

**VILLAGE OF DOWNERS GROVE**  
**COUNCIL ACTION SUMMARY**

**INITIATED:** Legal Department      **DATE:** July 5, 2005  
(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 MAKING CERTAIN TECHNICAL AMENDMENTS TO THE DOWNERS GROVE MUNICIPAL CODE", as presented.

**SUMMARY OF ITEM:**

Adoption of the attached ordinance will make certain technical amendments to the Municipal Code.

**RECORD OF ACTION TAKEN:**

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

**AN ORDINANCE MAKING CERTAIN TECHNICAL AMENDMENTS  
TO THE DOWNERS GROVE MUNICIPAL CODE**

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

**Section 1. That Section 1.29 is hereby amended to read as follows:**

**1.29 Fee waivers.**

Notwithstanding anything else to the contrary contained in the Municipal Code, or any other code or ordinance of the Village, certain fees which may be established by such codes and ordinances may be waived by the Manager or Council, subject to the following:

- (a) These fees may be waived only for the benefit of governmental entities or not-for-profit charitable, religious, educational or public service organizations or institutions; and
- (b) The Village Manager may, in his sole discretion, waive, in whole or in part, any such fee not in excess of ~~one five~~ thousand dollars; ~~(\$5,000)~~; and
- (c) The Village Council may, in its sole discretion, waive, in whole or in part, any such fee of any amount.

Upon granting a fee waiver in compliance with this section, the Manager shall inform the Council in writing of his action. (Ord. No. 2048, § 1; Ord. No. 2486, § 1; Ord. No. 3265, § 9.)

**Section 2. That Section 3.25. is hereby amended to read as follows:**

**3.25. Sale to certain persons prohibited.**

- (a) No licensee or other person shall sell, give or deliver alcoholic liquor, including beer and wine, to any person under the age of twenty-one years, or to any intoxicated person. The fine for such a violation shall be a minimum of two hundred dollars (\$200.00) per occurrence.
- (b) If a person under the age of twenty-one years is in possession of alcoholic liquor on premises licensed to sell alcoholic liquor for consumption on such premises, it shall be presumed that the licensee sold, gave or delivered such alcoholic liquor to the minor in possession thereof.
- (c) For the purpose of preventing the violation of this section, any licensee, or its agent or employee, may refuse to sell or serve alcoholic beverages to any person who is unable to produce adequate written evidence of identity and of the fact that he or she is over the age of twenty-one years. (Ord. No. 244, § 15; Ord. No. 924, § 1; Ord. No. 1741, § 7; Ord. No. 2255, § 2; Ord. No. 2735, § 1.)

**Section 3. That Section 3.34. is hereby amended to read as follows:**

**3.34. Unlawful possession and consumption by persons under age.**

- (a) No person under the age of twenty-one years shall possess, consume, purchase, attempt to purchase or accept delivery of alcoholic liquor within the Village; provided the possession and dispensing, or consumption by a person under the age of twenty-one years of alcoholic liquor in the performance of a religious service or ceremony, the consumption by a person under the age of twenty-one years under the direct supervision and approval of the parent or guardian of such underage person in the privacy of the parent's or guardian's home, or the possession and delivery of, or attempt to purchase alcoholic liquors in pursuance of a person's lawful employment is not prohibited and shall not be construed as a violation of this

~~section. That person found guilty of such an offense shall be fined not less than seventy-five dollars (\$75.00), nor more than seven hundred fifty dollars (\$750.00).~~

(b) No person after purchasing or otherwise obtaining alcoholic liquor shall sell, give or deliver such alcoholic liquor to another person under the age of twenty-one years, except as allowed under subparagraph (a) of this section. (Ord. No. 2302, § 1; Ord. No. 2735, § 1; Ord. No. 2766, § 2; Ord. No. 2882, § 2.)

**Section 4. That Section 3.39. is hereby amended to read as follows:**

**3.39. General.**

Any person or entity violating any provision of this Chapter shall be fined for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues, such fine(s) shall not to exceed fifteen thousand dollars (\$15,000) over the course of a license year. In addition to any other penalty, a licensee convicted of violating any provision of this Chapter may be subject to having its license revoked, suspended or not renewed by the local Liquor Control Commissioner. (Ord. No. 2735, § 1.)

