discernibly turgid

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state.

Specified Criminal Act. Any unlawful lewd, indecent, or immoral conduct, including specifically, but without limitation, any of the lewd, indecent, or immoral criminal acts specified in any of the following statutes:

1. Article II of the Illinois Criminal Code (sex offenses).
2. Section 26-4 of the Illinois Criminal Code, 720 ILCS 5/330 (unauthorized videotaping).
3. Section 33D-1 of the Illinois Criminal Code, 720 ILCS 5/330-1 (contributing to the criminal delinquency of a juvenile).
4. The Obscene Phone Call Act, 720 ILCS 135/0.01 et seq.
5. The Wrongs to Children Act, 720 ILCS 150/0.01 et seq.
6. The Improper Supervision of Children Act, 720 ILCS 640/0.01 et seq.
7. The Sale of Immoral Publications to Children Act, 720 ILCS 670/0.01 et seq.
8. The Cannabis Control Act, 720 ILCS 550/1 et seq.
9. The Illinois Controlled Substance Act, 720 ILCS 570/100 et seq.
10. Sections 15-14 of the Downers Grove Municipal Code entitled "House of Ill Fame".
11. Sections 15-15 of the Downers Grove Municipal Code entitled "Public Indecency".
12. Sections 15-16 of the Downers Grove Municipal Code entitled "Obscenity".

Specified Sexual Activities. Any of the following:

1. Fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.
3. Masturbation, actual or simulated.
4. Human genitals in a state of sexual stimulation, arousal, or tumescence.
5. Excretory functions as part of or in connection with any of the activities set forth in paragraphs 1, 2, 3, or 4 of this definition.

Straddle Dance. The use by any person, including specifically, but without limitation, an Adult Establishment Employee, of any part of his or her body to touch the genitals, pubic region, buttock, anus, or female breast of any Adult Establishment Patron or any other person, or the touching of the genitals, pubic region, buttock, anus, or female breast of any person by any Adult Establishment Patron. Conduct shall be a "Straddle Dance" regardless of whether the "touch" or "touching" occurs while the person is displaying or exposing any Specified Anatomical Area. Conduct shall also be a "Straddle Dance" regardless of whether the "touch" or "touching" is direct or through a medium. Conduct commonly referred to by the slang terms "lap dance", "table dance", and "face dance" shall be included within this definition of Straddle Dance.

Village Zoning Ordinance. That part of the Village of Downers Grove Municipal Code known and referred to as the Downers Grove Zoning Ordinance, as it may be amended from time-to-time.
(4463, Enacted, 12/03/2002)

Section 8.1902. Adult Use Commissioner.

The Adult Use Commissioner shall have the following powers and duties:

1. To administer and rule upon the applications for, and the issuance, renewal, suspension, and revocation of, Adult Establishment Licenses as set forth in this Ordinance.
2. To conduct or provide for such inspections of Adult Entertainment Establishments as shall be necessary to determine and ensure compliance with the provisions of this Ordinance and other applicable provisions of law.
3. To periodically review the provisions of this Ordinance and the conduct and operation of Adult Entertainment Establishments and Adult Establishment Licensees, and to make such related reports and recommendations to the Village Council as the Adult Use Commissioner shall deem necessary.
4. To conduct such hearings, studies, and report on Adult Entertainment Establishments, and the regulations relating thereto, as the Adult Use Commissioner shall deem necessary, and to conduct

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such hearings on the revocation or suspension of an Adult Establishment License as required pursuant to this Ordinance.

5. To establish written rules and regulations implementing the provisions of this Ordinance, including but not limited to, rules related to the content and processing of any petition, and the conduct of any hearing.

6. To take such further actions as the Adult Use Commissioner shall deem necessary to carry out the purposes and intent of this Ordinance and to exercise such additional powers in furtherance thereof as are implied or incident to those powers and duties expressly set forth in this Ordinance.

(4144, Enacted, 08/09/1999)

Section 8.1903. Adult Establishment Licenses Generally.

(a) Adult Establishment License Required. An Adult Establishment License shall be required to establish, operate, or maintain an Adult Entertainment Establishment within the Village

(b) Operation Without License Prohibited. It shall be unlawful for any person not having a current and valid Adult Establishment License to establish, operate, or maintain an Adult Entertainment Establishment within the Village at any time after the effective date of this Ordinance.

(c) Operation in Violation of License Prohibited. It shall be unlawful for any Licensee to establish, operate, or maintain an Adult Entertainment Establishment within the Village except in the manner authorized by, and in compliance with, the provisions of this Ordinance and by the Licensee's Adult Establishment License.

(d) Content and Display of License. Every Adult Establishment License shall be provided by the Village and shall, at minimum, prominently state on its face the name of the Licensee, the expiration date, and the address of the Adult Entertainment Establishment. Every Licensee shall cause the Licensee's Adult Entertainment License to be framed, covered by glass, and hung at all times in plain view in a conspicuous place on the Licensed Premises so that it can be easily seen and read at any time by any person entering the Licensed Premises.

(e) License Term. Except as hereinafter provided, Adult Establishment Licenses shall be operative and valid, unless first terminated, suspended, or revoked, for a term of one year commencing on January 1 of the year following the year of issuance and terminating on December 31 of that same year. Adult Establishment Licenses issued after January 1 of any year for operations to commence in that year shall be operative and valid, unless first terminated, suspended, or revoked, for a term commencing on the date of issuance and terminating on December 31 of that same year.

(f) Renewal. An Adult Establishment License may be renewed only by making application as required for an initial License pursuant to Section 8-1904 of this Ordinance. Application for renewal shall be made at least 45 days before the expiration of the then-current License term. The expiration of the License shall not be affected or extended by a renewal application that is made less than 45 days before expiration.

(4144, Enacted, 08/09/1999)

Section 8.1904. Form and Submittal of License Application.

(a) Required Form. An application for an Adult Establishment License, or the renewal thereof, shall be made in writing to the Adult Use Commissioner on a form prescribed by the Adult Use Commissioner and shall be signed (i) by the applicant, if the applicant is an individual; (ii) by at least one of the persons entitled to share in the profits of the organization and having unlimited personal liability for the obligations of the organization and the right to bind all other such persons, if the applicant is a partnership (general or limited), joint venture, or any other type of organization where two or more persons share in the profits and liabilities of the organization; (iii) by a duly authorized agent, if the applicant is a corporation; or (iv) by the trustee, if the applicant is a land trust. The application shall be verified by oath or affidavit as to all statements made on or in connection with the application and any attachments thereto. Each application

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shall specifically identify the applicant and the Licensed Premises for which an Adult Establishment License is sought. Each initial or renewal application shall be accompanied by seven identical copies.

(b) Administrative Processing Fee and Security.

1. Administrative Processing Fee. Every applicant for an Adult Establishment License or for the renewal of an existing Adult Establishment License shall pay an Administrative Processing Fee set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule" by certified check to the Village at the time of filing such application. The Administrative Processing Fee shall in all cases be non-refundable and shall be deposited in the general corporate fund of the Village.

2. Letter of Credit. Each Adult Establishment License, and any renewals thereof, shall be conditioned upon the acquisition and maintenance in good standing by the applicant and Licensee of a letter of credit in favor of the Village in an amount set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule". Before an Adult Establishment License may be issued, the applicant shall furnish such letter of credit. Before an Adult Establishment License is renewed or reinstated following revocation or suspension, the Licensee shall submit evidence that the letter of credit, in the amount required pursuant hereto, remains in full force and effect. The letter of credit, or part thereof, for an Adult Entertainment Establishment shall be forfeited automatically pursuant to Section 8-1915 of this Ordinance in order to reimburse the Village for the Village's costs in association with the proceedings related to any suspension or revocation of the License.

(c) Required Information and Documents. Each application shall include the following information and documents:

1. (i) Individuals: The applicant's legal name, all of the applicant's aliases, the applicant's business address and social security number, written proof of the applicant's age, the citizenship and place of birth of the applicant and, if a naturalized citizen, the time and place of the applicant's naturalization.

(ii) Corporations: The applicant corporation's complete name and official business address; the legal name, all aliases, and the ages, business addresses, and social security numbers of all the directors, officers, and managers of the corporation and every person owning or controlling more than twenty (20) percent of the voting shares of the corporation; the corporation's date and place of incorporation and the object for which it was formed; proof that the corporation is a corporation in good standing and authorized to conduct business in the State of Illinois; and the name of the registered corporate agent and the address of the registered office for service of process.

(iii) Partnerships (general or limited), joint ventures, or any other type of organization where two or more persons share in the profits and liabilities of the organization: The applicant organization's complete name and official business address; the legal name, all aliases, and the ages, business addresses, and social security numbers of each partner (other than limited partners) or any other person entitled to share in the profits of the organization, whether or not any such person is also obligated to share in the liabilities of the organization.

(iv) Land trusts: The applicant land trust's complete name; the legal name, all aliases, and the business address of the trustee of the land trust; the legal name, all aliases, and the ages, businesses addresses, and social security numbers of each beneficiary of the land trust and the specific interest of each such beneficiary in the land trust; and the interest, if any, that the land trust holds in the Licensed Premises.

2. If a corporation or partnership is an interest holder that must be disclosed pursuant to Section 8-1904(c) above, then such interest holders shall disclose the information required in said Section with respect to their interest holders.

3. The general character and nature of the business of the applicant.

4. The length of time that the applicant has been in the business of the character specified in response to paragraph 3 above.

5. The location, including street address and legal description, and telephone number, of the premises for which the Adult Establishment License is sought.

6. The specific name of the business that is to be operated under the Adult Establishment

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License.

7. The identity of each fee simple owner of the Licensed Premises. If the Applicant is not the fee simple owner, a copy of the lease shall be provided.

8. A diagram showing the internal and external configuration of the Licensed Premises, including all doors, windows, entrances, exits, the fixed structural internal features of the Licensed Premises, plus the interior rooms, walls, partitions, stages, performance areas, and restrooms. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; provided, however that each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions to an accuracy of plus or minus six inches and sufficient to show clearly the various interior dimensions of all areas of the Licensed Premises and to demonstrate compliance with the provisions of this Ordinance. The requirements of this paragraph shall not apply for renewal applications if the applicant adopt a diagram that was previously submitted for the License sought to be renewed and if the Licensee certified that the Licensed Premises has not been altered since the immediately preceding issuance of the License and that the previous diagram continues to accurately depict the exterior and interior layouts of the Licensed Premises. The approval or use of the diagram required pursuant to this paragraph shall not be deemed to be, and shall not be interpreted or construed to constitute, any other Village approval otherwise required pursuant to applicable Village ordinances and regulations.

9. The names of each governmental body from which, within five years immediately prior to the date of the present application, the applicant, or any of the individuals identified in the application pursuant to Sections 8-1904(c)(1) or (2) above, has received a license or other authorization to conduct or operate a business (i) substantially the same as an Adult Entertainment Establishment, and the names and addresses of each such business; (ii) requiring a federal, state, or local liquor license; or (iii) requiring a federal, state, or local gaming license.

10. The specific type or types of Adult Entertainment Establishment(s) that the applicant proposes to operate in the Licensed Premises.

11. A copy of each Adult Establishment License, liquor license, and gaming license currently held by the applicant, or any of the individuals identified in the application pursuant to Sections 8-1904(c)(1) or (2) above.

12. Whether the applicant, or any of the individuals identified in the application pursuant to Sections 8-1904(c)(1) or (2) above, has been, within five years immediately preceding the date of the application, convicted of, or pleaded *nolo contendere* to, any Specified Criminal Act. As to each conviction, the applicant or other individual shall provide the conviction date, the case number, the nature of the misdemeanor or felony violation(s) or offense(s), and the name and location of the court.

13. Whether the applicant, or any of the individuals identified in the application pursuant to Sections 8-1904(c)(1) or (2) above, has had a license or other authorization to conduct or operate a business substantially the same as an Adult Entertainment Establishment or any business requiring either a liquor or gaming license, revoked or suspended, and, if so, the date and grounds for each such revocation or suspension, and the name and location of the establishment at issue.

14. The name of the individual or individuals who shall be the day-to-day, on-site managers of the proposed Adult Entertainment Establishment. If the manager is other than the applicant, the applicant shall provide, for each manager, all of the information required pursuant to Sections 8-1904(c)(1), 8-1904(c)(9), 8-1904(c)(11), 8-1904(c)(12), and 8-1904(c)(13) of this Ordinance.

15. For the individual or individuals executing the application pursuant to Section 8-1904(a), and the individual or individuals identified pursuant to Section 8-1904(c)(14) of this Ordinance, a fully executed waiver on a form prescribed by the Village to obtain criminal conviction information pursuant to the Illinois Uniform Conviction Information Act.

(d) Incomplete Applications Returned. Any application for an Adult Establishment License that does not include all of the information and documents required pursuant to Subsection C of this Section as well as the Administrative Processing Fee and letter of credit required pursuant to Subsection B of this Section, shall be deemed to be incomplete and shall not be acted on or processed by the Village. The Adult Use Commissioner shall, within ten days of such submittal, return the incomplete application to the applicant

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along with a written explanation of the reasons why the application is incomplete.
(Ord. 5132, Amended, 04/20/2010; 4144, Enacted, 08/09/1999)

Section 8.1905. Processing of License Application.

