

## COUNCIL WORKSHOP ITEM

**ITEM:** Ordinance Amending Temporary Use Provisions  
**DATE:** June 17, 2002  
**PREPARED BY:** Michael Baker, Assistant to the Village Manager  
Enza Petrarca, Acting Village Attorney  
**PURPOSE:** Update Ordinance Language in Chapter 8-75 to Incorporate Proposed Revisions

### DISCUSSION:

The Temporary Uses Ordinance provides Village staff with a means to regulate temporary events and activities that are held on private property on the exterior of a zoning lot. Common examples include Christmas tree lots, tent and sidewalk sales, garden centers and outdoor dining areas. The ordinance requires the property owner or event organizer to obtain an approved Temporary Use Permit in order to conduct the event or activity. Through the permit process, staff is able to review the nature of the activity to ensure that it complies with health and safety standards of the Village. The regulations also set specific parameters regarding the duration and allow staff to place conditions on the activity.

Staff is proposing the following revisions to the existing code language in order to improve the efficiency of the process and respond to complaints registered by several applicants:

1. The current ordinance makes reference to the Village Manager giving written notice to the Village Council prior to issuance of a temporary use license. Staff feels that it is unnecessary to burden the Council with a matter that is more appropriately processed and approved administratively. The revised language describes in greater the review process that currently exists at the staff level and eliminates the provision regarding Village Council review.
2. An adjustment in the fee structure that establishes a fee of \$50 for all applications that are received within a week prior to the commencement of the activity. The current fee, which would remain in effect for applications received a week or more prior to commencement, is set at \$25.
3. An increase in the duration for which a temporary use permit can be obtained from 120 days to 180 days. This revision will allow food services operations, who seek temporary use licenses to permit the outdoor placement of tables and chairs, to keep their outdoor furniture up for the entire warm-weather season.

### ATTACHMENT:

An Ordinance Amending Temporary Use provisions  
Temporary Use language as excerpted from the Downers Grove Municipal Code  
List of Temporary Use Licenses Approved since March 2001.

### RECOMMENDATION:

Council Approval of Ordinance Amending Temporary Use Provisions

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING TEMPORARY USE PROVISIONS**

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

SECTION 1. That Section 8-77 of the Downers Grove Municipal Code is hereby amended as follows:

**8-77. Same—Approval—Limitations—Revocation.**

~~No temporary use license shall be issued unless the Village Manager has given written notice to the Village Council at least forty-eight hours prior to a regularly scheduled council meeting. At such meeting the Village Council may, in its discretion, and based upon its determination of the public health, welfare, and safety, direct the Village Manager to approve or deny a temporary use license to the applicant therefor. The Council may also impose or ratify restriction on any license including, but not limited to, requiring facilities, insurance, and prohibiting certain types of activities determined to be inappropriate or against the public health, welfare or safety. A temporary license may be suspended or revoked as set forth in this Chapter for violation of any condition or restriction imposed.~~ **No temporary use license shall be issued unless written authorization has been obtained by all of the departmental designees assigned to review and evaluate the applications. This shall include, but not be limited to, members of the following departments: Code Services, Police, Fire Prevention and the Village Manager's Office. Any of the Village officials designated to review applications may impose or ratify restrictions on any license including, but not limited to, require facilities, insurance and prohibiting certain types of activities determined to be inappropriate or against the public health, welfare or safety. A temporary use license may be suspended or revoked as set forth in this Chapter for violation of any condition or restriction imposed.** (Ord. No. 2390; § 1; Ord. No. 3383, § 1.)

SECTION 2. That Section 8-78 of the Downers Grove Municipal Code is hereby amended as follows:

**8-78. Same—Fee; term.**

The license fee for a temporary use license shall be twenty-five dollars for ~~each license~~ **all applications submitted more than seven days prior to the commencement of the activity as set forth in the application. A license fee of fifty dollars shall be charged for those applications that are received by the Village within seven or fewer days of the commencement of the activity.** No person, corporation, or other legal entity shall be granted temporary use licenses for a period or periods which in their aggregate, exceed ~~±20~~ **180** days in any calendar year. No more than six temporary use licenses shall be issued to any person, corporation or other legal entity in any calendar year, which six, individually or in their aggregate, shall not exceed ~~±20~~ **180** days in any calendar year. For purposes of this section, persons, corporations or other legal entities shall include any relatives, affiliates, agents, subsidiaries or other related applicant seeking to conduct the same or substantially the same use. No property shall be used for temporary use purposes more than ~~±20~~ **180** days in any calendar year. (Ord. No. 2390, § 1; Ord. No. 2987, § 2; Ord. No. 3383, § 1.)

