CHAPTER TITLES

1.	Administration	1-1
3.	Animals	3-1
6.	Building Regulations	6-1
7.	Business Code	7-1
8.	Cable Television	8-1
9.	Cemetery Code	9-1
12.	Employees	12-1
14.	Flood Plain Code	14-1
15.	Franchises	15-1
16.	Garbage	16-1
21.	Liquor	21-1
22.	Mandated Policies	22-1
23.	Manufactured Housing Code	23-1
24.	Motor Vehicle Code	24-1
25.	Nuisance Code	25-1
27.	Offenses	27-1
28.	Parks	28-1
30.	Public Safety	30-1
32.	Stormwater Control Code	32-1
33.	Street Regulations	33-1
34.	Subdivision Code	34-1
36.	Taxation	36-1
38.	Utilities	38-1
40.	Zoning Code	40-1

SMITHTON, ILLINOIS

ORD. #	TITLE	DATE	LOCATION IN CODE
103	Prohibiting the Running at Large of Dogs		Chapter 3
109	Tax Levy	1939	Special Legislation
110	Street Lighting Contract	04/02/40	Special Legislation
111	Tax and License Foreign Fire Insurance Companies	05/07/40	Chapter 36
112	Appropriation	06/08/40	Special Legislation
113	Authorizing the Revision of Ordinances		Special Legislation
114	Tax Levy	07/06/40	Special Legislation
115	Opening a Street Extending Northwardly of Julius St	08/05/41	Special Legislation
116	Liquor: Beer and Liquor Licenses	07/01/41	Chapter 21
117	Appropriation	07/05/41	Special Legislation
118	Tax Levy	08/14/41	Special Legislation
119	Franchise Ordinance	08/11/41	
120	Lighting Contract	08/11/41	Special Legislation
121	Appropriation	07/11/42	Special Legislation
122	Tax Levy	08/12/42	Special Legislation
123	Appropriation	07/15/43	Special Legislation
124	Tax Levy	08/07/43	Special Legislation
125	Appropriation	07/10/44	Special Legislation
126	Tax Levy	08/12/44	Special Legislation
127	Appropriation	07/05/45	Special Legislation
127	Electric Franchise	12/12/44	
128	Tax Levy	08/10/45	Special Legislation
128	Street Lighting Contract	12/12/44	Special Legislation
129	Administration: Fees & Salaries	04/24/46	Chapter 1
130	Adoption of Daylight Savings Time	04/12/46	Special Legislation
131	Appropriation	06/06/46	Special Legislation
132	Tax Levy	07/05/46	Special Legislation
133	Administration: Fees & Salaries	04/11/47	Chapter 1
134	Appropriation	07/03/47	Special Legislation
135	Tax Levy		Special Legislation
136	Motor Vehicles: Parking	12/08/47	Chapter 24
137	Appropriation	07/10/48	Special Legislation
138	Tax Levy	08/03/48	Special Legislation
139	Appropriation	07/06/49	Special Legislation
140	Tax Levy	08/02/49	Special Legislation
141	Bond Election	04/25/50	Special Legislation
142	Appropriation	07/07/50	Special Legislation
143	Tax Levy	08/02/50	Special Legislation
144	Issuance of Water Bonds	08/07/50	Special Legislation
145	Waterworks Revenue Bonds	09/12/50	Special Legislation
146	Utilities: Water System	09/11/50	Chapter 38
147	Motor Vehicles: Regulating Traffic	10/05/50	Chapter 24
148	Electric Contract – Illinois Power Co.	04/04/51	
149	Appropriation	06/07/51	Special Legislation
150	Tax Levy	07/07/51	Special Legislation
151	Appropriation	06/06/53	Special Legislation
152	Tax Levy	07/01/52	Special Legislation
154	Appropriation	06/04/53	Special Legislation
155	Tax Levy	07/08/53	Special Legislation
156	Motor Vehicles: 4-way Stops	08/06/53	Chapter 24
157	Motor Vehicles: No Parking	11/03/53	Chapter 24

ORD. #	TITLE	DATE	LOCATION IN CODE
158	Extension of Water Distributing System	05/07/54	Special Legislation
159	Appropriation	06/03/54	Special Legislation
160	Tax Levy	07/07/54	Special Legislation
161	Appropriation	06/08/55	Special Legislation
162	Tax Levy	07/07/55	Special Legislation
163	Municipal Retailer's Occupation Tax	01/03/56	Chapter 36
164	Vacation of Alley	06/04/56	Special Legislation
165	Appropriation	06/07/56	Special Legislation
166	Tax Levy	07/06/56	Special Legislation
167	Vacation of Alley	09/04/56	Special Legislation
168	Appropriation	06/06/57	Special Legislation
169	Tax Levy	07/06/57	Special Legislation
170	Motor Vehicles: 4-way Stops	09/03/57	Chapter 24
171	Vacation of Alley	04/02/58	Special Legislation
172	Appropriation	06/07/58	Special Legislation
173	Tax Levy	07/02/58	Special Legislation
174	Plat for Sunset Terrace	05/13/59	Special Legislation
175	Appropriation	06/05/59	Special Legislation
176	Tax Levy	07/08/59	Special Legislation
177	Protecting the Public Water Supply	10/13/59	Special Legislation
178	Annexation	08/02/60	Special Legislation
179	Appropriation	06/11/60	Special Legislation
180	Tax Levy	07/06/60	Special Legislation
181	Gas Franchise Ordinance	10/04/60	Special Legislation
182	Administration: Fees and Salaries	04/04/61	Chapter 1
183	Public Safety: Salary of Police Magistrate	04/11/61	Chapter 30
184	Motor Vehicles: School Crossings	04/25/61	Chapter 24
185	Appropriation	07/07/61	Special Legislation
186	Tax Levy	08/03/61	Special Legislation
187	Municipal Service Occupation Tax	07/27/61	Chapter 36
188	Motor Vehicles: School Crossing	11/07/61	Chapter 24
189	Appropriation	06/12/62	Special Legislation
190	Tax Levy	07/05/62	Special Legislation
191	Salaries of Election Judges	01/10/63	Special Legislation
192	Motor Vehicles: Stop Signs	04/02/63	Chapter 24
193	Appropriation	06/08/63	Special Legislation
194	Tax Levy	07/05/63	Special Legislation
195	Utilities: Sanitary Sewer System	10/25/63	Chapter 38
196	Utilities: Use of Private Sewers and Drains	01/07/64	Chapter 38
197	Utilities: Sewer Rates	01/07/64	Chapter 38
198	Appropriation	06/09/64	Special Legislation
199	IL Power Pole Attachment Contract	06/02/64	Special Legislation
200	Tax Levy	08/06/64	Special Legislation
202	Administration: Salaries		Chapter 1
203	Appropriation	07/13/65	Special Legislation
204	Tax Levy	11/08/65	Special Legislation
205	Utilities: Extension of Sewer Lines	09/07/65	Chapter 38
206	Animals: Appointment of Dog Catcher	11/07/65	Chapter 3
207	Utilities: Rates	06/07/66	Chapter 38
208	Motor Vehicles: Licensing	04/05/66	Chapter 24
209	Appropriation	07/05/66	Special Legislation
210	Tax Levy	08/02/66	Special Legislation
212	Administration: Salaries	04/17/67	Chapter 1