(a) Reviewing Departments. Within five days after receipt of a complete application for an Adult Establishment License that includes all the information, documents, the Administrative Processing Fee and letter of credit as required pursuant to Section 8-1904 of this Ordinance, the Adult Use Commissioner shall transmit a copy of the application to the Reviewing Departments.

(b) Reviewing Department Reports. Each of the Reviewing Departments shall, within 45 days after transmittal of the application thereto, or within such other period of time as the Village and the applicant may otherwise agree, (i) review the application; (ii) conduct such inspections of the proposed Licensed Premises and background investigations of the applicant and any of the individuals identified in the application pursuant to Sections 8-1904(c)(1), 8-1904(c)(2) and 8-1904(c)(14) of this Ordinance, regarding matters within their respective jurisdictions, as shall be reasonably necessary to verify the information set forth in the application and to determine whether the proposed Adult Entertainment Establishment and Licensed Premises comply with the requirements of this Ordinance and other applicable laws, codes, ordinances, rules, and regulations; and (iii) prepare and submit to the Adult Use Commissioner a written report regarding the results and findings of such reviews, inspections, and investigations.

(c) Adult Use Commissioner Review. The Adult Use Commissioner shall also conduct such inspections and investigations as the Adult Use Commissioner shall deem reasonably necessary to verify the information set forth in the application and to determine whether the proposed Adult Entertainment Establishment and Licensed Premises comply with the requirements of this Ordinance and other applicable laws, code, ordinances, rules, and regulations.

(d) Reliance on Diagram. In the event that the Licensed Premises had not yet been constructed or reconstructed to accommodate the proposed Adult Entertainment Establishment, the Adult Use Commissioner and the Reviewing Departments shall base their respective written reports, investigations, and inspections to the extent necessary, on the diagram submitted pursuant to Section 8-1904(c)(8) of this Ordinance. Any Adult Establishment License issued prior to the construction or reconstruction necessary to accommodate the proposed Adult Entertainment Establishment shall be subject to the condition that the Adult Entertainment Establishment shall not open for business until the Licensed Premises has been inspected and determined to be in substantial compliance with the diagram submitted with the application.

(e) Applicant Cooperation Required. An applicant for Adult Establishment License shall cooperate fully in the inspections and investigations conducted by the Adult Use Commissioner and the Reviewing Departments. The applicant's failure or refusal (i) to give any information reasonably relevant to the investigation of the application; (ii) to allow the Licensed Premises to be inspected; (iii) to appear at any reasonable time and place for examination under oath regarding the application; or (iv) to otherwise cooperate with the investigation and inspection required by this Ordinance, shall constitute an admission by the applicant that the applicant is ineligible for an Adult Establishment License and shall be grounds for denial of the License by the Adult Use Commissioner.

(f) Time for Issuance or Denial. The Adult Use Commissioner shall, within 45 days after submittal of a properly completed application, or within such other period of time as the Village and the applicant shall otherwise agree, either issue an Adult Establishment License pursuant to the provisions of Section 8-1906(a) of this Ordinance or deny issuance of the Adult Use Establishment License pursuant to the provisions to Section 8-1906(b) of this Ordinance. The Adult Use Commissioner shall issue or deny the License within said 45-day period, or such other period of time as shall have been agreed to by the Village and the applicant, regardless of whether or not the Adult Use Commissioner has received all of the Reviewing Department reports. Provided, if after 45 days a criminal history background investigation has not been completed, the Adult Use Commissioner may issue a temporary Adult Establishment License during the investigation period. The temporary Adult Establishment License shall be valid for 90 days from the date of issuance and shall automatically terminate at the end of the 90 day term. The Adult Use Commissioner has the right to

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revoke the temporary Adult Establishment License immediately upon an unsatisfactory completion of a criminal history background investigation.

(g) Decision Final. The action taken by the Adult Use Commissioner to issue or deny an Adult Establishment License pursuant, respectively, to Section 8-1906(a) or Section 8-1906(b) of this Ordinance shall be final and shall be subject to judicial review.

(4144, Enacted, 08/09/1999)

Section 8.1906. Standards for Issuance or Denial of License.

(a) Issuance. The Adult Use Commissioner shall issue an Adult Establishment License to an applicant if, but only if, the Adult Use Commissioner finds and determines all of the following, based on the reports, investigations, and inspections conducted by the Adult Use Commissioner and the Reviewing Departments and on any other credible information on which it is reasonable for the Adult Use Commissioner to rely:

1. All information and documents required by Section 8-1904 of this Ordinance for issuance of an Adult Establishment License have been properly provided and the material statements made in the application are true and correct.

2. For Adult Stores and Adult Theaters, all persons identified in the application pursuant to Sections 8-1904(c)(1), 8-1904(c)(2) and 8-1904(c)(14) of this Ordinance are at least 18 years of age and not under any legal disability. For Adult Cabarets, all persons identified in the application pursuant to Sections 8-1904(c)(1), 8-1904(c)(2) and 8-1904(c)(14) of this Ordinance are at least 21 years of age and not under any legal disability.

3. No person identified in the application pursuant to Sections 8-1904(c)(1), 8-1904(c)(2) and 8-1904(c)(14) of this Ordinance has been convicted of, pleaded *nolo contendere* to, or been placed on supervision or conditional discharge for, any Specified Criminal Act within five years immediately preceding the date of the application.

4. No person identified in the application pursuant to Sections 8-1904(c)(1), 8-1904(c)(2) and 8-1904(c)(14) of this Ordinance has been convicted of, pleaded *nolo contendere* to, or been placed on supervision or conditional discharge for, any violation of a provision of this Ordinance within five years immediately preceding the date of the application.

5. No person identified in the application pursuant to Sections 8-1904(c)(1), 8-1904(c)(2) and 8-1904(c)(14) of this Ordinance is overdue on payment to the Village of taxes, fees, fines, or penalties assessed against, or imposed on, any such individual in connection to any Adult Entertainment Establishment.

6. No person identified in the application pursuant to Sections 8-1904(c)(1), 8-1904(c)(2) and 8-1904(c)(14) of this Ordinance is residing with, or married to, a person (i) who has been denied an Adult Establishment License within 12 months immediately preceding the date of the application, (ii) whose Adult Establishment License has been revoked within 12 months immediately preceding the date of the application, or (iii) whose Adult Establishment License is under suspension at the time of application.

7. The Adult Entertainment Establishment and the Licensed Premises, and the proposed operation of the Adult Entertainment Establishment, comply with all then-applicable building, health, and life safety codes and regulations and have received all necessary zoning approvals required pursuant to the then-applicable provisions of the Village Zoning Ordinance, including specifically, but without limitation, the special use permit required for the Adult Entertainment Establishment.

8. No Adult Establishment License shall be issued to any person for premises for which a Massage Establishment License or a liquor license has been issued as provided in the Downers Grove Municipal Code.

9. When an Adult Establishment License shall have been revoked or surrendered following notice of hearing as provided herein, no license shall be granted to any person for the period of one year thereafter for the conduct of a Adult Entertainment Establishment in the premises described in the revoked license.

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10. Adult Entertainment Establishments shall be subject to the following location limits;

(i) Adult Entertainment Establishments located only in the M-1, M-2 and ORM zoning districts as set forth in the Downers Grove Zoning Ordinance.

(ii) Except where separated by right of way of the Illinois Toll Highway Authority a Adult Entertainment Establishment shall not be located within one thousand feet of any property that is zoned for residential purposes pursuant to the Downers Grove Zoning Ordinance, or, for property located beyond the corporate limits of the Village, the zoning ordinance of governmental entity having jurisdiction. Provided, this separation requirement shall not apply to the following: (1) Property owned, maintained and used by the Village and used for any water tower and/or fire station; (2) Property owned, maintained and used by the Forest Preserve District of DuPage County; or (3) Property owned, maintained and used as part of the Morton Arboretum.

(iii) Except where separated by right of way of the Illinois Toll Highway Authority, a Adult Entertainment Establishment shall not be located within one thousand feet of a church, a public or private elementary or secondary school, or another Adult Entertainment Establishment.

(iv) For the purposes subsections (ii) and (iii) above, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a Adult Entertainment Establishment is conducted, to the nearest property line of the premises of a church or public or private elementary or secondary school, or to the nearest boundary of an affected residential lot. Provided, the distance between any two Adult Entertainment Establishments shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

10. The Applicant shall either own or have a valid lease for the License Premise for the term of the Adult Establishment License.

11. The applicant has confirmed in writing and under oath as part of the application that the applicant had read this Ordinance and all provisions of the Village Zoning Ordinance applicable to Adult Entertainment Establishments, that the applicant is familiar with their terms and conditions, and that the Licensed Premises and the proposed Adult Entertainment Establishment and its proposed operation are and shall be in compliance therewith.

(b) Denial. If the Adult Use Commissioner determines that the applicant has not met any one or more of the conditions set forth in Subsection A of this Section, then the Adult Use Commissioner shall deny issuance of the Adult Establishment License and shall give the applicant a written notification and explanation of such denial. The Adult Use Commissioner's notice of denial shall be delivered in person or by certified U.S. mail, postage prepaid, return receipt requested, addressed to the applicant's address as set forth in the application. The Adult Establishment License shall be deemed denied on the day that the notice of denial is delivered in person or three days after it is placed in the U.S. mail as provided in this Subsection.

(c) License Deemed To Be Issued. If the Adult Use Commissioner does not issue or deny the Adult Establishment License, or grant a temporary license, within 45 days after the properly completed application is submitted, then the Adult Establishment License applied for shall be deemed to have been issued.

(4144, Enacted, 08/09/1999)

Section 8.1907. Inspections by the Village.

(a) Authority. The Adult Use Commissioner and other Village representatives and departments with jurisdiction shall periodically inspect all Adult Entertainment Establishments as shall be necessary to determine compliance with the provisions of this Ordinance and all other applicable law.

(b) Licensee Cooperation. A Licensee shall permit representatives of the Village to inspect the Licensed Premises and the Adult Entertainment Establishment for the purpose of determining compliance with the provisions of this Ordinance and all other applicable law at any time during which the Licensed Premises is occupied or the Adult Entertainment Establishment is open for business.

(c) Interference or Refusal Illegal. It shall be unlawful for the Licensee, any Adult Establishment

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Employee, or any other person to prohibit, interfere with, or refuse to allow, any lawful inspection conducted by the Village pursuant to this Ordinance or any other authority.

(d) Suspension or Revocation. Any such prohibition, interference, or refusal shall be grounds for suspension or revocation of the Adult Establishment License pursuant to Section 8-1915 of this Ordinance.
(4144, Enacted, 08/09/1999)

Section 8.1908. Change in Information.

During the pendency of any application for, or during the term of, any Adult Establishment License, the applicant or Licensee shall promptly notify the Adult Use Commissioner in writing (i) of any change in any material information given by the applicant or Licensee in the application for such License, including specifically, but without limitation, any change in managers of the Adult Entertainment Establishment or in the individuals identified in the application pursuant to Sections 8-1904(c)(1), 8-1904(c)(2) of this Ordinance; or (ii) if any of the events constituting grounds for suspension or revocation pursuant to Subsection 8-1915 of this Ordinance occur.

(4144, Enacted, 08/09/1999)

Section 8.1909. Regulations Applicable to All Adult Entertainment Establishments.

(a) General Compliance. All Licensed Premises and Adult Entertainment Establishments shall comply with the provisions of this Ordinance; all other applicable Village ordinances, resolutions, rules, and regulations; and all other applicable federal, state, and local laws.

(b) Hours of Operation.

1. No Adult Entertainment Establishment shall be open for business at any time on any State of Illinois or federal holiday.

2. No Adult Entertainment Establishment shall be open for business between the hours of 12:00 a.m. and 11:00 a.m. on any day.

(c) Animals. No animals, except only for animals trained and used to assist a person with a disability shall be permitted at any time at or in any Adult Entertainment Establishment.

(d) Restrooms. All restrooms in Adult Entertainment Establishments shall be equipped with standard toilets, sinks, and other traditional lavatory facilities. No Adult Materials or live performances shall be provided or allowed at any time in the restroom of an Adult Entertainment Establishment. Separate male and female restrooms shall be provided for and used by Adult Establishment Employees and Adult Establishment Patrons.

(e) Restricted Areas. No Adult Entertainment Patron shall be permitted at any time to enter into any of the non-public portions of any Adult Entertainment Establishment, including specifically, but without limitation, any storage areas or dressing or other rooms provided for the benefit of Adult Establishment Employees. This subsection shall not apply to persons delivering goods and materials, food and beverages, or performing maintenance or repairs to the Licensed Premises; provided, however, that any such persons shall remain in such non-public areas only for the purposes and to the extent and time necessary to perform their job duties.

(f) Specific Prohibited Acts.

