



MANAGER'S MEMO ITEM

ITEM: AN ORDINANCE AMENDING THE USE OF PUBLIC PROPERTY AND REGULATING TEMPORARY USES

WORKSHOP DATE: April 26, 2005

PREPARED BY: Enza I. Petrarca, Village Attorney
April Holden, Village Clerk
Carol Conforti, Liaison to the Liquor Commission

BID AMOUNT: _____ **ACCOUNT:** _____

BUDGET AMOUNT: _____

PURPOSE: To revise existing Sidewalk Café, Temporary Use and Special Commercial Events policies and establish a Parking Deck Rental Policy

BACKGROUND:

In 1999, the Village Council adopted an ordinance regulating Sidewalk Cafes and Special Commercial Events wherein private use of public property is regulated. The Legal Department is proposing changes to the existing the Sidewalk Café, Special Commercial Event and Temporary Use ordinances and establish a policy with regard to the use of the Special Events Area of the Parking Deck.

In an effort to further streamline the Temporary Use, Sidewalk Café and Special Commercial Events process, it is proposed that all applications run through the Community Response Center Coordinator. Depending upon the use requested and the nature and complexity of the application, the Coordinator will contact other Village departments for their review and input on the application.

Temporary Use

The temporary use provisions will be amended in order to set forth required submittal documentation. Temporary use licenses are currently processed through the e-permit system. We will be requiring a PIN from applicants as these applications will continue to be processed through the e-permit system. In addition, the draft ordinance proposes to limit temporary use permits to not-for-profit organizations unless the use is accessory to the principal use of the property. In reviewing requests of the past year, there were applications for temporary use licenses to operate carnivals, painting sales, shoe sales and flea markets. Some applicants requested that the Village waive fees, but were unable to show proof of their not-for-profit status. Restricting permits for activities accessory to the principal use of the property and to not-for-profit organizations will eliminate a number of problematic requests, distracting displays and alleviate congestion in privately held parking lots and property.

Sidewalk Cafes

After reviewing ordinances of several surrounding communities, the Legal Department is proposing modifications to the Village's Sidewalk Café ordinance. Staff is proposing that submittal be made to the Village Manager with notice given to the Village Council for consideration. It is also proposed that operation of sidewalk café will be limited to April 1st-October 31st. The proposed ordinance establishes a uniform application fee of \$150.00, a rental charge for the use of the property at \$1.00 per square foot of space utilized and that the applicant pays for all inspections required by the Village. The ordinance also requires a letter of credit in the event the Village needs to conduct repairs, cleanup and/or restore the Village property to its original condition. In addition, the ordinance requires that 5 feet of the public

sidewalk remain open and unobstructed. Finally, the amendment provides that the Village reserves its right to temporarily close the sidewalk café in the event it interferes with a public event.

Special Commercial Events

The Legal Department is also proposing to amend Section 19-50 regarding Special Commercial Events by establishing submittal requirements and establish an application fee of \$150.00. In the event there is damage to the Village property (or it is not restored or cleaned property) a security deposit is required. The proposed ordinance includes certain code, fire and health inspection requirements. The ordinance also provides for reimbursement for Downers Grove Police Department security and Village personnel so that the taxpayers are not burdened with expenses associated with a commercial event.

Parking Deck Rental Policy

Attached is a policy which will establish rules for the rental and use of the area commonly known as the Special Commercial Events area contained in the lower level of the Parking Deck. The Special Commercial Events area is approximately 29,500 square feet. The proposed policy limits the deck use to other local government institutions and not-for-profit organizations, which is consistent with other Village property rental properties (i.e. Public Works Facility Rental). Permits for the use of the deck will not be issued to any entity that intends on charging fees, admission or for the purpose of monetary gain. The policy sets forth both guidelines and a draft facility rental agreement that will guide staff in the appropriate use and rental of the parking facility. The policy will also set forth a rental charge for use of the deck at \$.10 per square foot of area utilized. The Legal Department has found no surrounding municipality that rents out their publicly-owned parking facility.

SURVEY OF OTHER COMMUNITIES:

See attached chart of surrounding communities codes concerning sidewalk cafes.

ATTACHMENTS:

AN ORDINANCE AMENDING THE USE OF PUBLIC PROPERTY AND TEMPORARY USE PROVISIONS

VILLAGE COUNCIL POLICY; Rental of the Public Parking Facility

STAFF RECOMMENDATION:

Staff recommends that the Council adopt the attached ordinance and policy regarding Rental of the Public Parking Facility.

REQUESTED COURSE OF ACTION:

Place this item on the May 3, 2005 Active Agenda.