ORD. #	TITLE	DATE	LOCATION IN CODE
213	Appropriation	06/08/67	Special Legislation
214	Tax Levy	08/01/67	Special Legislation
215	Municipal Service Occupation Tax	07/17/67	Chapter 36
216	Animals: Livestock	01/02/68	Chapter 3
217	Trailer Coach Parks	01/06/70	
218	Appropriation	06/04/68	Special Legislation
219	Tax Levy	07/03/68	Special Legislation
220	Administration: Salaries	04/01/69	Chapter 1
221	Appropriation	06/03/69	Special Legislation
222	Tax Levy	08/05/69	Special Legislation
223	Municipal Retailer's Occupation Tax	08/05/69	Chapter 36
224	Municipal Service Occupation Tax	08/05/69	Chapter 36
225	Motor Vehicles: Abandoned Vehicles	01/06/70	Chapter 24
226	Trailer Coach Parks	01/06/70	
226A	Utilities: Water Rates	01/06/70	Chapter 38
227	Appropriation	07/07/70	Special Legislation
228	Animals: Livestock	08/04/70	Chapter 3
228	Employees: FSSA	04/01/69	Chapter 11
229	Utilities: Water System	09/01/70	Chapter 38
230	Tax Levy	09/02/70	Special Legislation
232	Administration: Salaries	05/04/71	Chapter 1
233	Appropriation	05/04/71	Special Legislation
234	Annexation	06/01/71	Special Legislation
235	Streets: Sidewalks	05/03/71	Chapter 33
236	Tax Levy	08/03/71	Special Legislation
237	Petition for Reclassification of Land	07/20/71	Special Legislation
238	Plat of "St. John's Terrace"	10/19/71	Special Legislation
239	Revised Code of Ordinances	12/07/71	New Code
240	Vacation of Easement	12/07/71	Special Legislation
241	Plat of "First Addition of Sunset Terrace"	03/07/72	Special Legislation
242	Plat of "St. John's Mobile Home Park Subdivision"	04/07/72	Special Legislation
243	Zoning Code	06/06/72	Chapter 40
244	Appropriation	07/05/72	Special Legislation
245	Tax Levy	09/06/72	Special Legislation
247	Offenses: Curfew	11/07/72	Chapter 27
248	Utilities: Sewer System	03/06/73	Chapter 38
249	Sewerage Improvement Revenue Bonds ($35,000)	03/06/73	Special Legislation
250	Appropriation	07/03/73	Special Legislation
251	Tax Levy	08/07/73	Special Legislation
253	Utilities: Sewer System	05/07/74	Chapter 38
254	Sewerage Improvement Revenue Bonds ($60,000)	05/07/74	Special Legislation
255	Utilities: Water Service	05/08/74	Chapter 38
256	Appropriation	08/06/74	Special Legislation
257	Tax Levy	08/06/74	Special Legislation
258	FSH Water Commission		
259	Special Election for Authorizing Bonds	03/04/75	Special Legislation
260		05/06/75	
261	Appropriation	06/17/75	Special Legislation
262		07/01/75	
263	Authorizing & Directing $44,000 Bonds	06/24/75	Special Legislation
264	Tax Levy	08/05/75	Special Legislation
265	Appropriation	08/03/76	Special Legislation
266	Tax Levy	09/07/76	Special Legislation

ORD. #	TITLE	DATE	LOCATION IN CODE
267		08/03/76	
268		09/07/76	
269	Business Code	08/03/76	Chapter 7
270	Municipal Use Tax	01/20/77	Chapter 36
271	Public Safety: ESDA	01/20/77	Chapter 30
272	Annexation of Park Property	03/01/77	Special Legislation
273	Trailer Coach Parks	04/05/77	
274	Plat of "Second Addition to Sunset Terrace"	04/05/77	Special Legislation
275	Utilities: Water Rates	04/05/77	Chapter 38
276	Administration: Fees & Salaries	04/05/77	Chapter 1
277	Appropriation	08/02/77	Special Legislation
278	IL Power Company: Electric Lines	05/23/77	Special Legislation
279	Tax Levy		Special Legislation
280	Mobile Homes	11/15/77	Chapter 23
281	Subdivision Code		Chapter 34
282	Administration: Meetings	11/06/77	Chapter 1
283	Utilities: Deposits	11/20/77	Chapter 38
284	Utilities: Deposits	12/20/77	Chapter 38
285	Motor Vehicles: Excessive Noise, Engines	03/07/78	Chapter 24
286	Vehicle Licenses	03/21/78	Chapter 39
287	Liquor: License Fees	03/21/78	Chapter 21
288	Liquor: Sales to Minors	02/21/78	Chapter 21
289	Liquor: Purchase to Minors	02/21/78	Chapter 21
290	Annexation		Special Legislation
291	Lease with Jr. Women's and Jaycees	05/16/78	Special Legislation
292	Utilities: Water Rates	06/07/78	Chapter 38
293	Appropriation	06/06/78	Special Legislation
294	Annexation	07/06/78	Special Legislation
295	Utilities: Fire Hydrants	07/06/78	Chapter 38
296	Tax Levy	09/05/78	Special Legislation
297	Revised Code of Ordinances	08/01/78	New Code
298	Utilities: Regulations	02/06/79	Chapter 38
299	Vehicle Licenses: Fees	04/17/79	Chapter 39
300	Motor Vehicles: Stop Signs	06/05/79	Chapter 24
301	Appropriation	08/21/79	Special Legislation
302	Motor Vehicles: Abandoned Vehicles	07/17/79	Chapter 24
303	Motor Vehicles: Stop Signs	08/07/79	Chapter 24
304	Tax Levy	08/21/79	Special Legislation
305	Transfer of Property Title	1979	Special Legislation
306	Parks: Rules and Regulations	11/20/79	Chapter 28
307	Utilities: Water Rates		Chapter 38
308	Liquor	03/04/80	Chapter 21
309	Appropriation	04/15/80	Special Legislation
310	Tax Levy	05/06/80	Special Legislation
311	Motor Vehicles: Stop Signs	06/17/80	Chapter 24
312	Administration: Salaries	04/07/81	Chapter 1
313	Agreement with Illinois Bell	05/18/81	Special Legislation
314	Appropriation	07/07/81	Special Legislation
315	Utilities: Sewer Rates	07/21/81	Chapter 38
316	Tax Levy	09/01/81	Special Legislation
317	Use of Municipal Property	10/06/81	Special Legislation
318	Liquor: Transfer of Identification Card	11/03/81	Chapter 21
319	Utilities: Water Connections	11/03/81	Chapter 38

