

**VILLAGE OF DOWNERS GROVE
COUNCIL ACTION SUMMARY**

INITIATED: Village Attorney **DATE:** June 15, 2004
(Name)

RECOMMENDATION FROM: _____ **FILE REF:** _____
(Board or Department)

NATURE OF ACTION:

- Ordinance
- Resolution
- Motion
- Other

STEPS NEEDED TO IMPLEMENT ACTION:

Motion to Adopt "AN ORDINANCE AMENDING ADVERTISING POLICIES", as presented.

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SUMMARY OF ITEM:

Adoption of the attached ordinance will amend advertising policies for advertisements appearing on Village buses, bus shelters, trash cans and billboards.

RECORD OF ACTION TAKEN:

VILLAGE COUNCIL POLICY

VILLAGE OF DOWNERS GROVE, ILLINOIS

SUBJECT: Advertising Policy

ISSUED BY: Village Council **Effective Date:** June 15, 2004

THIS IS A New Policy

Supersedes Previous Policy Dated September 16, 2003
And Titled An Ordinance Adopting Advertising Policies

ORDINANCE NO. _____

AN ORDINANCE AMENDING ADVERTISING POLICIES

WHEREAS, the Village adopted Ordinance No. 4532 establishing advertising policies on September 16, 2003; and

WHEREAS, the Village has and continues to maintain certain buses, bus shelters, trash cans, and billboards within the municipality; and

WHEREAS, it is deemed appropriate from time to time for the Village to allow advertisements to appear on Village buses, bus shelters, trash cans and billboards; and

WHEREAS, the Council of the Village of Downers Grove has determined that it is in the best interests of the Village to establish a policy to be followed in determining what types of advertisements should appear within the municipality;

NOW THEREFORE, BE IT ORDAINED by the Village Council of the Village of Downers Grove, in DuPage County, Illinois as follows:

SECTION 1:

A. It is the policy of the Village of Downers Grove that its buses, bus shelters, trash cans and billboards are not public forums and that all advertisements shall be commercial in nature. All advertising materials on the Village of Downers Grove buses, bus shelters, trash cans and billboards are subject to removal by the Village of Downers Grove. To the fullest extent possible, such advertising materials must be aesthetically pleasing and enhance the environment for the Village of Downers Grove riders and customers and the Village of Downers Grove's standing in the community.

Examples of advertising material that will be refused under this policy include, but are not limited to, the following:

1. Advertising that is unlawful, obscene or indecent or contains explicit messages or graphic representations pertaining to sexual contact or contains an offensive level of sexual overtone, innuendo or double entendre;
2. Advertising of contraception products or hygiene products of an intimate personal nature;

3. Advertising of products or services with sexual overtones such as massage parlors, escort services or establishments featuring X-rated or pornographic movies;

4. Advertising containing foul or offensive language;

5. Advertising that is harmful to children, either emotionally or physically;
a) The term "harmful to children" means language or pictures that: (i) describe or depict sexual contact or nudity; (ii) make use of foul language; (iii) describe or depict violent physical torture, destruction or death of a human being; (iv) describe or depict criminal activity in a way that tends to glorify or glamorize the activity and that, with respect to children under the age of 18, has a tendency to corrupt;
b) The term "of a nature to frighten children, either emotionally or physically" means language or pictures that describe or depict violent or brutal activities, whether such violence or brutality was intended or not, in a manner that causes children under the age of 18 physical or emotional distress or fear for his personal safety or for the safety of others;

6. Advertising of controversial public issues that may adversely affect the Village of Downers Grove's ability to attract and maintain its citizenry and ridership on the bus system.

7. Advertising of commercial advertisements by political candidates for public office and advertisements concerning ballot issues.

8. Advertising of alcohol or tobacco products.

B. Anyone wishing to commercially advertise on the Village buses shall abide by this policy, complete the Bus Advertising Agreement, as attached as Exhibit A, and pay to the Village, the fee of \$300 per month, per bus (which includes three (3) spaces on each bus) or \$750 per quarter if the same space is rented for more than one (1) month for three (3) advertising spaces on the same bus.

SECTION 2. That all ordinances or resolutions, or parts thereof, in conflict with the provisions of this ordinance be and are hereby repealed.