SIDEWALK CAFES

Community	Application Fee	Additional Fees	Administrator	Insurance	Other Requirements and Restrictions	Term/Hours of operation
Arlington Heights	\$100.00	-0-	Planning Department	\$1 Mil	May not reduce sidewalk to less than 5 ft.; Hold harmless; Appurtenances removed during winter	Issued annually/6 am-11pm
Champaign	\$100.00	-0-	Planning Director	\$1 Mil	May not reduce sidewalk to less than 4 ft.; Hold harmless; No live entertainment; Portable heaters regulated by FD; Limit items that can be contained in area;	Expire Jan. 31/Open only during business hours
Chicago	-0-	Determined by the Director, taking into consideration land value	Director-Dept. of Revenue; Ward Alderman review, passage of ordinance	\$1 MIL	May not reduce sidewalk to less than 6 ft.; Hold harmless; no music live or recorded; install & maintain physical boundary	Apr 1-Nov 1
Elmhurst	\$100.00	-0-	Submit to City Clerk/City Manager may approve, Council can deny approval	\$1 Mil	May not reduce sidewalk to less than 5 ft.; Wash sidewalk daily	May 1-Oct 31
Evanston	\$200.00	\$1.00 per sq. foot	City Manager	\$1 Mil	May not reduce sidewalk to less than 5 ft.; Hold Harmless; Valid business license; Tables, chairs stored inside business; Surrounded by ropes or chains	Apr 1-Nov 1/ NO ALCOHOL after 9:30 weekdays, 10:30 weekends.
Geneva	\$25.00	-0-	Building Commissioner	\$500,000	Limit items that can be contained in area	Expire Dec. 31
Highland Park	\$50.00	-0-	Business Relations Dept./City Manager	\$1 Mil	May not reduce sidewalk to less than 5 ft.; Hold Harmless; install temporary barrier; Tables, chairs stored inside business	Annual
Hinsdale	\$50.00	\$5.00 per table	Apply to Director of Public Services/ Approved by Board of Trustees	\$1 Mil	May not reduce sidewalk to less than 6 ft.; Hold harmless	May 1-April 30th

SIDEWALK CAFES

Community	Application Fee	Additional Fees	Administrator	Insurance	Other Requirements and Restrictions	Term/Hours of operation
LaGrange	-0-	Charge per table (\$25.00)	Community Development	\$1 Mil	May not reduce sidewalk to less than 5 ft; Hold harmless; No permanent fixtures; all fixtures removed during non-business hours; public event planned on the ROW takes precedence	April 15-October 15
Mt. Prospect	\$50.00	\$.50 per sq. foot	Community Development	\$500,000	May not reduce sidewalk to less than 5 ft; No music	1 yr. From approval/ 6 am-11pm
Naperville	\$50.00	-0-	Submit to Clerk, Manager Signs, no council approval required	\$1 Mil	May not reduce sidewalk to less than 5 ft.; Hold harmless; No alcohol; Remove equip. daily;	April 1-Oct 15/ 8:30am-4 pm only Washington Street
Oak Park	\$50.00	\$.50 per sq. foot	Clerk/Dir. of PW	\$200,000	May not reduce sidewalk to less than 5 ft.	
Western Springs	1.5 % estimated cost of improvement or/ if under \$3,300.00 = \$50	Fee for use assigned by Council + annual permit/inspection fee	Dept of Code Enforcement Review w/ Board approval	\$1 Mil	May not reduce sidewalk to less than 5 ft.; Hold harmless; Allowed on a case by case basis	6am-10 pm
Wilmette	\$50.00		Dir. Com Dev/Fwd to Site Plan Review Committee; Issued by Dir. of Finance	\$1 Mil	May not reduce sidewalk to less than 5 ft.; Hold harmless; If liquor sales, must be enclosed; Obstructions may not be on property Nov 1-Apr. 30 th	1 year/ 6am-11pm

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE USE OF PUBLIC PROPERTY
AND TEMPORARY USE PROVISIONS**

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

Section 1. That Section 8.75. is hereby amended to read as follows:

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.
 - 3) In addition to a temporary use permit, certain activities may require an amusement license as well.
- (Ord. No. 2390, § 1; Ord. No. 3383, § 1.)

Section 2. That Section 8.76. is hereby amended to read as follows:

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. In addition to any other requirements, a plat of survey for the area where the activity will take place is required in order to obtain a temporary use permit. 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 business conducting the temporary use is a not-for-profit organization registered with the Illinois Secretary of State or qualified as tax exempt pursuant to the Internal Revenue Code, and further, the property shall not be used for such non-consistent temporary uses for more than seven (7) consecutive days in any calendar year.~~
 - 3) Exceptions:
 - A. Holiday tree sales. Holiday tree sales shall be permitted as a temporary use during the months of November and December.
- 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

Sidewalk Cafe

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 the Code Services Department 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 180 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 pedestrian or 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) Applicant shall not reduce the open, unobstructed portion of the public sidewalk to less than five (5) feet.

78) 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.)