ORD. #	TITLE	DATE	LOCATION IN CODE
320	Liquor: Misrepresenting Age	11/03/81	Chapter 21
321	Utilities: Delinquent Notice, Final Notice	11/03/81	Chapter 38
322	Utilities: Payment, Penalty	11/03/81	Chapter 38
323	Utilities: Connection Fees	11/03/81	Chapter 38
324	Utilities: Charge for Discontinuing Service	11/03/81	Chapter 38
325	Liquor: Licenses	12/15/81	Chapter 21
326	Business: Solicitors Fees	01/19/82	Chapter 7
327	Business: Solicitors Fees	01/19/82	Chapter 7
328	Final Plat: Sunset Terrace	03/16/82	Special Legislation
329	Appropriation	09/07/82	Special Legislation
330	Motor Vehicles: Parking	06/07/82	Chapter 24
331	Tax Levy	09/07/82	Special Legislation
332	Liquor: Number of Licenses	02/01/83	Chapter 21
333	Vehicle Licenses	02/15/83	Chapter 39
334	Cable Television	03/01/83	Chapter 8
335	Streets: Signs	05/03/83	Chapter 33
336	Administration: Alderman Salaries	04/11/83	Chapter 1
337	Appropriation	07/15/83	Special Legislation
338	Tax Levy	09/06/83	Special Legislation
339	IMR Insurance	09/27/83	
340	Liquor: Hours	03/20/84	Section 21-3-1
341	Business: Delivery Licenses	04/03/84	Chapter 7
341	Appropriation	08/21/84	Special Legislation
342	Tax Levy	07/16/85	Special Legislation
343	Administration: Contracts	12/04/84	Chapter 1
344	Vehicle Licenses	12/04/84	Chapter 39
345	Administration: Salaries	12/04/84	Chapter 1
346	Zoning: Compensation	12/04/84	Chapter 40
347	Utilities: Water Deposits	12/18/84	Chapter 38
348	Lease with Board	01/02/85	Special Legislation
349	Illinois Bell Franchise	04/01/85	Special Legislation
350	Administration: Salaries	02/19/85	Chapter 1
351	Motor Vehicles: Stop Signs	04/02/85	Chapter 24
352	Appropriation	07/16/85	Special Legislation
353	Utilities: Water Rates	01/21/86	Chapter 38
354	Utilities: Sewer Service Charges	01/21/86	Chapter 38
356	Lease with Senior Citizens	04/01/86	Special Legislation
357	Business: Licenses	04/15/86	Chapter 7
358	Appropriation	07/01/86	Special Legislation
359	Motor Vehicles: Stop Signs	06/03/86	Chapter 24
360	Tax Levy	09/02/86	Special Legislation
361	Cable Franchise Transfer	02/17/87	Special Legislation
362	Sale of Old Village Hall Property	02/03/87	Special Legislation
363	Business: Raffles	03/17/87	Chapter 7
364	Vacation of Alley	03/17/87	Special Legislation
365	Zoning: Satellite Dish Antennas	05/05/87	Chapter 40
366	Buildings: Permit Fees	04/07/87	Chapter 6
367	Vacation of Alley	07/21/87	Special Legislation
368	Appropriation	07/07/87	Special Legislation
369	Vacation of Alley	08/04/87	Special Legislation
370	Zoning Code	08/18/87	Chapter 40
371	Cemetery: Fees	08/18/87	Chapter 9
372	Tax Levy	08/18/87	Special Legislation

ORD. #	TITLE	DATE	LOCATION IN CODE
373	Approval of Plat: A & H Estates	06/19/88	Special Legislation
374	Approval of Plat: Georgetown Estates	06/19/88	Special Legislation
375	Cable Television	01/05/88	Chapter 8
376	Motor Vehicles: Abandoned Vehicles	04/05/88	Chapter 24
377	Annexation: Hulling	03/16/88	Special Legislation
378	Final Plat: Smithton Estates	06/27/89	Special Legislation
379	Appropriation	08/02/88	Special Legislation
380	Taxation: Utility Tax	09/20/88	Chapter 36
381	Tax Levy	08/16/88	Special Legislation
382	Zoning: Fences	10/18/88	Chapter 40
383	Motor Vehicles: Stop Signs	12/06/88	Chapter 24
384	Annexation: Hulling	02/21/89	Special Legislation
385	Streets: House Numbering	03/21/89	Chapter 33
385	Transfer of Title	06/06/89	Special Legislation
386	BFI Trash	06/27/89	Special Legislation
387	Appropriation	07/18/89	Special Legislation
389	Motor Vehicles: Stop Signs	09/19/89	Chapter 24
391	Utilities: Rates and Fees	10/17/89	Chapter 38
392	Tax Levy	11/21/89	Special Legislation
393	Purchase of Real Estate	12/19/89	Special Legislation
394	Annexation: Bearden	06/02/90	Special Legislation
395	Utilities: Grease Traps	02/20/90	Chapter 38
396	Litigation	02/20/90	Special Legislation
397	Parks	06/19/90	Chapter 28
398	Appropriation	08/21/90	Special Legislation
399	Vehicle Licenses: Stickers	09/04/90	Chapter 39
400	Revised Code of Ordinances	10/16/90	Chapter 1
401	Taxation: Utility Tax	10/16/90	Chapter 36
402	Tax Levy	11/20/90	Special Legislation
403	Cemetery: Rules	12/04/90	Chapter 9
404	Borrow for Lagoon Upgrade Project	03/19/91	Special Legislation
405	Utilities	05/07/91	Chapter 38
406	Motor Vehicles: Yield Signs	06/04/91	Chapter 24
407	Administration: Salaries	06/04/91	Chapter 1
408	Appropriation	07/16/91	Special Legislation
409	Administration: Purchasing Agent	07/16/91	Chapter 1
410	Administration: Village Collector	07/16/91	Chapter 1
411	Motor Vehicles: No Parking	08/06/91	Chapter 24
412	Utilities: Connections	08/06/91	Chapter 38
413	Utilities: Rates and Fees	08/06/91	Chapter 38
414	Vacating S. Hickory Street	10/15/91	Special Legislation
415	Parks: Hours	10/15/91	Chapter 28
416	Tax Levy	11/05/91	Special Legislation
417	Utilities: Cross-Connections	12/03/91	Chapter 38
418	Utilities: Reconnect Fees	12/17/91	Chapter 38
419	Motor Vehicle Code	12/17/91	Chapter 24
420	Nuisances: Motor Transport Engines	12/17/91	Chapter 25
421	Animals	12/17/91	Chapter 3
422	Franchise with Illinois Power	01/14/92	Special Legislation
423	Motor Vehicles: Handicapped Parking	05/05/92	Chapter 24
424	Motor Vehicles: Stop Signs	07/07/92	Chapter 24
425	Liquor: Hours	07/21/92	Section 21-3-1
426	Appropriation	09/01/92	Special Legislation