1. No person at any Adult Entertainment Establishment shall appear, be present, or perform while nude. No Adult Entertainment Establishment Patron shall appear, be present or perform while semi-nude.

2. No Adult Establishment Employee or any other person at any Adult Entertainment Establishment shall perform or conduct any Specified Sexual Activity with or for any Adult Establishment Patron or any other Adult Establishment Employee or any other person. No Adult Establishment Patron or any other person at any Adult Entertainment Establishment shall perform or conduct any Specified Sexual Activity with or for any Adult Entertainment Establishment Employee or any other Adult Establishment

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Patron or any other person.

3. Straddle Dances shall be prohibited at all Adult Entertainment Establishments.

(g) Exterior Display. No Adult Entertainment Establishment shall be maintained or operated in any manner that causes, creates, or allows public viewing of any Adult Material, or any entertainment depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas, from any sidewalk, public or private right-of-way, or any property other than the lot on which the Licensed Premises is located. No portion of the exterior of an Adult Entertainment Establishment shall utilize or contain any flashing lights, search lights, or spotlights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent specifically allowed pursuant to Subsection H of this Section with regards to signs. This Subsection shall apply to any advertisement, display, promotional material, decoration, or sign; to any performance or show; and to any window, door, or other opening.

(h) Signage Limitations. All signs for Adult Entertainment Establishments shall be flat wall signs. The maximum allowable sign area shall be one square foot of sign area per foot of building/tenant frontage on a street, but in no event exceeding 32 square feet. The maximum number of signs per zoning lot shall be one. Signs otherwise permitted pursuant to this Ordinance shall contain only (i) the name of the Adult Entertainment Establishment and/or (ii) the specific type of Adult Entertainment Establishment conducted on the Licensed Premises. Temporary signage shall not be permitted in connection with any Adult Entertainment Establishment.

(i) Noise. No loudspeakers or sound equipment audible beyond the Licensed Premises shall be used at any time.

(j) Gambling and Related Devices Prohibited. No Adult Entertainment Establishment shall contain any video, pinball, slot, bagatelle, pigeon-hole, pool, or any other games, machines, tables, or implements.

(k) Manager's Station. Each Adult Entertainment Establishment shall have one or more manager's stations. The interior of each Adult Entertainment Establishment shall be configured in such a manner that there is a direct and substantially unobstructed view from at least one manager's station to every part of each area, except restrooms, of the Establishment to which any Adult Entertainment Patron is permitted access for any purpose.

(l) Alcohol Prohibition. No alcoholic liquor shall be delivered, received, sold, purchased provided or consumed by any Adult Entertainment Employee or Adult Entertainment Patron on the premises of an Adult Entertainment Establishment.

(m) No massage as regulated by Article XX of the Downers Grove Municipal Code shall be provided at an Adult Entertainment Establishment.

(n) No Adult Establishment Licensee shall permit any person to remain in or upon the Licensed Premises who commits any Specified Criminal Act.

(Ord. 4668, Amended, 05/03/2005; 4144, Enacted, 08/09/1999)

Section 8.1910. Special Regulations for Adult Booths.

(a) Prohibited Except in Adult Stores. Adult Booths shall be prohibited in all Adult Entertainment Establishments except Adult Stores.

(b) Occupancy and Prohibited Acts. Only one individual shall occupy an Adult Booth at any one time. No individual occupying an Adult Booth shall engage in any Specified Sexual Activities. No individual shall damage or deface any portion of an Adult Booth.

(c) Open Booth Requirement. In addition to satisfying the manager station requirements of Section 8-1909(k) of this Ordinance, all Adult Stores containing Adult Booths shall be physically arranged in such a manner that the entire interior portion of each Adult Booth shall be visible from the common area of the Adult Store. To satisfy this requirement, there shall be a permanently open and unobstructed entrance way for each Adult Booth and for the entranceway from the area of the Adult Store that provides other Adult Materials to the area of the Adult Store containing Adult Books. Each of these entranceways shall not be capable of being closed or obstructed, entirely or partially, by any door, curtain, partition, drapes, or any other

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obstruction whatsoever that would be capable of wholly or partially obscuring the area of the Adult Store containing Adult Booths or any person situated in an Adult Booth. It shall be unlawful to install Adult Booths within an Adult Entertainment Establishment for the purpose of providing secluded viewing of Adult Materials or live performances.

(d) Aisle Required. There shall be one continuous lighted main aisle along side the Adult Booths provided in any Adult Store. Each person situated in a Booth shall be visible at all times from the aisle.

(e) Holes Prohibited. Except for the open Booth entranceway, the walls and partitions of each Adult Booth shall be constructed and maintained solid walls or partitions without any holes or openings whatsoever.

(f) Signage. A sign shall be posted in a conspicuous place at or near the entranceway to each Adult Booth that states (i) that only one person is allowed in an Adult Booth at any one time, (ii) that it is unlawful to engage in any Specified Sexual Activities while in an Adult Booth, and (iii) that it is unlawful to possess or consume any alcoholic liquor while in an Adult Booth.

(g) Age Limitations.

1. No Adult Establishment Employee or Adult Establishment Patron at an Adult Booth or a Licensed Premises that includes an Adult Booth shall be under the age of 18.

2. No person under the age of 18 shall be admitted to any Adult Booth or any Licensed Premises that includes an Adult Booth.

3. No person under the age of 18 shall be allowed or permitted to remain at any Adult Booth or at any Licensed Premises that includes an Adult Booth.

4. No person under the age of 18 shall be allowed or permitted to purchase or receive, whether for consideration or not, any Adult Material or other goods or services at or from any Adult Booth or any Licensed Premises that includes an Adult Booth.

(4144, Enacted, 08/09/1999)

Section 8.1911. Special Regulations for Adult Cabarets.

(a) Performance Area. The performance area of an Adult Cabaret shall be limited to one or more stages or platforms permanently anchored to the floor (a "Cabaret Stage"). Each Cabaret Stage shall be elevated above the level of, and separate from, the patron seating areas. Each Cabaret Stage shall be separated by a distance of at least 18 inches from all areas of the premises to which Adult Entertainment Patrons have access. A continuous barrier at least two feet in height and located at least 18 inches from all points of each Cabaret Stage shall separate each Cabaret Stage from all seating areas. No Adult Entertainment Patron shall be allowed at any time on any Cabaret Stage.

(b) Lighting. Sufficient lighting shall be provided and equally distributed throughout the public areas of the Adult Cabaret so that all objects are plainly visible at all times. A minimum lighting of not less than 30 lux horizontal, measured at 30 inches from the floor and on 10-foot centers shall be maintained at all times for all areas of the Adult Cabaret where Adult Establishment Patrons are admitted.

(c) Tipping. No Adult Establishment Patron shall offer, and no Adult Establishment Employee having performed on any Cabaret Stage shall accept, in any form of tip or gratuity offered directly or personally to the Employee by the Adult Establishment Patron. Rather, all tips and gratuities to Adult Establishment Employees performing on any Cabaret State shall be placed into a receptacle provided for receipt of such tips and gratuities by the Adult Entertainment Establishment or shall be placed by the Adult Establishment Patron on the Cabaret Stage on which the Adult Establishment Employee is performing.

(d) Notice of Select Rules. A sign at least two feet by two feet, with letters at least one inch high shall be conspicuously displayed on or adjacent to every Cabaret Stage stating the following:

THIS ADULT CABARET IS REGULATED BY THE VILLAGE OF DOWNERS GROVE. ENTERTAINERS ARE:

1. NOT PERMITTED TO ENGAGE IN ANY TYPE OF SEXUAL CONDUCT.

2. NOT PERMITTED TO ACCEPT ANY TIPS DIRECTLY OR PERSONALLY FROM PATRONS. ANY SUCH TIPS MUST BE PLACED INTO THE RECEPTACLE PROVIDED BY

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MANAGEMENT OR MUST BE PLACED DIRECTLY ON THE CABARET STAGE.

3. NO ALCOHOLIC LIQUOR IS PERMITTED AT ANY TIME.

(e) Age Limitations.

1. No Adult Establishment Employee or Adult Establishment Patron at an Adult Cabaret or a Licensed Premises used for Adult Cabaret shall be under the age of 21.

2. No person under the age of 21 shall be admitted to any Adult Cabaret or to any Licensed Premises used for an Adult Cabaret.

3. No person under the age of 21 shall be allowed or permitted to remain at any Adult Cabaret or any Licensed Premises used for an Adult Cabaret.

4. No person under the age of 21 shall be allowed or permitted to purchase, receive, whether for consideration or not, any Adult Material or other goods or services at or from any Adult Cabaret or any Licensed Premises used for an Adult Cabaret.

(4144, Enacted, 08/09/1999)

Section 8.1912. Special Regulations for Adult Stores.

(a) Windows and Signs. Window areas for Adult Stores shall not be covered or obstructed in any way. No signs or obstructions shall be placed in the windows.

(b) Age Limitations.

1. No Adult Establishment Employee or Adult Establishment Patron at an Adult Store or a Licensed Premises used for Adult Store shall be under the age of 18.

2. No person under the age of 18 shall be admitted to any Adult Store or to any Licensed Premises used for an Adult Store.

3. No person under the age of 18 shall be allowed or permitted to remain at any Adult Store or any Licensed Premises used for an Adult Store.

4. No person under the age of 18 shall be allowed or permitted to purchase, receive, whether for consideration or not, any Adult Material or other goods or services at or from any Adult Store or any Licensed Premises used for an Adult Store.

(4144, Enacted, 08/09/1999)

Section 8.1913. Special Regulations for Adult Theaters.

(a) Seating. Each Adult Theater shall provide seating only in individual chairs with arms or in seats separated from each other by immovable arms and not on couches, benches, or any other multiple person seating structures. The number of seats shall equal the maximum number of persons who may occupy the Adult Theater.

(b) Aisle. Each Adult Theater shall have a continuous main aisle alongside the seating area in order that each person seated in the Adult Theater shall be visible at all times.

(c) Sign. Each Adult Theater shall have a sign posted in a conspicuous place at or near each entranceway to the auditorium or similar area that lists the maximum number of persons who may occupy the auditorium area, which number shall not exceed the number of seats in the auditorium area.

(d) Age Limitations

1. No Adult Establishment Employee or Adult Establishment Patron at an Adult Theater a Licensed Premises used for Adult Theater shall be under the age of 18.

2. No person under the age of 18 shall be admitted to any Adult Theater or to any Licensed Premises used for an Adult Theater.

3. No person under the age of 18 shall be allowed or permitted to remain at any Adult Theater or any Licensed Premises used for an Adult Theater.

4. No person under the age of 18 shall be allowed or permitted to purchase, receive, whether for consideration or not, any Adult Material or other goods or services at or from any Adult Theater

or any Licensed Premises used for an Adult Theater.
(4144, Enacted, 08/09/1999)

Section 8.1914. Licensees Responsibility for Employees.

Every act or omission of whatsoever nature at the Licensed Premises constituting a violation of any of the provisions of this Ordinance, by any officer, director, manager, agent or Adult Establishment Employee of any Adult Establishment Licensee, shall be deemed and held to be the act of such Licensee, and said Licensee shall be punishable in the same manner as if said act or omission had been done or omitted by the Licensee personally. Accordingly, any such act or omission of any such persons constituting a violation of the provisions of this Ordinance shall be deemed, for purposes of determining whether the Licensee's Adult Establishment License shall be issued, revoked, suspended, or renewed, to be the act or omission of the Licensee.
(4144, Enacted, 08/09/1999)

Section 8.1915. License Revocation or Suspension.

(a) Grounds. Pursuant to the procedures set forth in Subsection B of this Section, the Adult Use Commissioner may suspend for not more than 30 days, or revoke, any Adult Establishment License if the Adult Use Commissioner, based upon credible and reasonably reliable information and evidence, determines that any one or more of the following has occurred:

1. The Licensee has violated any of the provisions or requirements of this Ordinance or the Adult Establishment License issued pursuant hereto, or the provisions of the Village Zoning Ordinance applicable to the Licensed Premises or the Adult Entertainment Establishment.
2. The Licensee (i) knowingly or negligently furnished false or misleading information or withheld information on any application or other document submitted to the Village for issuance or renewal of any Adult Entertainment License or (ii) knowingly or negligently caused or suffered any other person to furnish or withhold any such information on the Licensee's behalf.
3. The Licensee has committed a felony or Specified Criminal Act on the Licensed Premises.
4. The Licensee authorizes, approves, or, as a result of the Licensee's negligent failure to supervise the Licensed Premises or the Adult Entertainment Establishment, allows, an Adult Establishment Employee, and Adult Establishment Patron, or any other person to (i) violate any of the provisions or requirements of this Ordinance or the provisions or requirements of the Adult Establishment License issued pursuant hereto, or (ii) commit any felony or Specified Criminal Act on the Licensed Premises.
5. The Licensee, or any person identified pursuant to Sections 8-1904(c)(1), 8-1904(c)(2) and 8-1904(c)(14) of this Ordinance becomes disqualified for the issuance of an Adult Establishment License at any time during the term of the License at issue.