Section 3. That Section 19.49. is hereby amended to read as follows:

19.49. Sidewalk Cafes.

(a) ~~Sidewalk cafes may be authorized by the Village Council within the Concentrated Central Business District, subject to a license agreement and any other such terms and conditions as the Village Council may direct.~~ No person shall operate or maintain a sidewalk cafe on property occupied, maintained or controlled by the Village without first having obtained a license therefor or subject to the conditions contained herein, to a license agreement and any other such terms and conditions as the Village Council may direct. Applications for a sidewalk cafe shall be made on forms provided by the Village by the owner or lessee of the property on which such sidewalk cafe is to be operated or maintained. No sidewalk cafe license shall be issued unless the Village Manager has given notice to the Village Council at least seventy-two (72) hours prior to a regularly scheduled Village Council meeting. At such meeting the Village Council may, in its discretion, direct the Village Manager to deny the sidewalk cafe license to the applicant therefor, or impose any additional conditions or restrictions as it deems appropriate. For purpose of this section, the following terms are defined:

1. "Sidewalk Cafe" means a dining area situated upon public property, including a sidewalk, and operated as an integral part of an adjacent restaurant where food and beverages are sold or served for consumption on premises.

2. "Concentrated Central Business District" means that area so described in the Downers Grove Zoning Ordinance.

3. "Restaurant" means an establishment where food or beverages are sold or served and which includes table seating within such establishment for consumption on premises. Such business may also include "take out" sales in addition to sales for on-site consumption.

(b) The decision to grant or deny an application under this section shall be within the sole discretion of the Village Council. Because each application will involve different property and issues, the Village Council is expected to consider a number of factors, including but not limited to the following:

- (1) The location and area surrounding the proposed sidewalk cafe.
- (2) Any safety concerns.
- (3) The impact on surrounding properties, uses and occupants.
- (4) The impact on pedestrian and vehicular traffic.
- (5) The nature of the property and whether a sidewalk cafe is appropriate within this area.
- (6) The operation of the proposed sidewalk cafe.
- (7) The past operation of the licensee within the Village.
- (8) Whether alcoholic liquor will be served within the sidewalk cafe.

(c) A sidewalk cafe shall be subject to such conditions and restrictions as may be directed by the

Sidewalk Cafe

Village Council to protect the public health, safety or welfare, including but not limited to the following:

(1) The applicant's restaurant shall be located within the Concentrated Central Business District and in a building immediately adjacent to the public area designated in the license application.

(2) Fencing or a removable barrier may be required.

(3) Sidewalk cafes shall only be open to the public during the normal business hours of the adjacent restaurant, or such hours as the Village Council may direct. Operation of the cafe shall be limited to April 1st through October 31st. Appurtenances and/or portable fencing shall be removed from the public property when the sidewalk cafe is not in use or operation.

(4) Entertainment and electronically amplified or reproduced music or sound may be prohibited or restricted as the Village Council may direct. Live entertainment is expressly prohibited in the Sidewalk cafe.

(5) The sidewalk cafe shall be established and operated in a safe and reasonable manner with due regard for the health and safety of persons and property. In no event shall the sidewalk cafe obstruct vehicular or pedestrian traffic in an unsafe or unreasonable manner.

(6) The sidewalk cafe shall be established and operated in a clean, well maintained and sanitary manner. In particular, but without limitation, the licensee shall promptly and properly collect and dispose of all litter, trash and other waste materials associated with the sidewalk cafe, including materials in the adjacent public right of way originating from the sidewalk cafe. The Village shall have the right to remove or cause the removal of any debris, and otherwise maintain the public property of the sidewalk cafe, in the event the licensee fails to promptly and properly clean and maintain such area. In such event, the licensee shall promptly reimburse the Village in taking such action. The Village reserves all rights to collect the costs associated with such clean-up, including the right to draw upon the letter of credit. If the costs exceed the letter of credit, the Village shall reserve the right to file a lien against the property.

(7) Except as expressly authorized in the license agreement, no cooking or food preparation shall be permitted in a sidewalk cafe.

(8) Except as expressly authorized in the license agreement, all tables, chairs, furnishings, equipment and other items of personal property shall be removed from the public right of way at the close of business each day.

(9) Except as expressly authorized in the license agreement, where a structure or other facility, such as deck, is permitted as part of the sidewalk cafe, it shall be removed, and the right of way restored, within 30 days following expiration or termination of the license agreement.

(10) The licensee/applicant shall provide the Village with a letter of credit, in amounts and on upon terms as may be directed by the Village Manager, to guarantee prompt and proper removal of such structure. The letter of credit shall be maintained by the licensee throughout the term of the license and such other period of time during which licensee operates or is engaged in the removal of its facilities. Such letter of credit shall be retained until an inspection is completed upon the public property to ensure that there has been no damage to it as a result of the use thereof. Applicant shall be responsible for any and all fees associated with said inspections.