ORD. #	TITLE	DATE	LOCATION IN CODE
427	Motor Vehicles: Yield Sign	10/20/92	Chapter 24
428	Motor Vehicles: Stop Signs	10/20/91	Chapter 24
429	Motor Vehicles: One-Way Streets	10/20/92	Chapter 24
430	Cemetery: Rates	10/20/92	Chapter 9
432	Tax Levy	11/17/92	Special Legislation
433	Zoning: Meetings	11/17/92	Chapter 40
434	Grade School Lease	01/19/93	Special Legislation
435	Zoning: Compensation	01/19/93	Chapter 40
436	Administration: IMRF	02/02/93	Chapter 1
437	Administration: Salaries	02/16/93	Chapter 1
438	Administration: Meetings	02/16/93	Chapter 1
439	Administration: Inauguration Meetings	02/16/93	Chapter 1
440	Liquor: Number of Licenses	03/02/93	Chapter 21
441	Appropriation	07/20/93	Special Legislation
442	Administration: Administrative Assistant	07/20/93	Chapter 1
443	Vacation of Alley	09/07/93	Special Legislation
444	Vacation of Alley	09/07/93	Special Legislation
445	Vacation of Alley	09/07/93	Special Legislation
446	Liquor	08/03/93	Chapter 21
447	Cemetery: Rules	10/05/93	Chapter 9
448	Motor Vehicles: Stop Signs	10/05/93	Chapter 24
449	Parks	10/05/93	Chapter 28
450	Tax Levy	11/02/93	Special Legislation
451	Employees: Holidays & Vacation	12/07/93	Chapter 12
452	Public Safety: Police Holidays & Vacation	12/07/93	Chapter 30
453	Administration: Village Collector	02/01/94	Chapter 1
454	Motor Vehicles: Stop Signs	01/18/94	Chapter 24
455	Zoning: District Boundaries	03/01/94	Chapter 40
456	Vehicle Licenses: Stickers	04/05/94	Chapter 39
457	Public Safety: Residency	05/03/94	Chapter 30
458	Administration: Salaries	07/05/94	Chapter 1
459	Motor Vehicles: No Parking	07/19/94	Chapter 24
460	Motor Vehicles: Stop Signs	07/19/94	Chapter 24
461	Utilities: Water Rates – Late Fee	07/19/94	Chapter 38
462	Utilities: Sewer Rates – Late Fee	07/19/94	Chapter 38
463	Appropriation	08/02/94	Special Legislation
464	Cemetery: Rules	08/02/94	Chapter 9
465	Motor Vehicles: Stop Signs	10/04/94	Chapter 24
466	Sale of Surplus Property	10/04/94	Special Legislation
467	Administration: Village Attorney	10/18/94	Chapter 1
468	Tax Levy	10/18/94	Special Legislation
469	Liquor: Minors Selling	02/07/95	Chapter 21
470	Utilities: Delinquent Notice – Final Notice	03/21/95	Chapter 38
471	Utilities: Deposits	04/25/95	Chapter 38
472	Motor Vehicles: 3-Way Stop Signs	06/20/95	Chapter 24
473	Appropriation	07/18/95	Special Legislation
474	Parks	07/18/95	Chapter 28
475	Motor Vehicles: Stop Signs	09/05/95	Chapter 24
476	Buildings: Permit Fees	11/07/95	Chapter 6
477	Utilities: Sewer Tap-In Fee	11/07/95	Chapter 38
478	Utilities: Water Tap-In Fee	11/07/95	Chapter 38
479	Subdivision Code: Lots	11/07/95	Chapter 34
480	Subdivision Code: Changes	11/07/95	Chapter 34

ORD. #	TITLE	DATE	LOCATION IN CODE
481	Tax Levy	11/07/95	Special Legislation
482	Employees: Drug Policy	12/19/95	Chapter 12
483	Utilities: Sewer Rate Tap-In	12/19/95	Chapter 38
484	Administration	01/02/96	Chapter 1
485	Cable Television	03/05/96	Chapter 8
486	Administration: Contracts	05/21/96	Chapter 1
487	Motor Vehicles: Stop Signs	05/21/96	Chapter 24
488	Administration: Salaries	05/21/96	Chapter 1
489	Zoning: Setback Lines	05/21/96	Chapter 40
490	Zoning: Salaries	05/21/96	Chapter 40
491	Utilities: Water Rates & Fees	06/04/96	Chapter 38
492	Motor Vehicles: No Parking	06/18/96	Chapter 24
493	Zoning: Travel Trailers	07/02/96	Chapter 40
494	Motor Vehicles: Stop Signs	07/02/96	Chapter 24
495	Streets: Culverts	07/16/96	Chapter 33
496	Zoning: Mobile Homes: Modular	07/16/96	Chapter 40
497	Annexation	07/30/96	Special Legislation
498	Prevailing Wage	07/29/96	Special Legislation
499	Appropriation	09/03/96	Special Legislation
500	Motor Vehicles: Stop Signs	09/03/96	Chapter 24
501	Utilities: Sewer Rates	09/03/96	Chapter 38
502	Motor Vehicles: Crosswalks	09/17/96	Chapter 24
503	Administration: Salaries	10/01/96	Chapter 1
504	Utilities: Sewer Service Charges	11/19/96	Chapter 38
505	Utilities: Sewer Tap-In Fees	11/19/96	Chapter 38
506	Business: Peddlers	11/19/96	Chapter 7
507	Mobile Homes: Tap-In Trailer Parks	12/03/96	Chapter 23
508	Tax Levy	12/03/96	Special Legislation
509	Water Pollution Fund	01/21/97	Special Legislation
509A	Public Safety: Police Holidays	12/17/96	Chapter 30
509B	Borrow Money from Water Pollution Control Revolving Fund	01/21/97	Special Legislation
510	Utilities: Sewer	02/04/97	Ch. 38; Art. IV
511	Administration: Salaries	02/04/97	Sec. 1-3-1
513	Zoning Code: Hearings	02/18/97	Chapter 40
514	Water Pollution Fund	03/04/97	Special Legislation
515	Motor Vehicles: Parking	03/04/97	Chapter 24
516	Administration: Salaries	03/18/97	Sec. 1-3-1
517	Administration: Salaries	03/18/97	Sec. 1-3-1
517	Utilities: Tap-Ins	04/15/97	Ch. 38; Art. IV
518	Zoning Code: Content	05/06/97	Chapter 40
519	Annexation: Nollau	05/20/97	Special Legislation
520	Administration: Salaries	05/27/97	Chapter 1
521	Administration: Employees	05/27/97	Chapter 1
522	Administration: Salaries	05/27/97	Sec. 1-3-1
523	Administration: Purchasing Agent	05/27/97	Special Legislation
524	Administration: Attorney	05/27/97	Sec. 1-2-88
525	Employees: Appointment	05/27/97	Sec. 12-1-2
526	Employees: Salaries	05/27/97	Sec. 12-1-8
527	Zoning: Meetings	05/20/97	Chapter 40
528	Prevailing Wages	08/05/97	Special Legislation
529	Appropriation	08/05/97	Special Legislation
530	Annexation	08/05/97	Special Legislation