(b) Procedure. An Adult Entertainment Establishment License may be suspended for not more than 30 days, or revoked, pursuant to the terms and conditions set forth herein.

1. Notice. Upon determining that one or more of the grounds for suspension or revocation under Subsection (a) of this Section may exist, the Adult Use Commissioner shall serve a written notice on the Licensee in person or by certified U.S. mail, postage prepaid, return receipt requested, addressed to the Licensee's address as set forth in the Licensee's application. The written notice shall, at a minimum, (i) state that Adult Use Commissioner has determined that the Adult Establishment License may be subject to suspension or revocation pursuant to Section 8-1915 of this Ordinance; (ii) identify the specific grounds for the Adult Use Commissioner's determination; and (iii) set a date for a hearing regarding the Adult Use Commissioner's determination as to the possibility of suspension or revocation of the Adult Establishment License. The date of the hearing shall be no less than five days after service of the Adult Use Commissioner's notice, unless an earlier or later date is agreed to by the Licensee and the Adult Use

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Commissioner.

2. Suspension of Adult Establishment License Pending Hearing. The Adult Use Commissioner may order the immediate suspension of a Adult Establishment License pending the hearing set forth herein where the Adult Use Commissioner determines that there is an immediate danger to the public health, safety or welfare; or where the License had been suspended within the previous 48 months. In addition, the Adult Use Commissioner may condition any continuance of the hearing upon suspension of Adult Establishment License.

3. Hearing. The hearing shall be conducted by the Adult Use Commissioner. At the hearing, the Licensee may present and submit evidence and witnesses to refute the grounds cited by the Adult Use Commissioner for suspending or revoking the License and the Village and any other persons may submit evidence to sustain such grounds. The administrative record compiled on the Adult Entertainment Establishment pursuant to Section 8-1916 of this Ordinance shall be made part of the hearing record. Provided, the Adult Use Commissioner may designate a hearing officer to schedule, convene and conduct the public hearing. In such case, the hearing officer shall have the same powers as the Adult Use Commissioner to conduct the hearing. Where such designation has been made, the hearing officer shall submit proposed findings and recommendations to the Adult Use Commissioner within seven days of the close of the hearing. Within fourteen days after the close of the hearing, the Adult Use Commissioner shall, having considered the record made at the hearing, render a decision in writing, setting forth the reasons for the decision. The action taken by the Adult Use Commissioner shall be final and shall be subject to judicial review.

4. Notice and Effective Date of Suspension or Revocation. The Adult Use Commissioner's written decision shall be posted at the office of the Adult Use Commissioner and shall be served on the Licensee in person or by certified U.S. mail, postage prepaid, return receipt requested, addressed to the Licensee's address as set forth in the Licensee's application. To permit the Licensee the opportunity to obtain judicial review, any suspension or revocation, as the case may be, shall take effect on the tenth day following the date that the Adult Use Commissioner's written decision is delivered in person or three days after it is placed in the U.S. mail as provided in this paragraph.

5. Surrender of License and Security. Upon the suspension or revocation of an Adult Establishment License pursuant to this Ordinance, (i) the Adult Use Commissioner shall take custody of the suspended or revoked License; (ii) such part or all of the letter of credit submitted for the Adult Entertainment License pursuant to Section 8-1904(b)(2) of this Ordinance shall be forfeited as the Adult Use Commissioner shall deem necessary to reimburse the Village for the costs associated with the proceedings related to the suspension or revocation at issue. Such letter of credit shall be replenished to equal the amount required pursuant to Section 8-1904(b)(2) of this Ordinance prior to the issuance of any new Adult Establishment License for the Licensed Premises or for the reinstatement of any suspended License.

(4144, Enacted, 08/09/1999)

Section 8.1916. Administrative Record.

The Adult Use Commissioner shall cause to be kept in the Adult Use Commissioner's office an accurate record of every Adult Establishment License application received and acted on, together with all relevant information and material pertaining to such application, any Adult Establishment License issued pursuant thereto, and any Adult Entertainment Establishment operated pursuant to such Adult Establishment License.

(4144, Enacted, 08/09/1999)

Section 8.1917. Record keeping by Licensee.

The Licensee of every Adult Entertainment Establishment shall maintain a register of all of its Adult Establishment Employees. For each such Employee, the register shall include the following information:

1. Legal name.

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2. Any and all aliases.
3. Date of birth.
4. Gender
5. Social security number.
6. Date of commencement of employment.
7. Date of employment termination, if applicable.
8. Specific job or employment duties.

The register shall be maintained for all current Employees and all Employees employed at any time during the preceding 36 months. The Licensee shall make the register of its Adult Establishment Employees available for inspection by the Village immediately upon demand at all reasonable times.

(4144, Enacted, 08/09/1999)

Section 8.1918. Penalty.

Any person who violates, neglects, refuses to comply with, or assists or participates in any way in the violation of, any of the provisions or requirements of this Ordinance or of any of the provisions or requirements of any Adult Establishment License, shall be fined as provided in Section 1-15 of the Downers Grove Municipal Code.

(4144, Enacted, 08/09/1999)

Section 8.1919. Nuisance Declared.

Any Adult Entertainment Establishment established, operated, or maintained in violation of any of the provisions or requirements of this Ordinance or of any Adult Establishment License shall be, and the same is, declared to be unlawful and a public nuisance. The Village may, in addition to or in lieu of any other remedies set forth in this Ordinance, commence an action to enjoin, remove, or abate such nuisance in the manner provided by law and shall take such other steps and apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such public nuisance, and restrain and enjoin any person from establishing, operating, or maintaining an Adult Entertainment Establishment contrary to the provisions of this Ordinance.

(4144, Enacted, 08/09/1999)

Section 8.1920. Computation of Time.

Unless otherwise specifically set forth in this Ordinance, the time within which any act required by this Ordinance is to be done shall be computed by excluding the first day and including the last day, unless the last day is Saturday, Sunday or a Federal or State holiday, in which case it shall also be excluded. If the day immediately following such Saturday, Sunday, or holiday is also a Saturday, Sunday, or Holiday, the such succeeding day shall also be excluded.

(4144, Enacted, 08/09/1999)

Section 8.1921. Severability.

In the event that any provision of this Ordinance, or any part thereof, or any application thereof to any person or circumstance, is for any reason held to be unconstitutional or otherwise invalid or ineffective by any court of competent jurisdiction on its face or as applied, such holding shall not affect the validity or effectiveness of any of the remaining provisions of this Ordinance, or any part thereof, or any application thereof to any person or circumstance or of said provision as applied to any other person or circumstance. It is hereby declared to be the legislative intent of the Village that this ordinance would have been adopted had such unconstitutional, invalid, or ineffective provisions not been included herein.

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(4144, Enacted, 08/09/1999)

Section 8.2000ART. Article XX. Massage Businesses

(4143, Enacted, 08/02/1999)

Section 8.2000SEC. Short Title.

This Ordinance shall be known as, and may be referred to as the "Village of Downers Grove Massage Business Ordinance".

(4143, Enacted, 08/02/1999)

Section 8.2001. Definitions.

Approved Massage School. A school which has received certification from the Illinois State Board of Education as a massage therapy school and has presented evidence of such certification to the Village Massage Business Commissioner.

Code. The Downers Grove Municipal Code, as from time to time amended.

Existing Massage Establishment. A Massage Establishment for which a license has been issued under a prior version of this Ordinance has been issued as of August 1, 1999.

Individual Therapist Massage Establishment. A Massage Establishment which is operated as a separate and distinct business and which includes as an employee, independent contractor, joint venture, affiliate, partner or in any other fashion, not more than one Massage Therapist.

Licensed Premises. The place or location described in a Massage Establishment License where a Massage Establishment is authorized to operate.

Massage. Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external soft parts of the body with the hands or with aid of any mechanical electrical apparatus or appliances with or without rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations used in this practice, under such circumstances that it is reasonably expected that the person to whom treatment is provided, or some third party on such persons behalf, will pay money or give other consideration or any gratuity therefor.

Massage Business Commissioner. The Downers Grove Village Manager, or such persons designee.

Massage Establishment. Any business entity, in any form, including but not limited to any person, corporation, sole proprietorship, joint venture, association, firm, partnership, limited liability corporation or any other form, having a source of income or compensation derived from the practice of massage and which has a fixed place of business where any person, corporation, sole proprietorship, joint venture, association, firm, partnership, limited liability corporation or any other entity engages in or carries on any of such activities.

Massage Establishment Employee. Any person who works in or at, or render any services directly related to the operation of, a Massage Establishment; provided, however, that this definition shall not include persons delivering goods, materials, food and beverages, or performing maintenance or repairs, to the Licensed Premises.

Massage Establishment License. A Massage Establishment License as provided in this Ordinance.

Massage Patron. Any individual, other than a Massage Establishment Employee, present in or at any Massage Establishment at any time when such Massage Establishment is open for business; provided, however, that this definition shall not include persons delivering goods, materials, food and beverages, or performing maintenance or repairs, to the Licensed Premises.

Massage Therapist. Any person who, for any consideration whatsoever, engages in the practice of massage.

Nude or State of Nudity. A state of dress or undress that exposes to view (i) less than completely

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and opaquely covered human genitals; pubic region; anus; or female breast below a point immediately above the top of the areolae, but not including any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided that the areolae is not exposed; or (ii) human male genitals in a discernibly turgid state, even if completely and opaquely covered, or any device covering that, when work, simulates male genitals in a discernibly turgid state.

Ordinance. Article XX of the Downers Grove Municipal Code, commonly referred to as the Village of Downers Grove Massage Business Ordinance or Massage Ordinance, as from time to time amended.

Pending Massage Establishment. A Massage Establishment for which a properly completed application for license under a prior version of this Ordinance is pending as of June 1, 1999.

Reflexology. The application of steady, deep and light pressure over the human feet for the purpose of producing healing and relaxation in all parts of the body.

Reviewing Departments. The Village Manager, the Legal Department, the Fire Department, the Police Department and the Community Development Department.

Specified Criminal Act. Any unlawful lewd, indecent, or immoral conduct, including specifically, but without limitation, any of the lewd, indecent, or immoral criminal acts specified in any of the following statutes, or such amended or successor statutes as may from time to time be adopted:

1. Article II of the Illinois Criminal Code (sex offenses).
2. Section 26-4 of the Illinois Criminal Code, 720 ILCS 5/330 (unauthorized videotaping).
3. Section 33D-1 of the Illinois Criminal Code, 720 ILCS 5/330-1 (contributing to the criminal delinquency of a juvenile).
4. The Obscene Phone Call Act, 720 ILCS 135/0.01 et seq.
5. The Wrongs to Children Act, 720 ILCS 150/0.01 et seq.
6. The Improper Supervision of Children Act, 720 ILCS 640/0.01 et seq.
7. The Sale of Immoral Publications to Children Act, 720 ILCS 670/0.01 et seq.
8. The Cannabis Control Act, 720 ILCS 550/1 et seq.
9. The Illinois Controlled Substance Act, 720 ILCS 570/100 et seq.
10. Sections 15-14 of the Downers Grove Municipal Code entitled "House of Ill Fame".
11. Sections 15-15 of the Downers Grove Municipal Code entitled "Public Indecency".
12. Sections 15-16 of the Downers Grove Municipal Code entitled "Obscenity".

Specified Sexual Activities. Any of the following:

1. Fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.
3. Masturbation, actual or simulated.
4. Human genitals in a state of sexual stimulation, arousal, or tumescence.
5. Excretory functions as part of or in connection with any of the activities set forth in Subsections 1, 2, 3, or 4 of this definition.

Transfer of ownership or control of a Massage Establishment. Any of the following:

1. The sale, lease, or sublease of the business;
2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
3. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business.
4. Any person not previously listed as an applicant pursuant to Section 8-2005 acquires an ownership interest in the business of twenty percent or more.

(Ord. 5120, Amended, 02/02/2010; Ord. 4638, Amended, 01/18/2005; 4143, Enacted, 08/02/1999)

Section 8.2002. Massage Business Commissioner.

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The Massage Business Commissioner shall have the following powers and duties:

1. To administer and rule upon the applications for, and the issuance, renewal, suspension, and revocation of, Massage Establishment Licenses as set forth in this Ordinance.
2. To conduct or provide for such inspections of Massage Establishments as shall be necessary to determine and ensure compliance with the provisions of this Ordinance and other applicable provisions of law.
3. To periodically review the provisions of this Ordinance and the conduct and operation of Massage Establishments, and to make such related reports and recommendations to the Village Council as the Massage Business Commissioner shall deem necessary.
4. To conduct such hearings, studies, and reports on Massage Establishments, and the regulations relating thereto, as the Massage Business Commissioner shall deem necessary.
5. To establish written rules and regulations implementing the provisions of this Ordinance, including but not limited to, rules related to the content and processing of any petition, and the conduct of any hearing.
6. To take such further actions as the Massage Business Commissioner shall deem necessary to carry out the purposes and intent of this Ordinance and to exercise such additional powers in furtherance thereof as are implied or incident to those powers and duties expressly set forth in this Ordinance.
(Ord. 4638, Amended, 01/18/2005; 4143, Enacted, 08/02/1999)

Section 8.2003. Massage Establishment License Required.