**Section 5. That Section 13.35. is hereby amended to read as follows:**

**13.35. Open burning prohibited; exceptions.**

It shall be unlawful to burn or cause the burning at any location within the Village of any paper, cardboard, leaves, twigs, branches, wood, grass, grass clippings or other refuse from farming or gardening, or other combustible materials of any nature whatsoever, except as follows:

(a) Burning any combustible materials wholly within a building in a fireplace or other equipment or facility designed and constructed for such purpose; provided, that any refuse-burning incinerator installed in any residence building shall comply with the rules and regulations of the state air pollution control board as the same may from time to time be in effect;\*

(b) Burning charcoal briquettes, natural gas, propane, approved wood, or commercially prepared seasoned wood chips in conjunction with any of the foregoing for cooking purposes, provided, however, in multi-family buildings which are not protected by an automatic sprinkler system charcoal burners and other open flame cooking devices including but not limited to liquefied petroleum gas burners shall not be operated on combustible ~~or non-combustible~~ balconies or within 10 feet of combustible construction. In multi-family buildings protected by an automatic sprinkler system charcoal burners and other open flame cooking devices including but not limited to liquefied petroleum gas burners may only be operated on non-combustible balconies. Liquefied petroleum gas fryers shall not be located within 50 feet of combustible construction.

(c) Burning combustible materials in a high temperature incinerator providing complete combustion and complying with the rules and regulations of the state air pollution control board as the same may from time to time be in effect;

(d) Burning approved wood, as defined in paragraph (g), in an outdoor bonfire at a gathering conducted by religious, educational or other not-for-profit organization; provided, that a permit therefor is previously issued by the Fire Prevention Bureau and that such bonfire is attended by adult supervision and adequate safety equipment as approved by the Fire Prevention Bureau; and

(e) Burning any combustible material other than those listed in the first paragraph herein for recognized silvicultural or range or wildlife management practices or prevention or control of disease or pests; provided, (1) that the Fire Prevention Bureau shall find that the burning thereof will not constitute a danger to the health, safety and welfare of the citizens and residents of the Village or of other communities surrounding the Village, or constitute a danger of air pollution in any other respect, (2) that the Fire Prevention Bureau shall issue a permit therefor, and (3) that any such burning shall be attended by adequate personnel and safety equipment as approved by the Fire Prevention Bureau.

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(f) Burning approved wood in an approved container for recreational campfires, as defined in paragraph (g) in a safe and controlled manner. Provided that;

(1) Such fire shall be under the control of and attended at all times by a person 18 years of age or older.

(2) A portable fire extinguisher having a minimum rating of 4-A or other approved extinguishing agent such as sand, dirt or water in sufficient quantity shall be available for immediate use.

(3) Such fire shall at all times be safely managed and shall not be permitted to create excessive flames, flying cinders or smoke.

(4) Such fire shall be located in an area separated from any structure by not less than fifteen (15) feet.

(5) Such fire shall not be used in such a manner as to emit offensive or objectional smoke or odors or when other circumstances make such fires hazardous.

(6) At no time shall such fire be utilized for waste disposal purposes.

(g) For purposes of this Section the following definitions apply:

*Approved Container.* A commercially manufactured device specifically designed, intended, advertised, and utilized for the purpose of recreational campfires, such as chimneas and outdoor fireplaces. Such container must be located above ground and in no event shall be built into the ground or located below grade.

*Approved Wood.* Seasoned dry firewood of dimensions appropriate to safely fit within the container. In particular, but without limitations, approved wood shall not include any green or fresh vegetation materials; nor shall it include any leaves, grass, bushes, roots or other similar materials, nor shall it include any construction materials, such as treated woods, plywood or pressure-treated wood, or any other materials which produce excessive smoke, cinders or other emissions characteristic of non-seasoned wood.

*Bonfire.* A safely conducted and controlled outdoor fire utilized for ceremonial purposes.

*Recreational Campfire.* A safely conducted and controlled outdoor fire utilized for comfort or relaxation. (Ord. No. 1509, § 1; Ord. No. 2434, § 9; Ord. No. 2857, § 9.)

\*See State of Illinois Air Pollution Control Requirements Technical Release No. 140-2, dated October, 1969, and subsequent releases.