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

SECTION 4. That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

\_\_\_\_\_  
Mayor

Passed:

Published:

Attest: \_\_\_\_\_  
Village Clerk

[tem-use]

**8-70.2. 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. (Ord. No. 3687, Enacted, 10/10/94)

**8-70.3. 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. (Ord. No. 3687, Enacted, 10/10/94)

**Article XVII. Tree Removal**

**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.)

**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

(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.)

**8-73. Same—Fee for license.**

The license fee for a tree removal license shall be ten dollars per company. (Ord. No. 2167, § 6; Ord. No. 2277, § 2; Ord. No. 2523, § 1.)

**8-74. Reserved.**

(Ord. No. 4000, Amended, 01/19/98)

**Article XVIII. Temporary Uses**

**8-75. Temporary use; in general.**

"Temporary Use" shall mean an activity which is open to the public and conducted upon the exterior portion of a zoning lot, or within an approved temporary structure, for a limited and defined period of time, with the intent to discontinue such activity on the expiration of the time period. Provided:

1) A bona fide private function not exceeding two days, such as an employee picnic,

shall not require a temporary use permit.

2) A garage or rummage sale conducted in conformance with the Downers Grove Zoning Ordinance shall not require a temporary use permit.(Ord. No. 2390, § 1; Ord. No. 3383, § 1.) (Ord. No. 3730, Amended, 04/03/95)

**8-76. Same—License required; application; standards for issuance.**

No person shall conduct any temporary use without first having obtained a license therefor from the Village Clerk. Application for such license shall be made as provided in Section 8-3. Except as otherwise set forth below, such license shall be issued in accordance with the standards established by Section 8-2 herein. A temporary use shall be subject to the following conditions and standards:

1) Vacant lots. Except for holiday tree sales, a temporary use shall not be permitted on any vacant or abandoned lots.

2) Holiday tree sales. Holiday tree sales shall be permitted as a temporary use during the months of November and December.

3) Relation to principal use. Except for holiday tree sales and as otherwise provided herein, a temporary use shall be an activity accessory to, and consistent with, the principal use of the property. However, a temporary use which is not accessory to, and consistent with, the principal use of the property may be conducted pursuant to this section provided the property shall not be used for such non-consistent temporary uses for more than seven (7) consecutive days in any calendar year.

4) Uses allowed. A temporary use shall be limited to those permitted uses, conditional uses, and accessory uses allowed in the zoning district in which the temporary use is to be located.

5) Temporary structures. A temporary use may be conducted in a temporary structure such as a tent, awning, spectator stand or seating, shed or other similar item, provided such temporary structure shall comply with all applicable

building and health and safety ordinances of the Village. Such temporary structures shall be subject to inspection by Code Enforcement and fire department officials of the Village prior to commencing any activity or event for which the temporary use license was issued. A temporary structure shall not be maintained or used for more than 60 days in any calendar year.

6) Operation. No temporary use shall be operated in such a manner as to cause a public nuisance including, but not limited to stormwater runoff onto adjoining property; soil erosion; unsafe or inadequate vehicular access, egress, parking or on-site vehicular circulation; excessive noise; unruly crowds; or any other activity that jeopardizes the public peace, health, safety, or welfare.

7) Other codes and ordinances. Unless specifically otherwise authorized, a temporary use shall comply with all other codes and ordinances of the Village. Deviations from other codes and ordinances shall only be allowed if it is determined that such deviation will not endanger the public health, safety and welfare.

(Ord. No. 2390, § 1; Ord. No. 3383, § 1.) (Ord. No. 3730, Amended, 04/03/95; Ord. No. 3874, Amended, 08/12/96)

**8-77. Same—Approval—Limitations—Revocation.**

No temporary use license shall be issued unless the Village Manager has given written notice to the Village Council at least forty-eight hours prior to a regularly scheduled council meeting. At such meeting the Village Council may, in its discretion, and based upon its determination of the public health, welfare, and safety, direct the Village Manager to approve or deny a temporary use license to the applicant therefor. The Council may also impose or ratify restriction on any license including, but not limited to, requiring facilities, insurance, and prohibiting certain types of activities determined to be inappropriate or against the public health,

welfare or safety. A temporary license may be suspended or revoked as set forth in this Chapter for violation of any condition or restriction imposed. (Ord. No. 2390; § 1; Ord. No. 3383, § 1.)