(a) **Massage Establishment License Required.** A Massage Establishment License shall be required to establish, operate, or maintain a Massage Establishment within the Village. No person shall engage in the business of operating a Massage Establishment in the Village without a valid and current Massage Establishment License therefor issued by the Village pursuant to the terms of this Ordinance. A separate Massage Establishment License shall be required for each Massage Establishment location regardless of whether such multiple establishments are operated by the same person.

(b) **Operation in Violation of Massage Ordinance Prohibited.** It shall be unlawful for any person to establish, operate, or maintain a Massage Establishment within the Village except in the manner authorized by, and in compliance with, the provisions of this Ordinance.
(Ord. 4638, Amended, 01/18/2005; 4143, Enacted, 08/02/1999)

Section 8.2004. Exemptions.

(a) No Massage Establishment License shall be required for any hospitals, nursing homes and persons holding an unrevoked certificate to practice the healing arts under the laws of the state, or to those working under the direction of any such persons in any such establishments.

(b) No Massage Establishment License shall be required for any barber, cosmetologist, nail technician or related occupation and lawfully carrying on their respective businesses. Provided, this exemption is only intended to permit normal and customary barber, cosmetologist, nail technician or related services which involve incidental physical contact, such as manicures, scalp rubs and facials, which would otherwise qualify as massage activities. This exemption is not intended, and does not permit, general massage activities as part of any barber, cosmetologist or related business beyond that authorized by their state license or certification.

(c) No Massage Establishment License shall be required for an Individual Therapist Massage Establishment.

(d) Where massage services are actually performed at the patron's premises, including the patron's place of business or residence, a Massage Establishment License shall not be required for such patron's premises.

(Ord. 4638, Amended, 01/18/2005; 4143, Enacted, 08/02/1999)

Section 8.2005. Application for Massage Establishment License.

(a) Required Form. An application for a Massage Establishment License, or the renewal thereof, shall be made in writing to the Massage Business Commissioner on a form prescribed by the Massage Business Commissioner and shall be signed (i) by the applicant, if the applicant is an individual; (ii) by at least one of the persons entitled to share in the profits of the organization and having unlimited personal liability for the obligations of the organization and the right to bind all other such persons, if the applicant is a partnership (general or limited), joint venture, or any other type of organization where two or more persons share in the profits and liabilities of the organization; (iii) by a duly authorized agent, if the applicant is a corporation; or (iv) by the trustee, if the applicant is a land trust. The application shall also be signed by the fee simple owner of the licensed premises. The application shall be verified by oath or affidavit as to all statements made on or in connection with the application and any attachments thereto. Each application shall specifically identify the applicant, the Licensed Premises and the owner of the Licensed Premises for which a Massage Establishment License is sought. Each initial or renewal application shall be accompanied by seven identical copies.

(b) Any fee as provided in Section 8-2007.

(c) Required Information and Documents. Each application shall include the following information and documents:

1. (i) Individuals: The applicant's legal name, all of the applicant's aliases, the applicant's business address and social security number, written proof of the applicant's age, the citizenship and place of birth of the applicant and, if a naturalized citizen, the time and place of the applicant's naturalization.

(ii) Corporations: The applicant corporation's complete name and official business address; the legal name, all aliases, and the ages, business addresses, and social security numbers of all the directors, officers, and managers of the corporation and every person owning or controlling more than twenty (20) percent of the voting shares of the corporation; the corporation's date and place of incorporation and the object for which it was formed; proof that the corporation is a corporation in good standing and authorized to conduct business in the State of Illinois; and the name of the registered corporate agent and the address of the registered office for service of process.

(iii) Partnerships (general or limited), joint ventures, or any other type of organization where two or more persons share in the profits and liabilities of the organization: The applicant organization's complete name and official business address; the legal name, all aliases, and the ages, business addresses, and social security numbers of each partner (other than limited partners) or any other person entitled to share in the profits of the organization, whether or not any such person is also obligated to share in the liabilities of the organization.

(iv) Land trusts: The applicant land trust's complete name; the legal name, all aliases, and the business address of the trustee of the land trust; the legal name, all aliases, and the ages, businesses addresses, and social security numbers of each beneficiary of the land trust and the specific interest of each such beneficiary in the land trust; and the interest, if any, that the land trust holds in the Licensed Premises.

2. If a corporation or partnership is an interest holder that must be disclosed pursuant to Section 8-2005(c)(1) above, then such interest holders shall disclose the information required in said Section with respect to their interest holders.

3. A description of the manner in which the proposed Massage Establishment will be conducted.

4. The length of time that the applicant has been in the massage business.

5. The location, including street address and legal description, and telephone number, of the premises for which the Massage Establishment License is sought.

6. The specific name of the business that is to be operated under the Massage

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Establishment License.

7. The name, address and telephone number of each fee simple owner of the Licensed Premises. If the applicant is not the fee simple owner of the Licensed Premises, a copy of the applicant's lease shall be provided.

8. A diagram showing the internal and external configuration of the Licensed Premises, including all doors, windows, entrances, exits, the fixed structural internal features of the Licensed Premises, plus the interior rooms, walls, partitions, stages, performance areas, and restrooms. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; provided, however that each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions to an accuracy of plus or minus six inches and sufficient to show clearly the various interior dimensions of all areas of the Licensed Premises and to demonstrate compliance with the provisions of this Ordinance. The requirements of this paragraph shall not apply for renewal applications if the applicant adopts a diagram that was previously submitted for the License sought to be renewed and if the Licensee certifies that the Licensed Premises has not been altered since the immediately preceding issuance of the License and that the previous diagram continues to accurately depict the exterior and interior layouts of the Licensed Premises. The approval or use of the diagram required pursuant to this paragraph shall not be deemed to be, and shall not be interpreted or construed to constitute, any other Village approval otherwise required pursuant to applicable Village ordinances and regulations.

9. The names of each governmental body which, within five years immediately prior to the date of the present application, the applicant, or any of the individuals identified in the application pursuant to Section 8-2005(c)(1) and (2) has applied for, received or been denied a license or other authorization to conduct or operate a business (i) substantially the same as a Massage Establishment, and the names and addresses of each such business; (ii) requiring a federal, state, or local liquor license; or (iii) requiring a federal, state, or local gaming license.

10. The specific type or types of Massage Establishment(s) that the applicant proposes to operate in the Licensed Premises.

11. A copy of each Massage Establishment License, liquor license, and gaming license from any governmental entity and currently held by the applicant, or any of the individuals identified in the application pursuant to Section 8-2005(c)(1) and (2).

12. Whether the applicant, or any of the individuals identified in the application pursuant to Section 8-2005(c)(1) and (2), has been, within five years immediately preceding the date of the application, convicted of, or pleaded *nolo contendere* to, any Specified Criminal Act. As to each conviction, the applicant or other individual shall provide the conviction date, the case number, the nature of the misdemeanor or felony violation(s) or offense(s), and the name and location of the court.

13. Whether the applicant, or any of the individuals identified in the application pursuant to Section 8-2005(c)(1) and (2), has had a license or other authorization to conduct or operate a business substantially the same as a Massage Establishment or any business requiring either a liquor or gaming license, revoked or suspended by any governmental entity, and, if so, the date and grounds for each such revocation or suspension, and the name and location of the establishment at issue.

14. The name of the individual or individuals who shall be the day-to-day, on-site managers of the proposed Massage Establishment. If the manager is other than the applicant, the applicant shall provide, for each manager, all of the information required pursuant to Sections 8-2005(c)(1), (2), (9), (11), (12), and (13).

15. For the individual or individuals executing the application pursuant to Section 8-2005(a), and the individual or individuals identified pursuant to Section 8-2005(c)(14) of this Ordinance, a fully executed waiver on a form prescribed by the Village to obtain criminal conviction information pursuant to the Illinois Uniform Conviction Information Act.

16. The applicants shall submit their fingerprints to be used in completing the investigation. Applicants are required to present themselves for fingerprints to be taken by the Downers Grove Police Department as provided by the Massage Business Commissioner. If the applicant is a corporation, fingerprints shall be required of each of the applicant's officers, directors, and any stockholder or stockholders

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owning in the aggregate more than twenty percent of the stock of such corporation. If the applicant is a partnership, fingerprints shall be required of all general partners, and any limited partner owning more than twenty percent of the aggregate limited partner interest in such partnership. Applicant shall pay the fingerprint fee as provided in Section 8-2007 for each person required to submit fingerprints. Provided, in the case of a renewal application, fingerprints and the fingerprint fee shall not be required from a renewal applicant whose fingerprints are on file unless the Massage Business Commissioner determines that there may be reason to believe that the renewal applicant may have unreported convictions.

(d) Incomplete Applications. Any application for a Massage Establishment License that does not include all of the information and documents required pursuant to this Section, as well as any fee required by Section 8-2007, shall be deemed to be incomplete and shall not be acted on or processed by the Village. The Massage Business Commissioner shall, within ten days of such submittal, return the incomplete application to the applicant along with a written explanation of the reasons why the application is incomplete.

(Ord. 4638, Amended, 01/18/2005; 4143, Enacted, 08/02/1999)

Section 8.2006. Reserved.

(Ord. 4638, Amended, 01/18/2005; Ord. 4143, Enacted, 08/02/1999)

Section 8.2007. Fees.

(a) Administrative Processing Fee. From and after October 1, 1999, every applicant for a new (non-renewal) Massage Establishment License shall pay an Administrative Processing Fee as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule" to the Village at the time of filing such application. The Administrative Processing Fee shall be non-refundable.

(b) License Fee. Every applicant for a Massage Establishment License, or for the renewal of an existing Massage Establishment License, shall pay a License Fee as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule" to the Village at the time of filing such application. The License Fee shall be refunded in the event the License application is denied.

(c) A fingerprint fee assessed by the Village as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule" shall be paid for each person required to submit fingerprints under this ordinance. The Fingerprint Fee shall be non-refundable.

(Ord. 5132, Amended, 04/20/2010; Ord. 4638, Amended, 01/18/2005; Ord. 4600, Amended, 07/06/2004; 4143, Enacted, 08/02/1999)

Section 8.2008. Processing of Application.

(a) Reviewing Departments. Within five days after receipt of a complete application for a Massage Establishment License that includes all the information, documents and fees, the Massage Business Commissioner shall transmit a copy of the application to the Reviewing Departments.

(b) Reviewing Department Reports. Each of the Reviewing Departments shall, within 30 days after transmittal of the application thereto, or within such other period of time as the Village and the applicant may otherwise agree, (i) review the application; (ii) conduct such inspections of the proposed Licensed Premises and background investigations of the applicant and any of the individuals identified in the application pursuant to Sections 8-2005(c)(1), (2) and (14) of this Ordinance, regarding matters within their respective jurisdictions, as shall be reasonably necessary to verify the information set forth in the application and to determine whether the proposed Massage Establishment and Licensed Premises comply with the requirements of this Ordinance and other applicable laws, codes, ordinances, rules, and regulations; and (iii) prepare and submit to the Massage Business Commissioner a written report regarding the results and findings of such reviews, inspections, and investigations.

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(c) **Massage Business Commissioner Review.** The Massage Business Commissioner may conduct such additional inspections and investigations as the Massage Business Commissioner shall deem reasonably necessary to verify the information set forth in the application and to determine whether the proposed Massage Establishment and Licensed Premises comply with the requirements of this Ordinance and other applicable laws, code, ordinances, rules, and regulations.

(d) **Reliance on Diagram.** In the event that the Licensed Premises has not yet been constructed or reconstructed to accommodate the proposed Massage Establishment, the Massage Business Commissioner and the Reviewing Departments shall base their respective written reports, investigations, and inspections to the extent necessary, on the diagram submitted pursuant to Section 8-2005(c)(8) of this Ordinance. Any Massage Establishment License issued prior to the construction or reconstruction necessary to accommodate the proposed Massage Establishment shall be subject to the condition that the Massage Establishment shall not open for business until the Licensed Premises has been inspected and determined to be in substantial compliance with the diagram submitted with the application.

(e) **Applicant Cooperation Required.** An applicant for Massage Establishment License shall cooperate fully in the inspections and investigations conducted by the Massage Business Commissioner and the Reviewing Departments. The applicant's failure or refusal (i) to give any information reasonably relevant to the investigation of the application; (ii) to allow the Licensed Premises to be inspected; (iii) to appear at any reasonable time and place for examination under oath regarding the application; or (iv) to otherwise cooperate with the investigation and inspection required by this Ordinance, shall constitute an admission by the applicant that the applicant is ineligible for a Massage Establishment License and shall be grounds for denial of the License by the Massage Business Commissioner.