(101) To the fullest extent permitted by law, the licensee/applicant shall defend, indemnify and hold harmless the Village, and its officers, boards, commissions, elected and appointed officials, agents and employees, for any and all claims for damages arising out of injuries which may be incurred as a result of the use of the right of way by the licensee.

(112) Licensee/Applicant shall maintain throughout the term of the license, general comprehensive liability insurance; hazard insurance, including comprehensive form, premises-operations, explosions and collapse hazard, underground hazard and products completed hazard; liquor liability insurance, commonly known as dram shop, if applicable; automobile liability insurance; and workers compensation insurance-all naming as additional insured the Village, and its officers, boards, commissions, elected and appointed officials, agents and employees, in such minimum amounts as may be set by the Village Manager. The insurance required by this section shall be maintained by the licensee throughout the term of the license and such other period of time during which licensee/applicant operates or is engaged in the

Sidewalk Cafe

removal of its facilities.

~~(123) The licensee applicant shall be required to pay such fees or rentals and enter into a written license agreement with the Village, in such form as may be approved by the Village Council, incorporating applicable conditions and restrictions.~~

~~(134) The licensee applicant shall not be permitted to sell or serve alcoholic liquor at the sidewalk cafe except in conformance with an appropriate liquor license issued pursuant to Chapter 3 of the Downers Grove Municipal Code. Alcohol shall be served at sidewalk cafes only in conjunction with meal service. The cafe shall not function or shall not otherwise be advertised as a "beer garden". All alcoholic liquor shall be provided from the interior bar or service area. No portable bars or service counters shall be permitted in the sidewalk cafe.~~

~~(15) Applicant shall be required to pay a license fee in the amount of one dollar (\$1.00) per square foot of the public right of way to be occupied.~~

~~(16) Applicant shall not interfere with pedestrian or vehicular traffic, or reduce the open, unobstructed portion of the public sidewalk to less than five (5) feet.~~

(d) Any person seeking approval of a sidewalk cafe shall submit to the Village Manager a written application for a license to conduct a sidewalk cafe in a form provided by the Village and the required application fee as provided in paragraph e, below ~~to the Village Manager~~. Such application shall include such information as the Manager may direct, including but not limited to, the following:

(1) The name, address and telephone number of the applicant and of the adjacent restaurant and its manager.

(2) An overall site plan showing the proposed location and dimension of the sidewalk cafe in relation to the adjacent street and sidewalk including that part of the sidewalk to remain outside of the cafe. This shall include a detailed description and site plan regarding any proposed improvements within the public right of way.

(3) A floor plan specifying the location of ingress, egress, tables, decorations, furnishings, equipment, removable perimeter barriers, the total square footage to be occupied by the sidewalk cafe and the maximum seating capacity.

(4) An operations plan specifying the proposed dates, days and hours of operation of the adjacent restaurant, the number of wait staff, security staff and maintenance personnel and a proposed menu, including alcoholic beverages, if applicable.

(5) A statement regarding whether the applicant will be serving alcoholic liquor at the sidewalk cafe as well as information regarding the current or proposed liquor license status of the applicant.

(6) A proposed license agreement on forms provided by the Village Manager.

(7) Such other information as the Manager may direct.

(e) An application fee shall be included in the initial submission of the application in order for the application to be considered. The application fee shall be as follows:

(1) Application fee \$150.00

(f) In order to protect the public health, safety and welfare, the Sidewalk cafe shall be inspected prior to opening the cafe and at the conclusion of the license agreement. Licensee shall be responsible for any and all fees associated with said inspections.

(g) In order to allow staff review and provide adequate time for consideration, applications and all required submittals must be furnished to the Village Manager one (1) month prior to the requested opening of the cafe. Late applications may result in a delayed opening.

~~(eh) The Village Manager shall review the completed application and transmit this it to the Village Council along with such recommendations as the Manager may have regarding whether the application should be approved and, if so, upon what conditions. The Village Council will render the final decision regarding whether the license will be granted and, if so, upon what terms.~~

~~(fi) A license issued pursuant to this Section shall not be transferable or assignable and shall not confer any property rights in the underlying right of way.~~

~~(gj) Any license granted under this Section shall be subject to the absolute and primary right of the~~

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Village to protect the public health safety and welfare. In the event of an emergency, or to prevent or protect against an immediate threat to the public health safety and welfare, the Village Manager may order the immediately cessation of business, and removal of any or all equipment and facilities from public right of way. In addition, the Village Manager may suspend or revoke any license issued under this Section in the event it is determined that the licensee has failed or refused to truthfully complete the application, or if the licensee has failed or refused to comply with the regulations of this Section, the license agreement or with other applicable law.

(k) 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 person as the Village Manager may designate.