**8-78. Same—Fee; term.**

The license fee for a temporary use license shall be twenty-five dollars for each license. No person, corporation, or other legal entity shall be granted temporary use licenses for a period or periods which in their aggregate, exceed 120 days in any calendar year. No more than six temporary use licenses shall be issued to any person, corporation or other legal entity in any calendar year, which six, individually or in their aggregate, shall not exceed 120 days in any calendar year. For purposes of this section, persons, corporations or other legal entities shall include any relatives, affiliates, agents, subsidiaries or other related applicant seeking to conduct the same or substantially the same use. No property shall be used for temporary use purposes more than 120 days in any calendar year. (Ord. No. 2390, § 1; Ord. No. 2987, § 2; Ord. No. 3383, § 1.) (Ord. No. 3730, Amended, 04/03/95)

**8-78.1. 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.)

**8-79. through 8-85. Reserved.**

(Ord. No. 3572, Amended, 06/21/93; Ord. No. 3586, Amended, 08/30/93; Ord. No. 3616, Amended, 12/13/93; Ord. No. 4144, Amended, 08/09/99)

**Article XIX. Adult Use Licensing Ordinance**

(Ord. No. 4144, Renumbered, 08/09/99, 8-78.1AR)

**8-1900. Short Title.**

This Ordinance shall be known as, and may be referred to as the "Village of Downers Grove Adult Use Licensing Ordinance." (Ord. No. 4144, Enacted, 08/09/99)

**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

# Temporary Use Permit Tracking

Boxed cells in column (6) identify those business that would likely extend the duration of their activity if the ordinance changes are approved

Boxed cells in column (7) indentify those business that would have been charged the \$50 application fee if the ordinance changes were in effect

Business (1)	Use (2)	Approved Start Date (3)	Approved End Date (4)	Application Received Date (5)	Duration of Activity (in Days) (6)	Processing Time Allowed (in Days) (7)
Good Samaritan Hospital	Neonatal Reunion Event	08/24/02	08/26/02	04/10/02	3	136
North Beach Downers Grove	Block Party 2002	08/09/02	08/10/02	06/10/02	2	60
Tweeter Home Entertainment	Car Show Event in Parking Lot	07/21/02	07/21/02	05/31/02	1	51
W.W. Grainger	Tents in Parking Lot	07/09/02	07/09/02	05/22/02	1	48
American Bicycle and Fitness	Tent in Front Parking Lot	06/25/02	07/02/02	05/12/02	8	44
Premier Catering	Outdoor Tables and Chairs	06/17/02	10/17/02	06/10/02	123	7
Main Street Pizza Café	Outdoor Table and Chairs	06/15/02	10/15/02	05/29/02	123	17
Hooters of Downers Grove	Radio Promotional Event	06/15/02	06/15/02	04/23/02	1	53
Eastern Art Arcade	Sidewalk Sale	06/13/02	06/15/02	05/15/02	3	29
Isabello/Bamboleo	Outdoor Dining Area	06/01/02	09/29/02	05/20/02	121	12
Starbucks Coffee	Outdoor Tables, Chairs & Umbrellas	05/31/02	09/28/02	05/16/02	121	15
Berto's Deli	Outdoor Tables and Chairs	05/31/02	09/30/02	05/21/02	123	10
Every Day's A Sundae	Outdoor Tables and Chairs	05/31/02	09/29/02	05/15/02	122	16
Feral Cat NFD	Perennial Plant Sale	05/25/02	05/26/02	05/15/02	2	10
Thomas Shell	Fundraiser- Car Wash	05/11/02	05/11/02	05/03/02	1	8
Clothestime	Sidewalk Sale racks on sidewalk	Weekends	May-Sept	05/13/02	N/A	
Quizno's Subs	Outside Tables and Chairs	05/01/02	07/31/02	03/14/02	92	48
Pots & Plants	Plant Sale	05/01/02	07/31/02	03/01/02	92	61
Dali's Café	Outdoor Tables and Chairs	04/27/02	08/25/02	04/25/02	121	2
Dominick's Food Store	Garden Center	04/25/02	06/15/02	04/25/02	52	0
Good Earth Greenhouse	Plant Sale	04/15/02	06/30/02	04/04/02	77	11
Euler True Value Hardware	Outside Display of merchandise	04/15/02	08/15/02	03/18/02	123	28
D.O.T.S.	Sidewalk Sale	Weekends	April-Sept	03/15/02	N/A	
Jewel Food Store	Green House Plant Sale	04/01/02	06/30/02	01/18/02	91	73
Cubs Food Store	Garden Hut	03/15/02	07/01/02	02/25/02	109	18
Kin-Ko Ace Hardware	Green House Plant Sale	03/15/02	06/30/02	02/25/02	108	18
Toys R Us	Outside Display of merchandise	03/14/02	07/14/02	03/14/02	123	0
Borman Tree Lot	Christmas Tree Sale	11/22/01	12/24/01	10/12/01	33	41
Juneau's Tree Lot	Christmas Tree Sale	11/22/01	12/24/01	10/16/01	33	37
Speedway Gas	Christmas Tree Sale	11/19/01	12/30/01	11/14/01	42	5
Indian Boundary Y's Men's Club	Christmas Tree Sale	11/19/01	01/01/02	11/12/01	44	7
Boy Scout Troop 89	Christmas Tree Sale	11/19/01	12/09/01	10/05/01	21	45