(f) **Issuance or Denial - Massage Establishment License.** The Massage Business Commissioner shall, within 45 days after submittal of a properly completed application, or within such other period of time as the Village and the applicant shall otherwise agree, either issue or deny issuance of a Massage Establishment License pursuant to this Ordinance. Provided, if after 45 days a criminal history background investigation has not been completed, the Massage Business Commissioner may issue a temporary Massage Establishment License during the investigation period. The temporary Massage Establishment License shall only be valid for 90 days from the date of issuance and shall automatically terminate at the end of the 90 day term. The Massage Business Commissioner has the right to revoke the temporary Massage Establishment License immediately upon an unsatisfactory completion of a criminal history background investigation.

(g) **Decision Final.** The action taken by the Massage Business Commissioner to issue or deny a Massage Establishment License shall be final and shall be subject to judicial review.
(Ord. 4638, Amended, 01/18/2005; 4143, Enacted, 08/02/1999)

Section 8.2009. Standards for Issuance or Denial of Massage Establishment License.

(a) **Issuance.** The Massage Business Commissioner shall issue a Massage Establishment License to an applicant if, but only if, the Massage Business Commissioner finds and determines all of the following, based on the reports, investigations, and inspections conducted by the Massage Business Commissioner and the Reviewing Departments and on any other credible information on which it is reasonable for the Massage Business Commissioner to rely:

1. All information and documents required by Section 8-2005 of this Ordinance for issuance of a Massage Establishment License have been properly provided and the material statements made in the application are true and correct.

2. All persons identified in the application pursuant to Sections 8-2005(c)(1), (2) and (14) of this Ordinance are at least 18 years of age.

3. No person identified in the application pursuant to Sections 8-2005(c)(1), (2) and (14) of this Ordinance has been convicted of, or pleaded *nolo contendere* to, any Specified Criminal Act within five years immediately preceding the date of the application.

4. No person identified in the application pursuant to Sections 8-2005(c)(1), (2) and (14) of this Ordinance has been convicted of, or pleaded *nolo contendere* to, any violation of a provision of this

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Ordinance within five years immediately preceding the date of the application.

5. No person identified in the application pursuant to Sections 8-2005(c)(1), (2) and (14) of this Ordinance is overdue on payment to the Village of taxes, fees, fines, or penalties assessed against, or imposed on, any such individual in connection to any Massage Establishment.

6. No person identified in the application pursuant to Sections 8-2005(c)(1), (2) and (14) of this Ordinance is residing with, or married to, a person (i) who has been denied a Massage Establishment License within 12 months immediately preceding the date of the application, (ii) whose Massage Establishment License has been revoked within 12 months immediately preceding the date of the application, or (iii) whose Massage Establishment License is under suspension at the time of application.

7. The Massage Establishment and the Licensed Premises, and the proposed operation of the Massage Establishment, comply with all then-applicable building, health, and life safety codes and regulations, have clean toilet and sink facilities, and have received all necessary zoning approvals required pursuant to the then-applicable provisions of the Village Zoning Ordinance, including specifically, but without limitation, the special use permit required for the Massage Establishment.

8. No Massage Establishment License shall be issued to any person for premises for which a liquor license or Adult Establishment License has been issued as provided in the Downers Grove Municipal Code.

9. When a Massage Establishment License shall have been revoked or surrendered following notice of hearing as provided in Section 8-2016, no license shall be granted to any person for the period of one year thereafter for the conduct of a Massage Establishment in the premises described in the revoked license.

10. The applicant has confirmed in writing and under oath as part of the application that the applicant had read this Ordinance and all provisions of the Village Zoning Ordinance applicable to Massage Establishments, that the applicant is familiar with their terms and conditions, and that the Licensed Premises and the proposed Massage Establishment and its proposed operation are and shall be in compliance therewith.

(b) Denial. If the Massage Business Commissioner determines that the applicant has not met any one or more of the conditions set forth in Subsection (a) of this Section, then the Massage Business Commissioner shall deny issuance of the Massage Establishment License and shall give the applicant a written notification and explanation of such denial. The Massage Business Commissioner's notice of denial shall be delivered in person or by certified U.S. mail, postage prepaid, return receipt requested, addressed to the applicant's address as set forth in the application. The Massage Establishment License shall be deemed denied on the day that the notice of denial is delivered in person or three days after it is placed in the U.S. mail as provided in this Subsection.

(c) License Deemed To Be Allowed. If the Massage Business Commissioner does not issue or deny the Massage Establishment License within 45 days after the properly completed application is submitted, then the Massage Establishment License applied for shall be deemed to have been allowed.

(Ord. 4638, Amended, 01/18/2005; 4143, Enacted, 08/02/1999)

Section 8.2010. Reserved.

(Ord. 4638, Amended, 01/18/2005; Ord. 4143, Enacted, 08/02/1999)

Section 8.2011. Inspections by the Village.

(a) Authority. The Massage Business Commissioner and other Village representatives and departments with jurisdiction shall periodically inspect all Licensed Massage Establishments as shall be necessary to determine compliance with the provisions of this Ordinance and all other applicable law.

(b) Licensee Cooperation. A Licensee shall permit representatives of the Village to inspect the Licensed Premises and the Licensed Massage Establishment for the purpose of determining compliance with

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the provisions of this Ordinance and all other applicable law at any time during which the Licensed Premises is occupied or the Massage Establishment is open for business.

(c) Interference or Refusal Illegal. It shall be unlawful for the Licensee, any Massage Establishment Employee, or any other person to prohibit, interfere with, or refuse to allow, any lawful inspection conducted by the Village pursuant to this Ordinance or any other authority.

(d) Suspension or Revocation. Any such prohibition, interference, or refusal shall be grounds for suspension or revocation of the Massage Establishment License pursuant to Section 8-2016 of this Ordinance.

Section 8.2012. Change in Information.

During the pendency of any application for, or during the term of, any Massage Establishment License, the applicant or Licensee shall promptly notify the Massage Business Commissioner in writing (i) of any change in any material information given by the applicant, Licensee or Permittee in the application for such License, including specifically, but without limitation, any change in designation of the Massage Establishments where a Massage Therapist is providing massage services as provided in Section 8-2006(a)(3); any change in the identification of Massage Therapists at any Massage Establishment as provided in Section 8-2005(c)(17); and any change in the managers of the Massage Establishment or in the individuals identified in the application pursuant to Sections 8-2005(c)(1), (2) and (14); or (ii) if any of the events constituting grounds for suspension or revocation pursuant this Ordinance occur.

(Ord. 4638, Amended, 01/18/2005)

Section 8.2013. General Regulations.

(a) General Compliance. All Massage Establishments shall comply with the provisions of this Ordinance; all other applicable Village ordinances, resolutions, rules, and regulations; and all other applicable federal, state, and local laws.

(b) Massage Establishment Employees must wear clean, non-transparent outer garments covering the sexual and genital areas which shall include the genitals, pubic area, buttocks, anus or perineum of any person or the vulva or breasts of a female.

(c) The sexual or genital areas of Massage Establishment Patrons must be covered by towels, cloths or undergarments when in the presence of a Massage Establishment Employee.

(d) No Massage Establishment Employee or any other person at any Massage Establishment, shall knowingly place his or her hand upon, or touch with any part of his or her body, with intent to fondle in any manner, a sexual or genital area of any other person.

(e) No Massage Establishment Employee or any other person at any Massage Establishment, shall perform, offer or agree to perform any act which would require the touching of the patron's genital or sexual area.

(f) No Massage Establishment Employee or any other person at any Massage Establishment, shall administer a massage to any part of a patron's body which exhibits any skin fungus, skin infection, skin inflammation or skin eruption, unless a physician duly licensed by the state determines that such persons may be safely massaged, prescribing the conditions thereof.

(g) No Massage Establishment Employee or any other person at any Massage Establishment shall perform or conduct any Specified Sexual Activity with or for any Massage Establishment Patron or any other Massage Establishment Employee or any other person. No Massage Establishment Patron or any other person at any Massage Establishment shall perform or conduct any Specified Sexual Activity with or for any Massage Establishment Employee or any other Massage Establishment Patron or any other person.

(h) Gambling and Related Devices Prohibited. No Massage Establishment shall contain any video, pinball, slot, bagatelle, pigeon-hole, pool, or any other games, machines, tables, or implements.

(i) Alcohol Prohibition. No alcoholic liquor shall be delivered, received, sold, purchased provided

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or consumed by any Massage Establishment Employee at any Massage Establishment.

(Ord. 4638, Amended, 01/18/2005)

Section 8.2014. Additional Regulations Applicable to Licensed Massage Establishments.

(a) Animals. No animals, except only for seeing-eye dogs to assist the blind, shall be permitted at any time at or in any Licensed Massage Establishment.

(b) Restrooms. All restrooms in a Licensed Massage Establishment shall be equipped with standard toilets, sinks, and other traditional lavatory facilities.

(c) Restricted Areas. No Massage Patron shall be permitted at any time to enter into any of the non-public portions of any Licensed Massage Establishment, including specifically, but without limitation, any storage areas or dressing or other rooms provided for the benefit of Massage Establishment Employees. This subsection shall not apply to persons delivering goods and materials, food and beverages, or performing maintenance or repairs to the Licensed Premises; provided, however, that any such persons shall remain in such non-public areas only for the purposes and to the extent and time necessary to perform their job duties.

(d) Every Massage Establishment Licensee shall cause the Massage Establishment License to be framed, covered by glass, and hung at all times in plain view in a conspicuous place on the Massage Establishment Licensed Premises so that it can be easily seen and read at any time by any person entering the Massage Establishment Licensed Premises.

(e) At all times during the hours of operation of a Licensed Massage Establishment there shall be present a manager of the Licensed Massage Establishment Licensee who shall be not less than eighteen years of age.

(f) No Massage Establishment Licensee shall permit any person to remain in or upon Massage Establishment Licensed premises who commits any Specified Criminal Act.

(g) Except for Approved Massage Schools, no Massage Establishment Licensee shall employ as a Massage Therapist any person unless said person has obtained and has in effect a Massage Therapist Permit issued pursuant to State law.

(h) No portion of a Licensed Massage Establishment shall be designed, modified, equipped or used as a residence or for residential purposes. No person shall reside, board or otherwise use a Licensed Massage Establishment as a residence.

(Ord. 5120, Amended, 02/02/2010; Ord. 4638, Amended, 01/18/2005; 4143, Enacted, 08/02/1999)

Section 8.2015. Licensee's Responsibility for Employees.

Every act or omission of whatsoever nature constituting a violation of any of the provisions of this Ordinance, by any officer, director, manager, Massage Therapist or other agent or Massage Establishment Employee of any Massage Establishment Licensee, shall be deemed and held to be the act of such Licensee, and said Licensee shall be punishable in the same manner as if said act or omission had been committed or omitted by the Licensee personally. Accordingly, any such act or omission of any such persons constituting a violation of the provisions of this Ordinance shall be deemed, for purposes of determining whether the Licensee's Massage Establishment License shall be issued, revoked, suspended, or renewed, to be the act or omission of the Licensee.

(4143, Enacted, 08/02/1999)

Section 8.2016. Revocation or Suspension.

(a) Grounds. Pursuant to the procedures set forth herein, the Massage Business Commissioner may suspend for not more than 30 days, or revoke, any Massage Establishment License if the Massage Business Commissioner, based upon credible and reasonably reliable information and evidence, determines

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that any one or more of the following has occurred:

1. The Licensee has violated any of the provisions or requirements of this Ordinance, the Massage Establishment License issued pursuant hereto, or the provisions of the Village Zoning Ordinance applicable to the Licensed Premises.

2. The Licensee (i) knowingly or negligently furnished false or misleading information or withheld information on any application or other document submitted to the Village for issuance or renewal of any Massage Establishment License or (ii) knowingly or negligently caused or suffered any other person to furnish or withhold any such information on the Licensee's behalf.

3. The Licensee or any massage therapist practicing at the licensed premises has committed a felony, Specified Criminal Act, or Specified Sexual Activities on the Licensed Premises.

4. The Licensee authorizes, approves, or, as a result of the Licensee's negligent failure to supervise the Licensed Premises or the Massage Establishment, allows, a Massage Establishment Employee, a Massage Establishment Patron, or any other person to (i) violate any of the provisions or requirements of this Ordinance or the provisions or requirements of the Massage Establishment License issued pursuant hereto, (ii) commit any felony or Specified Criminal Act on the Licensed Premises, or (iii) commit any Specified Sexual Activity as defined in Section 8-2001..

5. The Licensee , or any person identified pursuant to Sections 8-2005(c)(1), (2) and (14) of this Ordinance becomes disqualified for the issuance of a License or Permit.

6. The Licensee is delinquent in payment to the Village for taxes or water charges related to the massage business.

7. Any massage therapist practicing at the licensed establishment commits any act in violation of State or local laws on the premises.

(b) Procedure. A Massage Establishment License may be suspended for not more than 30 days, or revoked, pursuant to the terms and conditions set forth in this Section.