### **Section 6. That Section 14.146. is hereby amended to read as follows:**

#### **14.146. Reserved.**

~~(a) Each driver and front seat passenger of a motor vehicle operated on a roadway in this Village shall wear a properly adjusted and fastened seat safety belt; except that a child less than six (6) years of age shall be protected as required pursuant to the Child Passenger Protection Act. Each driver under the age of 18 years and each of the driver's passengers under the age of 18 years of a motor vehicle operated on a street or highway in this Village shall wear a properly adjusted and fastened seat safety belt. Each driver of a motor vehicle transporting a child 6 years of age or more, but less than 16 years of age, in the front seat of the motor vehicle shall secure the child in a properly adjusted and fastened seat safety belt.~~

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

~~(1) A driver or passenger frequently stopping and leaving the vehicle or delivering property from the vehicle, if the speed of the vehicle between stops does not exceed 15 miles per hour.~~

~~(2) A driver or passenger possessing a written statement from a physician that such person is unable, for medical or physical reasons to wear a seat safety belt.~~

~~(3) A driver or passenger possessing an official certificate or license endorsement issued by the appropriate agency in another state or country indicating that the driver or passenger is unable for medical, physical or other valid reasons to wear a seat safety belt.~~

~~(4) A driver operating a motor vehicle in reverse.~~

~~(5) A motor vehicle with a model year prior to 1965.~~

~~(6) A motorcycle or motor driven cycle.~~

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~~(7) A motorized pedaleycle.~~

~~(8) -A motor vehicle which is not required to be equipped with seat safety belts under federal law.~~

~~(9) -A motor vehicle operated by a rural letter carrier of the United States postal service while performing duties as a rural letter carrier.~~

~~(c) Failure to wear a seat safety belt in violation of this section shall not be considered evidence of negligence, shall not limit the liability of an insurer, and shall not diminish any recovery for damages arising out of the ownership, maintenance, or operation of a motor vehicle.~~

~~(d) Any Village police officer may stop any motor vehicle, or driver or passenger of such vehicle in violation of this section while such motor vehicle is being operated on any roadway in this Village.~~

~~(e) A violation of this Section shall be a petty offense and subject to a fine not to exceed twenty five dollars (\$25.00).~~

**Section 7. That Section 15.16. is hereby amended to read as follows:**

**15.16. Obscenity.**

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

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

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

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

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

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

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

(b) A thing is obscene if, when considered as a whole by the average person applying contemporary community standards: (i) its predominant appeal is to prurient interest, that is, a shameful or morbid interest in nudity, sex or excretion, and it goes substantially beyond customary limits of candor in description or representation of such matters; and (ii) it depicts in a patently offensive way beyond the customary limits of candor, ~~§Specified §Sexual aActivities as defined in Section 8-798-2001~~ of this Code; and (iii) the work or exhibition as a whole is utterly without redeeming social importance.

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

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

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

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

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

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

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

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

No. 2877, § 1.)

**Section 8. That Section 17.68. is hereby amended to read as follows:**

**17.68. Alarm systems subject to disconnection from Village system.**

The following alarm systems may be subject to disconnection as provided in Section 17-~~70~~69:

(a) Any Alarm System which does not or no longer meets the requirements required for connection as set forth in Section 17-58.

(b) Any Alarm System for which connection fees, false alarm fees or additional charges under this Article have been assessed and are thirty days overdue.

(c) Any Alarm System which has ten or more false alarms within a sixty day period.

For properties required to be connected to the Village System according to the Downers Grove Municipal Code and subject to disconnection pursuant to this section, the procedures for disconnection in Section 17-69 shall be followed, but a fee of two hundred dollars (\$200.00) shall be assessed in lieu of disconnection.