ORD. #	TITLE	DATE	LOCATION IN CODE
531	Annexation	08/19/97	Special Legislation
532	Monroe County Electric Co-Op	10/04/97	Special Legislation
533	Tax Levy	11/18/97	Special Legislation
534	Employees: Salaries	01/06/98	Sec. 12-1-8
535	Zoning Code: Special-Use	02/03/98	Chapter 40
536	Motor Vehicle	02/03/98	Ch. 24-1-1
537	Administration: Penalty	02/03/98	Sec. 1-1-20
538	Motor Vehicle	02/03/98	Chapter 24
539	Offenses	02/03/98	Ch. 27-1-1
540	Water Pollution Board Loan	02/17/98	Special Legislation
541	Motor Vehicles: Stop	03/03/98	Chapter 24
542	Taxation: Telecommunications Infrastructure Fee	05/19/98	Chapter 36
543	Taxation: Utility Tax	04/21/98	Ch. 36; Art. IV
544	Water Pollution Control Board	05/19/98	Special Legislation
545	Motor Vehicles: Stop	05/19/98	Ch. 24-3-3
546	Motor Vehicles: Stop	05/19/98	Chapter 24
547	Prevailing Wages	06/02/98	Special Legislation
548	Public Safety: Police Code	07/07/98	Chapter 30
549	Public Safety: Police	07/07/98	Chapter 30
550	Taxation: Utility	07/07/98	Chapter 36
551	Utilities: Water Rates	07/07/98	Chapter 38
552	Appropriation	07/21/98	Special Legislation
553	Zoning Code	10/06/98	Chapter 40
554	Tax Levy	11/03/98	Special Legislation
555	Ordinance Book	03/16/99	New Book
556	Utilities: Water Rates	04/20/99	Chapter 38
557	Cemetery: Grave Openings	05/04/99	Chapter 9
558	Administration: Salaries	05/18/99	Chapter 1
558	Appropriation	07/20/99	Special Legislation
559	Administration: Salaries	05/18/99	Chapter 1
560	Mandated Policies: Gift Ban Act	06/15/99	Chapter 22
562	Motor Vehicles: Stop Signs	08/17/99	Chapter 24
563	Motor Vehicles: Time Limit Parking	08/17/99	Chapter 24
564	Annexation	09/07/99	Special Legislation
565	Motor Vehicles: Stop Signs	09/07/99	Chapter 24
566	Annexation	10/19/99	Special Legislation
567	Parks: Rules	11/16/99	Chapter 28
568A	Motor Vehicles: Yield & Stop Signs	11/16/99	Chapter 24
568B	Cemetery	12/04/99	Chapter 9
569	Tax Levy	12/07/99	Special Legislation
570	Mandated Policies: Investment Policy	12/07/99	Chapter 22
571	Employees: Funeral Leave	02/15/00	Chapter 12
572	Employees: Funeral Leave	04/04/00	Chapter 12
572	Annexation: Nollau	03/07/00	Special Legislation
573	Employees: Payroll	05/16/00	Chapter 12
574	Administration: Collector Hours	06/06/00	Chapter 1
575	Public Safety: Police Department	06/06/00	Chapter 30
576	Prevailing Wage	06/06/00	Special Legislation
577	Appropriation	07/18/00	Special Legislation
578	Administration: Salaries	10/03/00	Chapter 1
579	Administration: Mayor	10/03/00	Chapter 1
580	Annexation: Wesselman	10/18/00	Special Legislation
581	Employees: Funeral Leave	10/17/00	Chapter 12

ORD. #	TITLE	DATE	LOCATION IN CODE
582	Motor Vehicles: Stop Signs	10/17/00	Chapter 24
583	Zoning: Multi-Family	10/17/00	Section 40-6-2
584	Tax Levy	11/07/00	Special Legislation
585	Zoning: Mobile Homes	11/07/00	Chapter 40
586	Public Safety: Sergeant	11/07/00	Chapter 30
587	Employees: Salaries	11/07/00	Chapter 12
588	Subdivision: Final Acceptance	11/07/00	Section 34-4-11
589	Employees: Sergeant Pay	12/05/00	Chapter 12
590	Taxation: Taxpayer's Rights Code	01/16/01	Chapter 36
591	Cemetery	02/20/01	Chapter 9
592	Annexation: Kinsella	04/03/01	Special Legislation
593	Motor Vehicles: Stop Signs	03/20/01	Chapter 24
594	Subdivision Code	03/20/01	Chapter 34
595	Motor Vehicles: Speed Limits	04/03/01	Chapter 24
597	Telecommunications Facilities	04/03/01	Special Legislation
598	Administration: Mayor	05/01/01	Chapter 1
599	Subdivision: Final Plat Fees	05/15/01	Chapter 34
600	Prevailing Wage	06/19/01	Special Legislation
601	Annexation: Fire Department	07/03/01	Special Legislation
602	Appropriation	07/17/01	Special Legislation
603	Utilities: Water/Sewer Rates	09/18/01	Chapter 38
604	Motor Vehicles: Stop Signs	09/18/01	Chapter 24
606	Employees: Drug & Alcohol Policy	10/02/01	Chapter 12
607	Employees: Jury Duty	10/16/01	Chapter 12
608	Tax Levy	04/30/02	Special Legislation
609	Subdivision Code	02/05/02	Chapter 34
610	Buildings: Permit Fees	02/05/02	Chapter 6
611	Utilities	02/05/02	Chapter 38
612	Administration: Salaries	02/05/02	Chapter 1
613	Motor Vehicles: Handicapped Parking	02/19/02	Chapter 24
614	Motor Vehicles: Stop Signs	03/05/02	Chapter 24
615	Loan from IEPA	03/05/02	Special Legislation
616	Employees: Salaries	05/21/02	Chapter 12
616	Prevailing Wage	07/02/02	Special Legislation
616	Appropriation	07/16/02	Special Legislation
617	IDOT Parking	08/06/02	Special Legislation
618	IDOT Encroachment	08/06/02	Special Legislation
619	Administration: Mayor's Insurance	08/20.02	Chapter 1
620	Utilities: Shut-Off	09/03/02	Chapter 38
621	Utilities: Deposits	09/03/02	Chapter 38
622	Utilities: Tap-In Fees	09/03/02	Chapter 38
623	Zoning: Fees	09/03/02	Section 40-11-1 – 40-11-3
624	Telecommunications	09/17/02	Special Legislation
625	Annexation	09/17/02	Special Legislation
626	Cemetery: Grave Opening Fees	11/19/02	Chapter 9
627	Tax Levy	12/17/02	Special Legislation
628	Annexation: Fix & Pannier	02/04/03	Special Legislation
629	Employees: Salaries	06/03/03	Chapter 12
630	Utilities: Water Rates	05/06/03	Chapter 38
631	Zoning: Rezoning	05/20/03	Special Legislation
632	Zoning: Fences	05/20/03	Chapter 40
633	Zoning: Fences	06/17/03	Section 40-4-1(E)
634	Prevailing Wage	07/01/03	Special Legislation