(l) The Village shall have the right to remove or cause the removal of any equipment, structure or other facility of the licensee applicant, and/or restoration of the right of way, in the event such items are not promptly and properly removed by the licensee and/or the right of way restored, pursuant to this Section, the license agreement or a lawful order of the Village Manager. In such event, the Village, at its discretion, may store, sell or otherwise dispose of such items as it deems appropriate. The licensee applicant shall promptly reimburse the Village for all expenses in removing storage or disposal of such items and restoring the right of way. The Village reserves all rights to collect the costs associated with such actions, including the right to draw upon the letter of credit. If the costs exceed the letter of credit, the Village shall reserve the right to file a lien against the property.

(m) In the event that a Sidewalk Cafe interferes with a public event planned on the public right-of-way, the public event shall take precedence. The Village will endeavor to notify the applicant thirty (30) days in advance of the scheduled event that will require the closure of the sidewalk cafe and the use of the public right-of-way.

Section 4. That Section 19.50. is hereby amended to read as follows:

19.50. Special Commercial Events.

(a) Special commercial events may be authorized by the Village Council subject to a license agreement and such terms and conditions as the Village Council may direct. For purpose of this section, a "special commercial event" means an event, such as a festival, involving retail sales and similar commercial activities ~~and which occurring~~ on Village-owned property, but which is not sponsored or conducted by the Village.

(b) Applications for a special commercial event shall be made on forms provided by the Village. An application fee shall be included in the initial submission of the application in order for the application to be considered. The application fee shall be \$150.00. In order to allow staff review and provide adequate time for consideration by the Village Council and other boards or commissions, applications and all required submittals must be furnished to the Village sixty (60) days prior to the scheduled event.

(c) Any person seeking approval of a special commercial event shall submit a written application for a license to conduct a special commercial event to the Village Manager. Such application shall include such information as the Manager may direct, including but not limited to, the following:

(1) The name, address and telephone number of the applicant.

(2) An overall site plan showing the proposed location and dimension of the special commercial event in relation to the adjacent street and sidewalk and showing the location of ingress, egress, tables, decorations, furnishings, equipment, removable perimeter barriers, the total square footage to be occupied by the special commercial event and the maximum seating capacity.

(3) An operation plan specifying the proposed dates, days and hours of operation, the number of people expected, the number of wait staff, security staff and maintenance personnel and a proposed menu, including beverages, if applicable.

(4) A statement regarding whether the applicant will be serving alcoholic liquor at the special commercial event as well as information regarding the current or proposed liquor license status of the

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applicant.

(5) A proposed license agreement on forms provided by the Village Manager.

(6) Such other information as the Manager may direct.

(d) The Village Manager shall review the completed application and transmit this to the Village Council along with such recommendations as the Manager may have regarding whether the application should be approved and, if so, upon what conditions. The Village Council will render the final decision regarding whether the license will be granted and, if so, upon what terms.

(e) The decision to grant or deny an application under this section shall be within the sole discretion of the Village Council. Because each application will involve different property and issues, the Village Council is expected to consider a number of factors, including but not limited to the following:

- (1) The location and area surrounding the proposed special commercial event.
- (2) Any safety concerns.
- (3) The impact on surrounding properties, uses and occupants.
- (4) The impact on pedestrian and vehicular traffic.
- (5) The nature of the property and whether a special commercial event is appropriate within

this area.

(6) The operation of the proposed special commercial event.

(7) The past operation of the licensee within the Village.

(8) Whether alcoholic liquor will be served within the special commercial event.

(ef) A special commercial event shall be subject to such conditions and restrictions as may be directed by the Village Council to protect the public health, safety or welfare, including but not limited to the following:

(1) Fencing or a removable barrier may be required.

(2) The special commercial event shall be established and operated in a safe and reasonable manner with due regard for the health and safety of persons and property. In no event shall the special commercial event obstruct vehicular or pedestrian traffic in an unsafe or unreasonable manner.

(3) The special commercial event shall be established and operated in a clean, well maintained and sanitary manner. In particular, but without limitation, the ~~licensee~~applicant shall promptly and properly collect and dispose of all litter, trash and other waste materials associated with the special commercial event, including materials in the adjacent public right of way originating from the special commercial event. The Village shall have the right to remove or cause the removal of any debris, and otherwise maintain the public property of the special commercial event, in the event the ~~licensee~~applicant fails to promptly and properly clean and maintain such area. In such event, the ~~licensee~~applicant shall promptly reimburse the Village in taking such action.

(4) The applicant shall provide the Village with a security deposit, in an amount as may be directed by the Village Manager, to guarantee prompt and proper removal of any structures and/or clean-up of the area. The security deposit shall be withheld throughout the term of the license and such other period of time during which licensee operates or is engaged in the removal of any facilities. Such security deposit shall be retained until an inspection is completed upon the public property to ensure that there has been no damage to it as a result of the use thereof. Applicant shall be responsible for any and all fees associated with said inspections.