SECTION 3. That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

Brian Krajewski, Mayor

Passed:

Published:

Attest: April Holden, Village Clerk

DOWNERS GROVE BUS ADVERTISING AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, 20__ by and between the Village of Downers Grove ("Village"), an Illinois Municipality, and _____ ("Advertiser").

WHEREAS, the Village has and maintains municipal buses. These buses have frames and/or racks for advertising on the interior and exterior which is in fair condition and available for inspection.

WHEREAS, Advertiser wishes to commercially advertise on the Village's buses in the following manner:

- A. On one of the Village buses _____
- B. On more than one Village bus _____ (insert number of buses)

WHEREAS, the Parties wish to set forth the parameters for such advertising on the Village's buses.

NOW, THEREFORE, the Parties agree as follows:

1. Preamble. The provisions of the preamble are hereby incorporated into and made a part of this Agreement.

2. Advertising Policy. The Village maintains a Village Council Policy for Advertising. Any and all advertisers agree to comply with the guidelines of the Village Council Advertising Policy as presently written and any subsequent amendments thereto.

3. Payment. The fee for advertising on a municipal bus shall be paid in advance to the Village of Downers Grove, 801 Burlington Ave., Downers Grove, IL 60515. The rate for advertising on one (1) bus for one (1) month is \$300.00. This fee includes three (3) advertising spaces on the same bus. If an advertiser wishes to rent advertising space for longer than a one (1) month period, the rate is \$750.00 per quarter per bus for three (3) advertising spaces on the same bus.

4. Maintenance. The Village will maintain the condition of the advertisement in a safe and serviceable manner.

5. Insurance. To the fullest extent permitted by law, the Advertiser shall indemnify, keep and save harmless the Village and its agents, officers, and employees, against all injuries, deaths, losses, damages, claims, suits, liabilities, judgments, costs and expenses, (including any attorneys fees), which may arise directly or indirectly from any negligence or from the reckless or willful misconduct of the Advertiser, its employees, or its subcontractors, and the Advertiser, its employees, or its subcontractors, and the Advertiser shall at its own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith, and, if any judgment shall be rendered against the Village in any such action, the Advertiser shall, at its own expense, satisfy and discharge the same. This Agreement shall not be construed as requiring the Advertiser to indemnify the Village for its own negligence. The Advertiser shall indemnify, keep and save harmless the Village only where a loss was caused by the acts or omissions of the Advertiser, its employees, or its subcontractors.

6. Term of Agreement. The term of the Monthly Agreement shall commence on the 1st day of the month and shall automatically terminate on the last day of the same month (i.e. January 1st - January 31st). A Quarterly Agreement term shall commence on the 1st day of a month and shall automatically terminate on the last day of month two (2) months subsequent to the starting date (i.e. January 1st - March 31st).

7. Placement of Ads. The Village shall have the right to determine which bus and bus route shall have what advertisement placed upon it. The Village will attempt to rotate advertisements onto differing routes in the event an advertiser pays for more than one month. In no case will an advertisement remain on the same bus route for more than three (3) months.

8. Public Service Advertising. The Village shall have the right to advertise community events or other public service notice if the advertising space is unsold.

9. Village Endorsement. No implied or declared endorsement of any product or service by the Village is permitted.

10. Truthful Advertising. All commercial advertising must be truthful. False, deceptive or misleading commercial advertising is not permitted. All advertising must comply with all applicable ordinances, laws and regulations.

11. Reservation of Rights. The Village reserves the right to reject or remove any advertising, which it deems not to be in full compliance with the Village guidelines and this Agreement. The Village Manager or his designee shall make the final determination as to whether such advertising meets the guidelines or this Agreement.

12. Applicable Laws. The laws of the State of Illinois shall govern the Agreement without regard for the conflict of laws provisions. The proper venue for any legal action shall be DuPage County, Illinois or any federal court in Chicago.

IN WITNESS THEREOF, the Parties have caused this Agreement to be executed and made as of the date first written above.

VILLAGE OF DOWNERS GROVE

Print Name of Company/Advertiser

Riccardo Ginex, Village Manager

Print Name

ATTEST: _____

April Holden, Village Clerk

Signature

Subscribed and Sworn to before me this
_____ day of _____,
200____.

Notary Public