ORD. #	TITLE	DATE	LOCATION IN CODE
635	Utilities	07/15/03	Chapter 38
636	Subdivision: Changes	07/15/03	Chapter 34
637	Appropriation	07/15/03	Special Legislation
638	Zoning	08/05/03	Chapter 40
639	Annexation: Park Property – Trail	09/16/03	Special Legislation
640	Administration: IMLRMA	09/16/03	Chapter 1
641	Flood Plain Code	10/21/03	Chapter 14
642	Tax Levy	12/02/03	Special Legislation
643	Annexation: Fulford	12/30/03	Special Legislation
644	Zoning	01/06/04	Chapter 40
645	Annexation: Weissert & others	03/02/04	Special Legislation
646	Vehicle Licenses: Stickers	03/02/04	Chapter 39
647	Transfer of Street	04/06/04	Special Legislation
648	Mandated Policies: Ethics Act	05/04/04	Chapter 22
649	Motor Vehicles: Stop Signs	06/15/04	Chapter 24
650	Prevailing Wage	06/15/04	Special Legislation
651	Annexation: Siebert	06/21/04	Special Legislation
652	Appropriation	07/20/04	Special Legislation
653	Buildings: Permits	10/19/04	Chapter 6
654	Utilities	10/19/04	Chapter 38
655	VOID		
656	VOID		
657	Zoning: Area & Bulk Regulations Schedule	11/02/04	Chapter 40
658	Transfer or Roadway	11/02/04	Special Legislation
659	Tax Levy	12/07/04	Special Legislation
660	Zoning: Fences	03/01/05	Chapter 40
661	Utilities: Grease & Oil Interceptors	03/01/05	Chapter 38
662	Motor Vehicles: Stop Signs	03/01/05	Chapter 24
663	Annexation: Becherer	03/15/05	Special Legislation
664	Annexation: Campbell	04/19/05	Special Legislation
665	Public Safety: Police Department	04/19/05	Chapter 30
666	Employees	04/19/05	Chapter 12
667	Employees: Salaries	04/19/05	Chapter 12
668	Administration: Collector's Salary	04/19/05	Chapter 1
669	Motor Vehicles: Stop Signs	05/17/05	Chapter 24
670	Employees: Uniforms	06/07/05	Chapter 12
671	Prevailing Wage	06/07/05	Special Legislation
672	Demolition of Old Water Tower	06/21/05	Special Legislation
673	Appropriation	07/20/05	Special Legislation
674	Annexation: Wildwood West	05/18/05	Special Legislation
675	Motor Vehicles: Stop Signs	08/02/05	Chapter 24
676	Offenses: Curfew	08/02/05	Chapter 27
677	Subdivision: Water System	08/02/05	Section 34-3-12
678	Parks	08/16/05	Chapter 28
679	Administration: Appointments	08/16/05	Chapter 1
680	Administration: Mayor Cell Phone	08/16/05	Chapter 1
681	Annexation: Mertens	08/02/05	Special Legislation
682	Annexation: Holdener	08/23/05	Special Legislation
683	NIMS	10/04/05	Special Legislation
684	Employees	10/04/05	Chapter 12
685	Buildings: Elevation	10/04/05	Section 6-1-1(C)
686	Public Safety: Police Chief	10/04/05	Section 30-2-2
687	Tax Levy	12/06/05	Special Legislation

ORD. #	TITLE	DATE	LOCATION IN CODE
688	Motor Vehicles: Stop Signs	12/06/05	Chapter 24
689	Liquor: Class "B" License	01/03/06	Chapter 21
690	Liquor: Class "A" License	01/03/06	Chapter 21
691	Utilities: Sewer User Charge Rates	02/21/06	Chapter 38
692	Utilities: Water Rates	02/21/06	Chapter 38
693	Utilities: Water Tap-In Fees	02/21/06	Chapter 38
694	Utilities: Sewer Tap-In Fees	02/21/06	Chapter 38
695	Public Safety: ESDA	04/04/06	Chapter 30
696	Annexation: Fulford	04/18/06	Special Legislation
697	Annexation: Fulford	04/18/06	Special Legislation
698	Administration: Committees	04/18/06	Chapter 1
699	Administration	04/18/06	Chapter 1
700	Employees	04/18/06	Chapter 12
701	Administration: Officials & Engineer	04/18/06	Chapter 1
702	Offenses: Firearms	04/18/06	Chapter 27
703	Administration: Administrative Assistant	04/18/06	Chapter 1
704	Administration: Village Collector	04/18/06	Chapter 1
705	Nuisances: Skateboards	04/18/06	Chapter 25
706	Appropriation	06/20/06	Special Legislation
707	Prevailing Wage	06/20/06	Special Legislation
708	Public Safety: ESDA	09/19/06	Chapter 30
709	Offenses: Leaf Burning	11/07/06	Chapter 27
710	Tax Levy	11/21/06	Special Legislation
711	Annexation: Fulford	12/05/06	Special Legislation
712	Employees: Hiring	01/16/07	Chapter 12
713	Utilities	01/16/07	Chapter 38
714	Subdivision: Final Plat Filing Fee	01/16/07	Chapter 34
715	Employees: Part-Time	01/16/07	Section 12-1-1(D)
716	Offenses	01/16/07	Chapter 27
717	Annexation: South Woods	03/20/07	Special Legislation
718	Liquor	05/01/07	Secs. 21-2-7; 21-3-32
719	Employees: Discharge	05/01/07	Section 12-1-3
720	Public Safety: Patrolmen	05/01/07	Section 30-2-4
721	Employees	05/01/07	Chapter 12
722	Prevailing Wage	07/03/07	Special Legislation
723	Appropriation	07/03/07	Special Legislation
724	Motor Vehicles: No Parking	08/07/07	Chapter 24
725	Employees: Minimum Wage	08/07/07	Chapter 12
726	Utilities: Water Rates	08/21/07	Chapter 38
727	Utilities: Sewer Rates	09/05/07	Chapter 38
728	Utilities: Tap-In Fees	09/05/07	Chapter 38
729	Tax Levy	11/20/07	Special Legislation
730	Motor Vehicles: Stop Signs	11/20/07	Chapter 24
731	Motor Vehicles: Stop Signs	12/04/07	Chapter 24
732	Administration: Returned Checks	03/18/08	Chapter 1
733	Offenses: Truancy	03/04/08	Chapter 27
734	Utilities: Rates & Regulations	04/15/08	Chapter 38
735	Employees: Salaries	05/06/08	Chapter 12
736	Public Safety: EMA Salary	05/20/08	Section 30-3-19
737	Borrowing Funds	05/20/08	Special Legislation
738	Animals	06/17/08	Chapter 3
739	Cablevision	06/17/08	Chapter 8
740	Cable TV/Telecommunications	06/17/08	Chapter 8