(45) To the fullest extent permitted by law, the ~~licensee~~applicant shall defend, indemnify and hold harmless the Village, and its officers, boards, commissions, elected and appointed officials, agents and employees, for any and all claims for damages against arising out of injuries which may be incurred as a result of the use of the right of way by the ~~licensee~~applicant.

(56) ~~Licensee~~The applicant shall maintain throughout the term of the license, general comprehensive liability insurance; hazard insurance, including comprehensive form, premises-operations, explosions and collapse hazard, underground hazard and products completed hazard; liquor liability insurance, commonly known as dram shop, if applicable; automobile liability insurance; and workers compensation insurance - all naming as additional insured the Village, and its officers, boards, commissions,

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elected and appointed officials, agents and employees, in such minimum amounts as may be set by the Village Manager. The insurance required by this section shall be maintained by the licensee applicant throughout the term of the license and such other period of time during which licensee applicant operates or is engaged in the removal of its facilities.

~~(67)~~ The licensee applicant shall be required to pay such fees ~~or rentals~~ and enter into a written license agreement with the Village, in such form as may be approved by the Village Council, incorporating applicable conditions and restrictions.

~~(78)~~ The licensee applicant shall not be permitted to sell or serve alcoholic liquor at the special commercial event except in conformance with an appropriate liquor license issued pursuant to Chapter 3 of the Downers Grove Municipal Code.

~~(9) Depending upon the nature and complexity the event and as determined by the Chief of Police, the applicant may be required obtain Downers Grove Police Department personnel to serve as security for the special commercial event. The applicant shall be required to pay any and all costs associated with the security detail.~~

~~(10) Depending upon the nature and complexity the event and as determined by the Public Works Director, the applicant shall be required to pay any and all costs associated with Village personnel involved in the set up, breakdown or aid rendered to the applicant during the course of the event which will ensure adequate traffic and pedestrian flow.~~

~~(11) Depending upon the the nature of the event, the applicant may be required to obtain approval from the DuPage County Health Department.~~

~~(12) Applicant shall not interfere with pedestrian or vehicular traffic, or reduce the open, unobstructed portion of the public sidewalk to less than five (5) feet.~~

~~(d) Any person seeking approval of a special commercial event shall submit a written application for a license to conduct a special commercial event to the Village Manager. Such application shall include such information as the Manager may direct, including but not limited to, the following:~~

~~_____ (1) The name, address and telephone number of the applicant.~~

~~_____ (2) An overall site plan showing the proposed location and dimension of the special commercial event in relation to the adjacent street and sidewalk and showing the location of ingress, egress, tables, decorations, furnishings, equipment, removable perimeter barriers, the total square footage to be occupied by the special commercial event and the maximum seating capacity.~~

~~_____ (3) An operations plan specifying the proposed dates, days and hours of operation, the number of wait staff, security staff and maintenance personnel and a proposed menu, including alcoholic beverages, if applicable.~~

~~_____ (4) A statement regarding whether the applicant will be serving alcoholic liquor at the special commercial event as well as information regarding the current or proposed liquor license status of the applicant.~~

~~_____ (5) A proposed license agreement on forms provided by the Village Manager.~~

~~_____ (6) Such other information as the Manager may direct.~~

~~(e) The Village Manager shall review the completed application and transmit this to the Village Council along with such recommendations as the Manager may have regarding whether the application should be approved and, if so, upon what conditions. The Village Council will render the final decision regarding whether the license will be granted and, if so, upon what terms.~~

~~(fg) A license issued pursuant to this Section shall not be transferable or assignable and shall not confer any property rights in the underlying right of way.~~

~~(gh) Any license applicant granted a license under this Section shall be subject to the absolute and primary right of the Village to protect the public health safety and welfare. In the event of an emergency, or to prevent or protect against an immediate threat to the public health safety and welfare, the Village Manager may order the immediately cessation of business, and removal of any or all equipment and facilities from public right of way. In addition, the Village Manager may suspend or revoke any license issued under this Section in the event it is determined that the licensee applicant has failed or refused to truthfully complete the~~

Sidewalk Cafe

application, or if the licensee~~applicant~~ has failed or refused to comply with the regulations of this Section, the license agreement or with other applicable law.

(h) 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 person as the Village Manager may designate.

(i) The Village shall have the right to remove or cause the removal of any equipment, structure or other facility of the licensee~~applicant~~, and/or restoration of the right of way, in the event such items are not promptly and properly removed by the licensee and/or the right of way restored, pursuant to this Section, the license agreement or a lawful order of the Village Manager. In such event, the Village, at its discretion, may store, sell or otherwise dispose of such items as it deems appropriate. The licensee shall promptly reimburse the Village for all expenses in removing storage or disposal of such items and restoring the right of way.