(d) Any Alarm System which is no longer required pursuant to the Downers Grove Municipal Code to be connected to the Village System. (Ord. No. 2183, § 1; Ord. No. 2681, § 1)

**Section 9. That Section 22.15. is hereby amended to read as follows:**

**22.15. Application for and issuance of cab company license.**

The cab company shall apply to the Village Clerk for a cab company license before operating any taxicabs within the Village. The application for a cab company license shall be approved by the commissioner and a cab company license issued pursuant to the following rules and regulations:

(a) Application shall be made by the cab company in writing to the Village Clerk on a form as reasonably required and approved by the commissioner. A license fee of two hundred dollars shall be submitted with the application. A cab company license shall be valid for a period of three (3) calendar years except for the license term beginning January 1, 1996, and extending through March 31, 1998. Each license term thereafter will be for three years extending from April 1 to March 31. The full license fee shall be paid no matter when the license is applied for or issued. If the application is for renewal of a cab company license, the application shall be submitted to the Village Clerk by March 1 of the year in which the license will expire. Applications filed after this deadline shall be considered a late filing but shall be accepted by the Village Clerk provided a late filing fee of \$50.00 is submitted with the application and the license fee.

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

(c) The cab company shall, with its application for a cab company license, register or cause to be registered each taxicab operated by or operated for, such company within the Village. The following information for each taxicab to be registered shall be provided:

(1) The year, make, color and vehicle identification number of the taxicab.

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

(3) Written certification that required safety inspections of the taxicab and inspection of the taximeter have been completed within thirty days prior to application and that these inspections find the taxicab to be safe and the taximeter to be in proper working order and accurate.

(d) The Village shall investigate the owner(s) of the applicant cab company. If this investigation or

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the application materials uncovers information showing any of the following, the application shall not be approved and no license shall be issued to the cab company:

(1) An owner(s) has been convicted of a felony based upon his conduct or involvement in such business or activity or related or similar business or activity within the past ten years;

(2) An owner(s) has been convicted of a felony or misdemeanor unrelated to his conduct or involvement in such business or activity or related or similar business or activity, but which felony or misdemeanor involved the use of a deadly weapon, traffic in narcotic drugs, or violence against another person, including criminal sexual assault and sexual abuse, within the past ten years;

(3) An owner(s) has been convicted of a misdemeanor or licensing ordinance violation based upon his conduct or involvement in such business or activity or related or similar business or activity within the past two years; or

(4) The owner(s) or applicant(s) has misrepresented facts in the application for a license.

(e) The owner(s) or applicant(s) shall submit his/her fingerprints to be used in completing the investigation. Owner(s)/applicant(s) are required to present themselves for fingerprints to be taken by the Downers Grove Police Department or by a State approved agency. Applicant shall pay a fingerprint fee assessed by the Village. 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.

(f) The cab company shall be required to file with the Village Clerk, along with its application for a cab company license, a certificate of insurance showing that the cab company, its drivers and employees, are adequately insured against public liability, property damage and workmen's compensation claims on account of its operation of taxicabs in the Village, and shall provide proof of automobile liability insurance for each taxicab registered pursuant to this section. Taxicab companies with independent contractors as taxicab drivers must cause each driver to provide proof of automobile liability insurance for each taxicab registered pursuant to this section. The limits for the required automobile liability insurance shall be not less than \$100,000 for injury to any one person or \$300,000 for personal injuries in any one occurrence, and not less than \$25,000 for property damage in any one occurrence. If the insurance expires or is otherwise terminated during the term of the license, the cab company shall submit to the Village, within 15 days of receipt thereof, a new certificate of insurance showing that the policy has been renewed or a new policy obtained which meets the requirements of this section.

(g) Failure to fully comply with the application and disclosure requirements of this section shall constitute grounds for the commissioner to deny issuance of a cab company license to any cab company.

(h) Issuance or Denial - Taxi Cab Company License. The Taxi Cab 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 taxi cab company license pursuant to this Ordinance. Provided, if after 45 days a criminal history background investigation has not been completed, the Taxi Cab Commissioner may issue a temporary taxi cab company license during the investigation period. The temporary taxi cab company 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 Taxi Cab Commissioner has the right to revoke the temporary taxi cab company license immediately upon an unsatisfactory completion of a criminal history background investigation. (Ord. No. 2002, § 1; Ord. No. 2355, § 5; Ord. No. 2579, § 6; Ord. No. 3174, § 1.)