ORD. #	TITLE	DATE	LOCATION IN CODE
741	Cable TV/Telecommunications	06/17/08	Chapter 8
742	Streets: Excavations	06/17/08	Sec. 33-4-1 et seq.
743	Cable/Telecommunications	06/17/08	Ch. 33; Art. IV
744	Prevailing Wage	06/17/08	Special Legislation
745	Liquor: Licenses	06/28/08	Chapter 21
746	Appropriation	07/01/08	Special Legislation
747	Annexation: Sauget	06/20/08	Special Legislation
748	Business: Licenses	09/02/08	Section 7-1-1(G)
749	Annexation: Reifschneider	11/18/08	Repealed
750	Mandated Policies: Identity Theft	11/18/08	Chapter 22
751	Transfer of Road: Douglas		Special Legislation
752	Tax Levy	12/16/08	Special Legislation
753	Annexation: Reifschneider	01/06/09	Special Legislation
754	Employees: Part-Time Salary	01/06/09	Chapter 12
755	Streets: Construction Standards	01/06/09	Section 34-3-4
756	Annexation: Reifschneider	01/14/09	Special Legislation
757	Purchase Agreement: PD Loan	02/17/09	Special Legislation
758	Transfer of Roads at Douglas	03/03/09	Special Legislation
759	Utilities: Water Rates	06/16/09	Chapter 38
760	Prevailing Wage	06/16/09	Special Legislation
761	Appropriation	07/07/09	Special Legislation
762	Nuisances: Weeds Penalty	07/21/09	Chapter 25
763	Liquor: Premises	07/21/09	Chapter 21
764	Subdivision: Final Plat Filing Fees	07/21/09	Section 34-4-1(E)
765	Liquor: Class "A"	08/18/09	Chapter 21
766	Streets: Storm Sewer Requirements	10/20/09	Section 34-3-5
767	Utilities: Meter Service	10/20/09	Section 38-3-3
768	Employees: Funeral Leave	11/03/09	Chapter 12
769	Administration: Responsible Bidders	11/17/09	Chapter 1
770	Annexation: Frentzel	12/15/09	Special Legislation
771	Annexation: Douglas Area	12/15/09	Special Legislation
772	Zoning: Geographic Boundaries	12/15/09	Special Legislation
773	Street & Highways: Douglas	12/15/09	Special Legislation
774	Tax Levy	12/15/09	Special Legislation
775	Motor Vehicles: Parking of Boats/Campers on Street	12/15/09	Chapter 24
776	Subdivision: Water Tap Requirements	12/15/09	Section 34-3-12
777	Annexation: Frentzel	01/19/10	Special Legislation
778	Cemetery: Fees	03/16/10	Secs. 9-1-12; 9-1-13
779	IEPA Loan Authorization	04/06/10	Special Legislation
780	Zoning: Manufactured Homes	05/04/10	Section 40-4-8
781	Zoning: Beer Gardens	05/18/10	Chapter 40
782	Employees: Marge Jarvis	06/01/10	Special Legislation
783	Zoning: Temporary Portable Storage	06/15/10	Section 40-5-20
784	Utilities: User Charge System	08/03/10	Chapter 38
785	Annexation: Douglas	07/06/10	Special Legislation
786	Annexation: 6018 Douglas	07/06/10	Special Legislation
787	Appropriation	07/20/10	Special Legislation
788	Cemetery: Grave Fees	10/05/10	Chapter 9
789	Utilities: Deposit	10/05/10	Chapter 38
790	Streets: Storm Sewer Culverts	12/07/10	Chapter 33
791	Tax Levy	12/21/10	Special Legislation
792	Ameren Gas	0/18/11	Special Legislation
793	Motor Vehicles: Stop Signs	04/05/11	Chapter 24

ORD. #	TITLE	DATE	LOCATION IN CODE
794	MFT Special Census	04/05/11	Special Legislation
795	Public Safety: EMA Coordinator Salary	04/05/11	Chapter 30
796	Administration: Meetings	04/05/11	Chapter 1
797	Zoning: Board Salary	04/05/11	Section 40-10-13
798	Employees: Salary	04/05/11	Chapter 12
799	Employees: Vacation, Sick, etc.	04/05/11	Section 12-1-7(E)
800	Public Safety: Vacation, Sick etc.	04/05/11	Chapter 30
801	Administration: Committee Meetings	05/03/11	Chapter 1
802	Zoning: B-1 Setbacks	05/03/11	Chapter 40
803	Offenses: Fireworks	06/07/11	Chapter 27
804	Appropriation	06/21/11	Special Legislation
805	Public Safety: Part-Time Officers	08/02/11	Section 30-2-19
806	Mandated Policies: Fair Housing: Withholding	08/16/11	Chapter 22
807	Zoning: Satellite Dish Antennas Repealed	08/16/11	Section 40-5-18
808	Employees: Graduated Pay Scale	09/06/11	Section 12-1-8(A)
809	Zoning: Signs	10/04/11	Section 40-8-10
810	Zoning: Portable Tool Sheds	10/04/11	Section 40-2-2; 40-5-21
811	Zoning: Fences, Walls & Hedges	11/01/11	Section 40-4-1
812	Business: Solicitors & Peddlers Fees	11/15/11	Secs. 7-2-11; 7-3-13
813	Tax Levy	12/20/11	Special Legislation
814	Employees: Annette Parker	02/07/12	Special Legislation
815	Zoning: Manufactured Homes	02/07/12	Section 40-4-8
816	Buildings: International Building Code	03/06/12	Section 6-2-1
817	Buildings: International Residential Code	03/06/12	Repealed
818	Appropriation	06/19/12	Special Legislation
819	Liquor: Gambling	07/03/12	Section 21-3-17
820	Public Safety: Part-Time Officers	07/17/12	Chapter 30
821	Utilities: Water Tap-On Fees	08/07/12	Section 38-3-79
822	Utilities: Sewer Tap-On Fees	08/07/12	Section 38-4-88
823	Zoning: Travel Trailers	09/04/12	Section 40-4-9
824	Administration: Salaries	09/04/12	Chapter 1
825	Employees: Scott Mohrmann	09/04/12	Special Legislation
826	Buildings: Permit Fees	09/18/12	Repealed
827	Administration: Village Attorney	09/18/12	Chapter 1
828	Streets: Driveways	09/18/12	Chapter 33
829	Employees: Jason Bridges	09/18/12	Special Legislation
830	Zoning: Special Use Permit	11/06/12	Section 40-10-35; 40-10-36
831	Tax Levy	12/18/12	Special Legislation
832	Utilities: Meter Damage	12/18/12	Section 38-3-9
833	Electrical Aggregation	01/15/13	Special Legislation
834	Vacating Douglas	01/15/13	Special Legislation
835	Utilities: Driveway Easements for Water	02/05/13	Chapter 38
836	Utilities: Driveway Easements for Sewer	02/05/13	Chapter 38
837	Employees: Health Insurance	02/19/13	Chapter 12
838	Electrical Aggregation	05/07/13	Special Legislation
839	Public Safety: Police Residency	07/02/13	Chapter 30
840	Employees: Residency	07/02/13	Chapter 12
841	Annexation: Properties North	07/16/13	Special Legislation
842	Appropriation	07/16/13	Special Legislation
843	Nuisances: Derelict Vehicles	09/03/13	Chapter 25
844	Zoning: Home Occupations	11/05/13	Section 40-4-2
845	Tax Levy	12/03/13	Special Legislation
846	Utilities: Groundwater as Potable Water Prohibited	01/21/14	Chapter 38