Section 5. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 6. 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



Village of Downers Grove

Village Council Policy

Description:	Rental of the Public Parking Facility	
Manager's Name:	Riccardo Ginex, Village Manager	Effective Date: 05/1/05
Category:	Village Manager/Public Works	
	<input checked="" type="checkbox"/> New Administrative Regulation	
	<input type="checkbox"/> Amends Previous Regulation Dated: _____	
	Description of Previous Regulation (if different from above): _____	

WHEREAS, the Village owns and maintains a municipal parking deck located at 945 Curtiss Street, Downers Grove, Illinois (the "Public Parking Facility"); and

WHEREAS, the Public Parking Facility contains an area commonly known as the Special Events Area, and it is deemed appropriate from time to time for the Village to allow use of the Special Events Area; and

WHEREAS, the Council of the Village of Downers Grove has determined that it is in the best interest of the Village to establish a policy to be followed in determining what requirements must be met for the issuance of a rental permit for the use of the Special Events Area of the Public Parking Facility;

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

The Special Events Area of the Public Parking Facility located at 945 Curtiss Street, Downers Grove shall be rented pursuant to the following procedures:

- A. Only the Special Events Area, as depicted on Exhibit A, of the Public Parking Facility shall be rented;
- B. The Public Parking Facility shall only be rented to other local governmental agencies, subsidiaries of local governmental agencies, and other not-for-profit organizations as defined in the General Not For Profit Corporation Act of 1986 805 ILCS 105/101.01 *et al.*;
- C. All functions held in the Public Parking Facility must be conducted in accordance with applicable federal and State laws, and local ordinances;
- D. The Public Parking Facility shall be rented to entities in the following order of priority:
 - 1. Village of Downers Grove;

2. Downers Grove Public Library, School District 58 and 99, Downers Grove Park District, Downers Grove Sanitary District, and any subsidiary thereof;
 3. Resident, not-for-profit organizations; and,
 4. Non-resident, not-for-profit organizations.
- E. The Public Parking Facility may be rented from ____ p.m. to ____ p.m. Monday through Friday, and ____ a.m. through ____ p.m. on Saturdays and Sundays.;
- F. Prior to rental, all applicants must read and sign the rental agreement (a copy of which is attached hereto as Exhibit B), certifying that they have read, understand and agree to be bound by Village rules, regulations and guidelines as stated therein.
- G. The Village may from time to time alter the terms and conditions contained in the rental agreement.

This policy is not intended nor shall it impose or create any liability or obligation on the part of the Village. No liability shall be imposed on the Village, its officers, agents or employees, as a result of the existence of this policy, or any actions or inactions taken with respect to this policy. It is further expressly understood that this policy is a general guideline and shall not place any mandatory obligations upon the Village, its officers, agents or employees.

PUBLIC PARKING FACILITY RENTAL AGREEMENT

1. Applications for the rental of the Public Parking Facility must be submitted to the Village Manager on a form provided by the Village. Applications must be completed in full. Providing inaccurate information on the application form may result in denial of a permit.

2. Rental applications shall be made at least sixty (60) days in advance of the rental date to receive consideration. Applications will be processed in the order in which they are received and according to priority, as set out in the policy regarding rental of the Public Parking Facility. No permit for rental of the Public Parking Facility shall be issued unless the Village Manager has given notice to the Village Council at least seventy-two (72) hours prior to a regularly scheduled Village Council meeting. At such meeting the Village Council may, in its discretion, direct the Village Manager to deny the rental permit to the applicant therefor, or impose any additional conditions or restrictions as it deems appropriate.

3. An application fee shall be included in the initial submission of the application in order for the application to be considered. The application fee shall be \$150.00;

4. The applicant shall submit an overall operation and site plan showing the proposed location of ingress, egress, tables, decorations, furnishings, or any other equipment proposed to be used within the Public Parking Facility.

5. All individuals and entities are required to verify residency and status of the organization in accordance with rental categories.

6. Applications must be signed by an individual 21 years of age or older, who will assume responsibility for the organization and will be present during the entire rental period.

7. At any function involving children there must be at least one individual 21 years or older for every six children in attendance.

8. Security from the Downers Grove Police Department may be required at the discretion of the Chief of Police.

9. Permits will not be issued to any entity who intends on charging fees, admission or otherwise, for the purpose of private monetary gain.

10. The facility may be rented from ____ p.m. through ____ p.m. Monday through Friday, and ____ a.m. through ____ p.m. on Saturdays and Sundays.

11. Upon approval, the applicant must submit full payment for applicable rental charges at least seven days prior to the first rental date. Failure to pay seven days prior to the rental date may result in cancellation of the permit.

12. The Village of Downers Grove reserves the right to cancel any standing permit if deemed in the best interest of the Village.

13. Applicants as well as any and all attendees will be confined to and may only use the Special Events Area of the Public Parking Facility. Applicants may not allow any attendee to utilize or enter other areas of the Public Parking Facility.