1. Notice. Upon determining that one or more of the grounds for suspension or revocation under this Section may exist, the Massage Business Commissioner shall serve a written notice on the Licensee in person or by certified U.S. mail, postage prepaid, return receipt requested, addressed to the Licensee's address as set forth in their application. A copy of this notice shall also be sent to the fee simple owner of the Licensed Premises as shown on Licensee's application. The written notice shall, at a minimum, (i) state that Massage Business Commissioner has determined that the Massage Establishment License may be subject to suspension or revocation pursuant to Section 8-2016 of this Ordinance; (ii) identify the specific grounds for the Massage Business Commissioner's determination; and (iii) set a date for a hearing regarding the Massage Business Commissioner's determination as to the possibility of suspension or revocation of the Massage Establishment License. The date of the hearing shall be no less than five days after service of the Massage Business Commissioner's notice, unless an earlier or later date is agreed to by the Licensee and the Massage Business Commissioner.

2. Suspension of Massage Business Pending Hearing. The Massage Business Commissioner may order the immediate suspension of all massage activities at any Massage Establishment or by any Massage Therapist pending the hearing set forth herein where the Massage Business Commissioner determines that there is an immediate danger to the public health, safety or welfare; or where the License had been suspended within the previous 48 months. In addition, the Massage Business Commissioner may condition any continuance of the hearing upon suspension of massage business at any Massage Establishment or by any Massage Therapist.

3. Hearing. The hearing shall be conducted by the Massage Business Commissioner. At the hearing, the Licensee may present and submit evidence and witnesses to refute the grounds cited by the Massage Business Commissioner for suspending or revoking the License and the Village and any other persons may submit evidence to sustain such grounds. The administrative record compiled on the Massage Establishment License pursuant to Section 8-2017 of this Ordinance shall be made part of the hearing record. Provided, the Massage Business Commissioner may designate a hearing officer to schedule, convene and conduct the public hearing. In such case, the hearing officer shall have the same powers as the Massage Business Commissioner to conduct the hearing. Where such designation has been made, the hearing officer

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shall submit proposed findings and recommendations to the Massage Business Commissioner within seven days of the close of the hearing. Within fourteen days after the close of the hearing, the Massage Business Commissioner shall, having considered the record made at the hearing, render a decision in writing, setting forth the reasons for the decision. The action taken by the Massage Business Commissioner shall be final and shall be subject to judicial review.

4. Notice and Effective Date of Suspension or Revocation. The Massage Business Commissioner's written decision shall be posted at the office of the Massage Business Commissioner and shall be served on the Licensee in person or by certified U.S. mail, postage prepaid, return receipt requested, addressed to the Licensee's address as set forth in their application. In addition, a copy of such order shall be mailed to the fee simple owner of the Licensed Premises. Any suspension or revocation, as the case may be, shall take effect on the day that the Massage Business Commissioner's written decision is delivered in person or three days after it is placed in the U.S. mail as provided in this section.

5. Surrender of License. Upon the suspension or revocation of a Massage Establishment License pursuant to this Ordinance, (i) the Massage Business Commissioner shall take custody of the suspended or revoked License.

(Ord. 4638, Amended, 01/18/2005; 4143, Enacted, 08/02/1999)

Section 8.2017. Administrative Record.

The Massage Business Commissioner shall cause to be kept in the Massage Business Commissioner's office an accurate record of every Massage Establishment License application received and acted on, together with all relevant information and material pertaining to such application.

(Ord. 4638, Amended, 01/18/2005; 4143, Enacted, 08/02/1999)

Section 8.2018. Record keeping by Licensee.

The Licensee of every Massage Establishment shall maintain a register of all of its Massage Establishment Employees. For each such Employee, the register shall include the following information:

1. Legal name.
2. Any and all aliases.
3. Date of birth.
4. Gender
5. Social security number.
6. Date of commencement of employment.
7. Date of employment termination, if applicable.
8. Specific job or employment duties.
9. A copy of any Massage Therapist Permit issued to such employee pursuant to State law.

The register shall be maintained for all current Employees and all Employees employed at any time during the preceding 36 months. The Licensee shall make the register of its Massage Establishment Employees available for inspection by the Village immediately upon demand at all reasonable times.

(Ord. 4638, Amended, 01/18/2005; 4143, Enacted, 08/02/1999)

Section 8.2019. Penalty.

Any person who violates, neglects, refuses to comply with, or assists or participates in any way in the violation of, any of the provisions or requirements of this Ordinance or of any of the provisions or requirements of any Massage Establishment License, shall be fined as provided in Section 1-15 of the Downers Grove Municipal Code. Provided, this provision shall not limit the authority of the Massage Business Commissioner to suspend or revoke any License.

(Ord. 4638, Amended, 01/18/2005; 4143, Enacted, 08/02/1999)

Section 8.2020. Nuisance Declared.

(a) Any Massage Establishment established, operated, or maintained in violation of any of the provisions or requirements of this Ordinance or of any Massage Establishment License shall be, and the same is, declared to be unlawful and a public nuisance. The Village may, in addition to or in lieu of any other remedies set forth in this Ordinance, commence an action to enjoin, remove, or abate such nuisance in the manner provided by law and shall take such other steps and apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such public nuisance, and restrain and enjoin any person from establishing, operating, or maintaining an Massage Establishment contrary to the provisions of this Ordinance.

(Ord. 4638, Amended, 01/18/2005; 4143, Enacted, 08/02/1999)

Section 8.2021. Transfer--Changes in Ownership or Management.

(a) Any Massage Establishment License issued pursuant to this Ordinance shall be applicable only to the specific Massage Establishment Licensee and location designated, and may not be sold, transferred, or otherwise assigned.

(b) A transfer in the ownership or control of a Massage Establishment shall constitute a change in the Massage Establishment Licensee and the existing Massage Establishment License shall be deemed surrendered and extinguished. A new application and Massage Establishment License shall be filed and processed as provided in Sections 8-2005 and 8-2008 prior to such transfer taking effect. Any transfer in the ownership or control of a Massage Establishment in violation of this section shall constitute operation of such business without a Massage Establishment License.

(c) Notice shall be provided prior to any change of the designated manager conducting business for the Massage Establishment Licensee. The new manager must be qualified to operate the Massage Establishment as provided herein. The Massage Establishment Licensee shall, not less than ten business days before such change is to take effect, give the Massage Business Commissioner written notice of such change. The notice shall include any information concerning the new manager which is required in Section 8-2005 of this ordinance.

(Ord. 4638, Amended, 01/18/2005; 4143, Enacted, 08/02/1999)

Section 8.2022. Pending/Existing Massage Establishments.

(a) An application for a Pending Massage Establishment shall be reviewed and, if in compliance with regulations in effect at the time of application, approved subject to the following conditions:

1. The applicant shall submit an amended application in accordance with the terms of this Ordinance for a Massage Establishment License not later than August 1, 1999. The purpose of this submittal is to provide the Village with information required under this Ordinance but not included in the original application. Provided, no License or Application fees shall be required.

2. The applicant shall be subject to and comply with the provisions of this Ordinance.

(b) An Existing Massage Establishment may continue to operate subject to the following conditions:

1. Not later than October 1, 1999, the owner of Existing Massage Establishment shall submit a supplemental application in accordance with the terms of this Ordinance for a Massage Establishment License. The purpose of this submittal is to provide the Village with information required under this Ordinance but not included in the original application. Provided, no License or Application fees shall be required.

2. The Existing Massage Establishment shall be subject to and comply with all provisions of this Ordinance.

(c) Renewals for any Pending or Existing Massage Establishments shall be in conformance with this Ordinance.

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(4143, Enacted, 08/02/1999)

Section 8.2023. Expiration of Massage Establishment License-- Renewal.

(a) Each Massage Establishment License shall expire on June 30 and may be renewed only by making application as provided in Section 8-2005 and 8-2006. Provided, in lieu of full submittal, an applicant may, on forms provided by the Village, certify that the information previously provided remains true and valid. This renewal application shall be processed as provided in Section 8-2008. Application for renewal shall be made at least thirty days before the expiration date.

(b) Before the Massage Business Commissioner denies renewal of a Massage Establishment License, notice and a hearing shall be provided as set in Section 8-2016. Such denial shall be equivalent to a revocation.

(Ord. 4638, Amended, 01/18/2005; 4143, Enacted, 08/02/1999)

Section 8.2100ART. Article XXI. Newspaper Dispensing Device Ordinance

Section 8.2100SEC. Short Title.

This Ordinance shall be known as, and may be referred to as the "Village of Downers Grove Newspaper Dispensing Device Ordinance".

(4430, Enacted, 07/16/2002)

Section 8.2101. Findings and Purpose.

1. The Village Council hereby finds, as follows:
 - a. The public right-of-ways historically have been used to circulate newspapers and other publications;
 - b. The substantial growth in the number of newspapers and other publications has produced a significant increase in the number of individual newsracks located on public right-of-ways;
 - c. The unregulated placement and maintenance of individual newsracks in the public right-of-ways interferes with the free and unimpeded use of such public right-of-ways, and threatens the health, safety and welfare of persons who use the public right-of-ways, including pedestrians, children, the aged, persons entering and leaving vehicles and buildings, drivers, persons performing essential utility, traffic control and emergency services, and persons with disabilities, and,
 - d. The unregulated placement of multicolored, broken, rusted and abandoned individual newsracks of various shapes and sizes in the public right-of-ways significantly detracts from the aesthetic character of surrounding areas.
2. Based on the conditions described above, the Village Council further finds that there is a need for reasonable, time, place and manner restrictions regarding the installation, placement, size, appearance and maintenance of newsracks in the public right-of-ways including the creation of a Modular Newsrack District. Consistent with these findings, it is the purpose of this Article to promote the health and safety of users of the public right-of-ways and to enhance the aesthetics of the Village in a manner which may utilize newsracks as a method of distribution of newspapers and other publications, so as to do the following:
 - a. Provide for pedestrian and driving safety and convenience;
 - b. Restrict unreasonable interference with the flow of pedestrian or vehicular traffic, including ingress and egress from any residence or place of business, or from the street to the sidewalk by persons exiting or entering parked or standing vehicles;
 - c. Provide for the safety of the public and property during windstorms and other inclement weather;

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d. Replace, remove, or relocate individual newsracks that have created visual blight on the public right-of-ways or unreasonably detracted from the aesthetics of adjacent businesses, landscaping and other improvements;

e. Maintain and protect the values of surrounding properties; and,

f. Reduce unnecessary exposure of the public to personal injury and property damage.

(4430, Enacted, 07/16/2002)

Section 8.2102. Definitions.

The following words, terms and phrases, when used in this Article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned. Any newspaper dispensing device or any compartment of a modular newsrack, that does not contain the newspaper or other publication specified therefore for more than four consecutive days for a daily publication, eight consecutive days for a weekly publication, 16 consecutive days for a biweekly publication, 32 days for a monthly publication, or 64 days for a bi-monthly publication.

Compartment. The individual space within a modular newsrack that dispenses one newspaper or other publication, including the door, coin return mechanism and associated hardware.

Modular Newsrack. A newspaper dispensing device that is designed with multiple separate enclosed compartments to accommodate at any one time the display, sale or distribution of multiple distinct and separate newspapers or other publications.

Modular Newsrack District. That portion of the Village defined as the Central Business District in the Village's Zoning Ordinance, in addition to the Village Hall Municipal Complex and the Fairview Avenue Train Station.

Newspapers and other publications. Includes newspapers, periodicals, advertising circulars, and all other printed materials that may be distributed through the use of newsracks.

Newspaper Dispensing Device. Any unmanned, self-service or coin-operated box, container, storage unit or other dispenser located in or upon, or projecting onto, into, or over, any part of the public right-of-ways, and which is installed, used or maintained for the display, sale, or distribution of newspapers and other publications.

Publisher. The person or other legal entity selling, displaying or distributing newspapers or other publications in a newsrack.

(4430, Enacted, 07/16/2002)

Section 8.2103. Newspaper Dispensing Device Commissioner.

The Newspaper Dispensing Device Commissioner shall have the following powers and duties:

1. To administer and rule upon the applications for, and the issuance, renewal, suspension, denial and revocation of, Newspaper Dispensing Device Permits as set forth in this Ordinance.

2. To conduct or provide for such inspections of newspaper dispensing devices as shall be necessary to determine and ensure compliance with the provisions of this Ordinance and other applicable provisions of law.

3. To take such further actions as the Newspaper Dispensing Device Commissioner shall deem necessary to carry out the purposes and intent of this Ordinance and to exercise such additional powers in furtherance thereof as are implied or incident to those powers and duties expressly set forth in this Ordinance.

(4430, Enacted, 07/16/2002)

Section 8.2104. Newspaper Dispensing Devices; Generally.

1. Newspaper Dispensing Device Permit Required. A Newspaper Dispensing Device Permit shall

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be required to establish, operate, or maintain a newspaper dispensing device within the Village.

2. **Operation Without Permit Prohibited.** It shall be unlawful for any person not having a current and valid Newspaper Dispensing Device Permit to establish, operate, or maintain a newspaper dispensing device on public property within the Village at any time after the effective date of this Ordinance.

3. **Operation in Violation of Permit Prohibited.** It shall be unlawful for any Licensee to establish, operate, or maintain a newspaper dispensing device on public property within the Village except in the manner authorized by, and in compliance with, the provisions of this Ordinance and by the Licensee's Newspaper Dispensing Device Permit.