# Temporary Use Permit Tracking

Boxed cells in column (6) identify those business that would likely extend the duration of their activity if the ordinance changes are approved

Boxed cells in column (7) indentify those business that would have been charged the \$50 application fee if the ordinance changes were in effect

Business (1)	Use (2)	Approved Start Date (3)	Approved End Date (4)	Application Received Date (5)	Duration of Activity (in Days) (6)	Processing Time Allowed (in Days) (7)
The Balance of Life Foundation	Art Show Fundraiser	09/30/01	09/30/01	09/19/01	1	11
Faith United Methodist	Tent on east side	09/14/01	09/23/01	09/05/01	10	9
Fun In Motion	Tent Sale	09/06/01	10/01/01	09/03/01	26	3
Dream Interiors	Tent Sale	09/05/01	09/10/01	08/20/01	6	16
Linens N' Things	Tent Sale	08/30/01	09/04/01	08/03/01	6	27
St. Mary's Parish	Parish Picnic with Tent	08/26/01	08/26/01	07/25/01	1	32
Hooters of Downers Grove	Radio Promotional Event	08/25/01	08/25/01	07/24/01	1	32
Home Depot	Tent in Parking Lot for sale	08/20/01	09/09/01	08/15/01	21	5
St. Joseph's Parish	Annual Block Party	08/19/01	08/19/01	07/24/01	1	26
North Beach Downers Grove	Outdoor Event	08/17/01	08/18/01	05/24/01	2	85
Rental Max	Open House	07/27/01	07/28/01	07/25/01	2	2
Expo Design Center	Promotional Trailer for Maytag	07/12/01	07/15/01	06/18/01	4	24
Home Depot	Garden Center	07/05/01	07/06/01	07/03/01	2	2
Steak N' Shake	Car Show	6/27/2001 &	08/15/01	05/18/01	N/A	40
Eastern Art Arcade	Sidewalk Sale	06/14/01	06/16/01	05/10/01	3	35
Every Day's A Sundae	Outside Tables and Chairs	06/01/01	09/30/01	05/14/01	122	18
Zander's Café	Outside Tables and Chairs	06/01/01	09/01/01	05/15/01	93	17
P.A.C.T Humane Society	Perennial Plant Sale	05/26/01	05/27/01	04/17/01	2	39
Main Street Pizza Café	Outside Food Sale	05/25/01	09/23/01	03/23/01	122	63
Linens N' Things	Tent Sale	05/24/01	05/29/01	04/30/01	6	24
Subway Sandwiches	Outside Tables and Chairs	05/01/01	09/01/01	04/14/01	124	17
Roundhead's Pizza	Outside Tables and Chairs	05/01/01	08/31/01	03/26/01	123	36
Hancock Fabrics	Outside Display on Tables	04/19/01	04/22/01	04/03/01	4	16
Cubs Food Store	Garden Hut	04/15/01	07/04/01	03/08/01	81	38
The Good Earth Greenhouse	Plant Sale	04/15/01	06/30/01	04/04/01	77	11
Toys R Us	Outside Display of merchandise	04/12/01	07/31/01	04/12/01	111	0
Jewel Food Store Ogden Avenue	Sidewalk Plant Sale	04/02/01	06/16/01	02/12/01	76	49
Kin-Ko Ace Hardware	Green House Plant Sale	04/01/01	06/30/01	03/06/01	91	26
Euler True Value Hardware	Outside Display of merchandise	04/01/01	08/01/01	03/15/01	123	17
Jewel Food Store Main Street	Green House Plant Sale	04/01/01	06/20/01	12/28/00	81	94
Home Depot	Seasonal Sale	03/12/01	05/01/01	02/20/01	51	20