14. Applicants may not enter the facility prior to the time designated in the permit. Applicants and any and all attendees must vacate the premises at the time designated in the permit.

15. Any items and/or equipment to be brought into the facility must be approved by the Village of Downers Grove prior to the rental date.

16. Applicant shall maintain throughout the term of the license, general comprehensive liability insurance; hazard insurance, including comprehensive form, premises-operations, explosions and collapse hazard, underground hazard and products completed hazard; automobile liability insurance; and workers compensation insurance-all naming as additional insured the Village, and its officers, boards, commissions, elected and appointed officials, agents and employees, in such minimum amounts as may be set by the Village Manager. The insurance required by this section shall be maintained by the applicant throughout the term of the license and such other period of time during which applicant operates or is engaged in the removal of its facilities.

17. Smoking, gambling and alcoholic beverages are prohibited in the Public Parking Facility. No food preparation or cooking shall be allowed in the Public Parking Facility.

18. Animals are not allowed in the Public Parking Facility, unless otherwise required to provide assistance to the disabled.

19. Applicant may post signage for purposes of their function, but any and all signs must be removed at the conclusion of the function.

20. Applicants may not store equipment or supplies in the Public Parking Facility or on Village property.

21. In order to protect the public health, safety and welfare, the Public Parking Facility shall be inspected prior to the date of the event and at the conclusion of the event. Applicant shall be responsible for any and all fees associated with said inspections.

22. The applicant shall provide the Village with a security deposit in an amount as may be directed by the Village Manager. The security deposit shall be maintained by the applicant throughout the term of the rental agreement. Such security deposit shall be retained until an inspection is completed upon the public property to ensure that there has been no damage to it as a result of the use thereof. Applicant shall be responsible for any and all fees associated with said inspections. Any damage or cost of repairs to the facility that exceeds the security deposit will be charged to the applicant.

23. Upon departure, the applicant will be responsible for any clean up and for restoring the facility in the same orderly condition in which it was maintained prior to applicant's use. Any damages or excessive clean up will result in the forfeiture of the security deposit and applicant being billed for costs, if necessary. This may also result in the denial of future permits.

24. The Village of Downers Grove shall assume no responsibility for any accident, personal injury or loss of property. The applicant agrees to indemnify and hold the Village of Downers Grove, its officers, agents, and employees harmless for any costs, damages or liability resulting from the applicant's activities or programs. Applicant further agrees to waive and release any and all claims for personal injury, damage to property or otherwise, for themselves and any attendees of applicant's programs or activities.

25. Any license granted under this Section shall be subject to the absolute and primary right of the Village to protect the public health safety and welfare. In the event of an emergency, or to prevent or protect against an immediate threat to the public health safety and welfare, the Village Manager may order the immediately cessation of business, and removal of any or all equipment and facilities from public right of way. In addition, the Village Manager may suspend or revoke any license issued under this Section in the event it is determined that the applicant has failed or refused to truthfully complete the application, or if the applicant has failed or refused to comply with the regulations of this Section, the license agreement or with other applicable law.

26. Rental fees shall be \$.10 per square foot per day. Additional charges for cleanup, security detail and Village staff, inspection and other fees may apply.

27. A license issued pursuant to this Section shall not be transferable or assignable and shall not confer any property rights in the underlying right of way.

VILLAGE OF DOWNERS GROVE
801 Burlington Avenue
DOWNERS GROVE, IL 60515
630/434-5500 FAX: 630/434-5571

FACILITY RENTAL APPLICATION/AGREEMENT

Applicant (Organization) Name: _____

Address: _____ City/State/Zip: _____

Phone #: _____ Fax #: _____

Designated Contact Person _____

Address: _____ City/State/Zip: _____

Phone #: _____ Home Phone #: _____

Facility Requested:

Estimated Attendance: _____

Description of Activity: _____

Is your group/organization based in the Village of Downers Grove? Yes No

Is your group/organization not-for-profit? Yes No

If you checked "Yes", sufficient proof must be submitted with this application.

<u>Date(s) Requested</u>	<u>Day</u>	<u>Time</u>	<u>Facility Requested</u>
1. _____	_____	_____ To _____	_____
2. _____	_____	_____ To _____	_____
3. _____	_____	_____ To _____	_____

I, the undersigned, hereby certify that I have read, understand, and agree to abide by the terms and conditions of Village of Downers Grove as set forth in Facility Rental Agreement.

Applicant/Organization Representative Signature

Print Name

Date _____

Office Use Only

Facility Rental Charge _____

Rental Class _____

Security Deposit _____

Proof of Residency _____

Other _____

Date of Payment _____

Inspection Fee _____

Staff Fee _____

Security Fee _____

TOTAL _____

Approved By: _____
Village Council or their designee

Date: _____