(4430, Enacted, 07/16/2002)

Section 8.2105. Newspaper Dispensing Devices; Application and Permit.

1. Applications for a permit under this section shall be made on forms provided by the Newspaper Dispensing Device Commissioner for permits allowing for the installation and placement of newspaper dispensing devices within the public right-of-way, along the streets, thoroughfares, parkways, and sidewalks within the Village. The applications shall be provided by the Newspaper Dispensing Device Commissioner immediately upon request. The application must include a site plan and must expressly state the exact location where the applicant wishes to install a newspaper dispensing device. The application must also include a description of and the specification for the intended newspaper dispensing device.

2. Within five (5) business days of receipt of an application for a permit under this section, the Newspaper Dispensing Device Commissioner shall grant the application and issue the permit provided that the conditions contained in Section 8-2106 are, where applicable, complied with. If the terms and conditions contained in Section 8-2106 are not complied with, the Newspaper Dispensing Device Commissioner shall, within five (5) business days of receipt of the application for a permit, deny the application, and state the reasons in writing for such denial.

3. A permit granted hereunder shall apply only to the location provided for in the permit, and no newspaper dispensing device permitted hereunder shall be relocated without application for and issuance of a new permit.

(4430, Enacted, 07/16/2002)

Section 8.2106. Newspaper Dispensing Device Permit Conditions.

No newspaper dispensing device, other than modular newsracks, shall be placed within the Modular Newsrack District. A Village permit allowing the placement of privately owned newspaper dispensing devices outside the Modular Newsrack District shall be subject to, and granted upon, the following conditions, restrictions and requirements:

1. Newspaper dispensing devices shall be placed adjacent and parallel to building walls not more than six inches distant therefrom, or near and parallel to the curb not less than 18 inches and not more than 24 inches distant from the curb.

2. No newspaper dispensing device shall be placed, installed, located, used or maintained:

- a. Within three feet of any fire hydrant or other emergency facility.
- b. Within fifteen feet of any intersecting driveway, alley, or street.
- c. Within three feet of any marked crosswalk.
- d. At any location where the width of paved clear space in any direction for the passage of pedestrians is reduced to less than five feet.
- e. So as to be chained or otherwise secured to any tree, utility pole, light pole, parking meter, traffic control post, street signpost, or other public property.
- f. On or within any median within any public right-of-way.
- g. So as to project into any part of the public right-of-way or along the street, thoroughfares, parkways and sidewalks within the Village, unless authorized by a properly issued Village

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permit.

h. Within three feet ahead of and 15 feet to the rear of any sign marking a designated bus stop.

i. Within three feet of any bus bench or bus shelter.

j. Within three feet of any display window of any building abutting the sidewalk or parkway, or in such manner as to impede or interfere with the reasonable use of such window for display purposes.

k. On any handicapped access ramp.

3. The permittee shall maintain the device in good working order, in a safe and clean condition, in such a manner that:

a. It is reasonably free of dirt and grease;

b. It is reasonable free of chipped, faded, peeling and cracked paint in the visible painted areas thereof;

c. It is reasonably free of rust and corrosion in the visible unpainted metal areas thereon;

d. The clear plastic or glass parts thereof, if any, through which the publications therein are viewed are unbroken and reasonably free of cracks, dents, blemishes and discoloration;

e. The paper or cardboard parts or inserts thereof are reasonably free of tears, peeling or fading;

f. The structural parts thereof are not broken or unduly disfigured;

g. The device shall display a telephone number for refund in case of malfunctioning of the device.

h. No newsrack shall exceed five (5) feet in height, thirty (30) inches in width, or two (2) feet in thickness.

4. The permittee shall not use a newspaper dispensing device for advertising signs or publicity purposes other than that dealing with the display, sale, or purchase of the materials sold therein.

5. A permit shall allow the installation of a newspaper dispensing device only at the exact location described in the application for the permit. The permit shall contain a description of the authorized location. Permits shall not be transferable from one location to another.

6. The permittee, upon removal of the dispensing device, shall restore the property of the Village to the same condition as when the device was initially installed, ordinary wear and tear expected.

7. As an express condition of the acceptance of a permit hereunder, the permittee thereby agrees to indemnify and hold harmless the Village, its officials, both elected and appointed, its employees and agents against any loss or liability or damage, including expenses and costs for bodily or personal injury, and for property damaged sustained by any person as the result of the negligent installation, use or maintenance of a device within the Village.

(4430, Enacted, 07/16/2002)

Section 8.2107. Provision of Modular Newsracks.

The Village shall provide for the placement of modular newsracks on public right-of-ways in the Modular Newsrack District.

1. The modular newsracks shall be purchased by a publication or publications in accordance with Village specifications. Each publication shall be required to pay the applicable cost for each modular newsrack it uses and shall be responsible for maintaining such modular newsrack.

2. After the initial installation of modular newsracks, the total number of compartments in the modular newsracks in the Modular Newsrack District may be increased or decreased only consistent with the purposes stated in Section 8-2101. Modular newsracks shall be placed in locations throughout the district which afford easy, convenient service to pedestrians, but which do not obstruct or interfere with access to abutting properties, and which do not impede or endanger pedestrian, bicycle or vehicle traffic. Any publication may petition the Village for placement of a modular newsrack at a specific location within

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the Modular Newsrack District. The Newspaper Dispensing Device Commissioner shall review each petition and determine whether such location is warranted.

3. There shall be no newspaper dispensing devices of any type located within the Modular Newsrack District except as part of a Village approved modular newsrack. All existing newspaper dispensing devices shall be removed from the Modular Newsrack District within seven days after placement of the modular newsrack. Any newspaper dispensing device not so removed or otherwise placed in violation of this Article shall be subject to confiscation by the Village.

(4430, Enacted, 07/16/2002)

Section 8.2108. Allocation of Modular Newsrack Compartments.

The Village shall ensure that modular newsrack compartments are allocated in accordance with the following procedures:

1. Each compartment in a modular newsrack shall contain copies of only one newspaper or other publication, and have a door that is sized to fit and display such newspaper or other publication.

2. The Village shall ensure that there are enough compartments in each modular newsrack to accommodate all publishers who initially wish to distribute their newspapers and other publications at that location, up to a maximum of 16 compartments per newsrack in the Modular Newsrack District. If more than 16 publishers wish to distribute newspapers or other publications at that location, then the compartments shall be allocated as follows:

a. Priority shall be given to publishers who continuously have distributed newspapers or other publications in newsracks at that location for more than 12 months before the effective date of this ordinance, as indicated by the publisher's affidavit provided to the Village;

b. Among publishers who have priority under this subsection, compartments will be allocated first to newspapers and other publications issued at least five days per week, second to newspapers and other publications issued between two and four days per week, third to newspapers and other publications issued once a week, and fourth to newspapers and other publications issued less frequently;

c. If there are more compartments than publishers with priority under this section, then the Village shall allocate the remaining compartments among publishers who do not have priority, first to newspapers and other publications issued at least five days per week, second to newspapers and other publications issued between two and four days per week, third to newspapers and other publications issued once a week, and fourth to newspapers and other publications issued less frequently;

d. Notwithstanding the requirements of this subsection, no newspaper or other publication may receive a second space in a modular newsrack until all other interested publishers have had the opportunity to have their newspaper or other publication allocated to a compartment.

e. Whenever additional compartments become available, they shall be allocated in the manner described in this subsection; and,

f. In the event two or more publishers have equal priority under this subsection, then allocation shall be by lottery or other random method.

3. For initial assignment of newsrack space, the Village shall notify all publishers who currently distribute their newspapers and publications at each location where the Village is installing a modular newsrack. Such notification shall, at a minimum, consist of a copy of the Village's Application for Modular Newsrack Space. On the application, each publisher shall include the number of compartments and the locations it is seeking. All applications shall be returned to the Newspaper Dispensing Device Commissioner, who shall ensure that compartments are allocated in accordance with the procedure set forth above.

4. After the initial assignment of newsrack space, any publisher seeking to place its publication within the Modular Newsrack District must fill out an Application for Modular Newsrack Space and submit it to the Newspaper Dispensing Device Commissioner, who shall ensure that compartments are allocated in accordance with the procedure set forth above.

5. The opportunity of publishers to have their newspapers or other publications distributed

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from a modular newsrack shall not be affected whatsoever by their content, consistent with the First Amendment to the United States Constitution.

(4430, Enacted, 07/16/2002)

Section 8.2109. Appeal of Denial of Permits.

The decision of the Newspaper Dispensing Device Commissioner in refusing to grant a permit under this Article shall be appealable. The applicant shall have the right to appeal the decision to the Village Manager, provided that the applicant files a written notice of appeal, including a statement of the grounds of appeal, with the Newspaper Dispensing Device Commissioner within fifteen (15) calendar days after notice of the decision of the Newspaper Dispensing Device Commissioner. The Village Manager shall set a hearing on the appeal and notice of such time and place shall be given in the same manner as specified in this Article. The Village Manager shall have the power to reverse, affirm or modify the decision of the Newspaper Dispensing Device Commissioner. In making its determination, the Village Manager shall only consider the standards set forth in this Article. His/her decision shall be rendered the same day as the hearing. The decision of the Village Manager shall be final.

(Ord. 4852, Amended, 02/20/2007, his to his/her(s); 4430, Enacted, 07/16/2002)

Section 8.2110. Emergency.

Notwithstanding any other provision of this Article, however, the Village may remove any newspaper dispensing device from public property which, because of its location or condition, poses an immediate threat to the health, safety and welfare of the public or a member thereof. The Newspaper Dispensing Device Commissioner shall send, by certified mail, with return receipt requested, a written notice to the address of the owner or user of the newspaper dispensing device. The notice shall state the address and telephone number of the Newspaper Dispensing Device Commissioner and a description of why the newspaper dispensing device was removed. The owner may request a hearing before the Village Manager by filing a written appeal with the Newspaper Dispensing Device Commissioner. In this event, a hearing shall be held, according to Section 8-2112, for the purpose of determining whether there is a continued need for the removal.

(4430, Enacted, 07/16/2002)

Section 8.2111. Revocation of Permits.

The Newspaper Dispensing Device Commissioner shall revoke any permit issued under the terms of this Article after a finding of any of the following causes, which shall constitute violation of this Article:

1. Fraud, misrepresentation, or any false statement contained in the application for a permit;
2. Violation of any term of the permit granted to the permittee;
3. Violation of any term of this Article.

(4430, Enacted, 07/16/2002)

Section 8.2112. Removal of Newspaper Dispensing Devices.

1. If any newspaper dispensing device is placed or remains within any public right-of-way, street, thoroughfare, parkway or sidewalk without a permit therefor being issued, or after the expiration or revocation of a previously issued permit, or is deemed abandoned or unclaimed, or in violation of any other provision of this Article, the Newspaper Dispensing Device Commissioner shall send, by certified mail, with return receipt requested, a written notice to the address of the owner or user of the newspaper dispensing device. The notice shall state the address and telephone number of the Newspaper Dispensing Device Commissioner, a description of why the newspaper dispensing device is in violation of the

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requirement of this Article; that the owner or user is ordered to cause immediate removal of the newspaper dispensing device from the public property; and that the newspaper dispensing device shall be removed by the Village after a date designated by the notice. The date shall be no less than ten (10) calendar days after the date the notice is mailed or first posted, as the case may be, unless the owner or user requests a hearing before the Village Manager by filing a written appeal with the Newspaper Dispensing Device Commissioner on or before the designated removal date.

2. When any appeal is filed pursuant to this Section, the Village Manager shall set a hearing on the appeal and a notice of such time and place shall be given in the manner as specified in this Section. In making his/her determination, the Village Manager shall only consider the standards set forth in this Article. His/her decision shall be rendered on the same day as the hearing. The decision of the Village Manager shall be final.

3. If any newspaper dispensing device is still on public property after the ten (10) day period described in subsection (1) of this Section, or if an appeal is made and denied after a hearing before the Village Manager, the Newspaper Dispensing Device Commissioner shall cause removal of the newspaper dispensing device.

4. The owner of any newspaper dispensing device removed in accordance with the terms of this Article shall be responsible for all the expenses of the removal, storage and disposal of such newspaper dispensing device. Should the newspaper dispensing device or materials fail to be claimed or should the owner fail to pay any money due the Village within a period no less than sixty (60) days after the removal of the newspaper dispensing device, such newspaper dispensing device or materials shall be unclaimed property and become property of the Village.

(Ord. 4852, Amended, 02/20/2007, his to his/her(s); 4430, Enacted, 07/16/2002)

Section 8.2113. Penalties.

Any person or entity who shall be guilty of a violation of any of the provisions of this Article, shall be subject to a fine of not less than seventy-five dollars (\$75.00) and not more than seven hundred fifty dollars (\$750.00). A separate offense shall be deemed committed for every day a violation continues.

(4430, Enacted, 07/16/2002)

Section 8.2114. Severability.

If any section, subsection, sentence, clause or phrase of this Article is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Article.

(4430, Enacted, 07/16/2002)