### **Section 10. That Section 22.19. is hereby amended to read as follows:**

#### **22.19. Application for and issuance of taxicab driver's license.**

The driver of any taxicab to be operated within the Village for a cab company licensed to operate taxicabs in the Village, shall apply for a taxicab driver's license before driving a taxicab in the Village. The application for a taxicab driver's license shall be approved by the commissioner and a taxicab driver's license issued pursuant to the following rules and regulations:

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(a) Application shall be made by the driver in writing to the Village Clerk on a form as reasonably required and approved by the commissioner. Prior to issuance of the license, a license fee of fifty dollars (\$50.00) shall be submitted. The taxicab driver's license shall be valid for a period of two (2) calendar years extending from April 1 to March 31. The full license fee shall be paid no matter when the license is applied for or issued.

(b) The driver shall be required to include in the application a true statement of certain facts including but not limited to, the age of the driver, the driving convictions of the driver, the type of state driver's license of the driver, any felony convictions of the driver, the address and home telephone number of the driver.

(c) At the time of application, the driver shall submit his or her driving abstract obtained from the Illinois Secretary of State's Office within thirty (30) days prior to the submittal of the application for a license.

(d) The Village shall investigate the applicant for a taxicab driver's license. If this investigation or the application materials uncover information showing any of the following, the application shall not be approved and no taxicab driver's license shall be issued to that applicant:

(1) The applicant has been convicted of a felony based upon his conduct or involvement in such business or activity or related or similar business or activity within the past ten years;

(2) The applicant has been convicted of a felony or misdemeanor unrelated to his conduct or involvement in such business or activity or related or similar business or activity, but which felony or misdemeanor involved the use of a deadly weapon, traffic in narcotic drugs, or violence against another person, including criminal sexual assault and sexual abuse, within the past ten years;

(3) The applicant has been convicted of a misdemeanor or licensing ordinance violation based upon his conduct or involvement in such business or activity or related or similar business or activity within the past two years;

(4) The applicant has been convicted of driving under the influence of drugs or alcohol within the past five years.

(5) The applicant has been convicted of reckless driving within the past five years;

(6) The applicant's driver's license has been suspended for violations concerning his operation of a motor driven vehicle within the past five years; or

(7) The owner(s) or applicant(s) has misrepresented facts in the application for a license.

(e) The driver shall submit his/her 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 or by a State approved agency. Driver shall pay a fingerprint fee assessed by the Village. 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 that there may be reason to believe that the renewal applicant may have unreported convictions.

(f) The applicant for a taxicab driver's license shall provide to the Village Clerk with his application evidence that he holds a valid Illinois operator's license that allows him to operate taxicabs under the laws of the state.

(g) The taxicab to be driven by the driver applying for the license shall pass a taxicab safety inspection within thirty days of application for a taxicab driver's license. Such inspections shall be conducted by Village approved testing stations according to the standards established by the Village. For taxicabs validly operating in the Village on April 1, 1997, the driver shall have the taxicab inspected on or before April 1, 1998. Upon successful completion of the inspection, a certificate of safety inspection will be issued and must be placed on the windshield of the taxicab. These safety inspections shall be valid for one year. Taxicabs shall be reinspected during the term of the driver's license whenever the certificate of inspection expires. If the driver changes taxicabs, the new taxicab shall be inspected pursuant to this subsection before it can be operated in the Village. No taxicab shall be operated within the Village without displaying a current and valid Village certificate of safety inspection. Upon issuance of a taxicab driver's license, the driver shall at all times when operating a taxicab in the Village carry a license card that contains

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his name, license number and year for which the license is valid. The taxicab driver shall exhibit this card upon the request of any passenger or police officer.

(h) Failure to comply with the application and disclosure requirements of this section shall constitute grounds for the commissioner to deny issuance of a taxicab driver's license to any driver.

(i) Issuance or Denial - Taxi Driver's License. The Taxi Cab 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 taxi cab driver's license pursuant to this Ordinance. Provided, if after 45 days a criminal history background investigation has not been completed, the Taxi Cab Commissioner may issue a temporary taxi cab driver's license during the investigation period. The temporary taxi cab driver's 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 Taxi Cab Commissioner has the right to revoke the temporary taxi cab driver's license immediately upon an unsatisfactory completion of a criminal history background investigation. (Ord. No. 2002, § 1; Ord. No. 2579, § 10.)

**Section 11.** That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**Section 12.** That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

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Mayor

Passed:

Published:

Attest: \_\_\_\_\_

Village Clerk