ORD. #	TITLE	DATE	LOCATION IN CODE
847	Employees: Salaries, PTO, etc.	04/15/14	Section 12-1-5
848	Annexation: WWTF	06/03/14	Special Legislation
849	Annexation: Wildwood	06/03/14	Special Legislation
850	Appropriation	06/17/14	Special Legislation
851	Public Safety: EMA	08/05/14	Chapter 30
852	Annexation: Quartz	08/19/14	Special Legislation
853	Cemetery: Multiple Urn Burial	09/16/14	Secs. 9-1-1(F); 9-1-5; 9-1-11
854	Employees: George Emmerich	10/21/14	Special Legislation
855	Motor Vehicles: Stop Signs	10/21/14	Chapter 24
856	Employees: Mark Rausch	11/04/14	Special Legislation
857	Garbage: Waste Management Contract	11/04/14	Chapter 16
858	Tax Levy	12/16/14	Special Legislation
859	Zoning: Easements – Trees/Shrubs	12/16/14	Section 40-4-1(C)
860	Garbage: Waste Management Contract	12/16/14	Chapter 16
861	Nuisances: Recycling	03/17/15	Chapter 25
862	Nuisances: Yard Waste	04/17/15	Chapter 25
863	Appropriation	06/16/15	Special Legislation
864	Zoning: Meetings and Rules	08/18/15	Section 40-10-15
865	Subdivision: Underground Pipe	12/01/15	Section 34-3-13
866	Tax Levy	12/15/15	Special Legislation
867	Surplus Equipment	01/05/16	Special Legislation
868	FOP Contract	11/01/15	Repealed
869	Annexation: Rieso, Grieman, Noltkamper & Jany	02/16/16	Special Legislation
870	Offenses: Concealed Weapons	03/01/16	Chapter 27
871	Employees: Residency	03/01/16	Chapter 12
872	Public Safety: Police Residency	03/01/16	Chapter 30
873	Surplus Equipment	04/05/16	Special Legislation
874	Employees	05/17/16	Chapter 12
875	Employees	06/21/16	Chapter 12
876	Utilities: Water Tap-In Fees	06/21/16	Section 38-3-79
877	Business: Raffles	08/02/16	Ch. 7; Art. V
878	Zoning: MH-1 Mobile Homes	10/18/16	Chapter 40
8778A	Appropriation	12/06/16	Special Legislation
879	Employees: Holidays	10/18/16	Chapter 12
879A	Tax Levy	12/06/16	Special Legislation
880	Motor Vehicles: Stop Streets	10/18/16	Ch. 24; Schd. "A"
881	Buildings: International Building Code	12/20/16	Section 6-3-2
882	Buildings: Permit Fees	12/20/16	Section 6-1-2
883	Offenses: Disturbing the Peace	12/20/16	Section 27-2-6
884	Administration: Expense Reimbursement	12/20/16	Section 1-2-31
885	Zoning: B-2	02/21/17	Section 40-9-3(C)
886	Motor Vehicles: Low Speed Vehicles	03/07/17	Section 24-9-1
887	Annexation: Slocomb	05/02/17	Special Legislation
888	Zoning: Home Kitchen Regulations	07/05/17	Section 40-4-18
889	Employees: Salaries	05/02/17	Section 12-1-5(B)
890	Appropriation	06/20/17	Special Legislation
891	Employees: Michelle Schlarman	09/05/17	Special Legislation
892	Annexation: Robert Feder	09/19/17	Special Legislation
893	Annexation: Roger Schaefer	09/19/17	Special Legislation
894	Business: Queen of Hearts Raffle	10/03/17	Chapter 7
895	Tax Levy	11/07/17	Special Legislation
896	Motor Vehicles: UTV/Low Speed Vehicle	12/19/17	Chapter 24

ORD. #	TITLE	DATE	LOCATION IN CODE
897	Motor Vehicles: No Parking	01/02/18	Ch. 24; Schd. "E"
898	Mandated Policies: Sexual Harassment Policy	01/02/18	Ch. 22; Art. X
899	Vehicle Licenses: Fees	01/02/18	Section 39-1-3
900	Business	02/06/18	Section 7-1-5
901	Liquor: License Fee	02/06/18	Section 21-2-7
902	Parks: Fees	02/06/18	Chapter 28
903	Sale of Cadillac	02/20/18	Special Legislation
904	Offenses: Disturbing the Peace	02/20/18	Section 27-2-6
905	Zoning: Penalties	03/06/18	Section 40-10-34
906	Zoning: Occupancy Certificate	03/06/18	Section 40-10-12
907	Zoning: Special Use: Penalties	03/06/18	Section 40-10-44
908	Building Permits	03/06/18	Section 6-1-1
909	Employee Code	03/20/18	Chapter 12
910	Annexation: Dennis and Nanette Rieso	05/1/18	Special Legislation
911	Zoning: Administrator Duties	05/01/18	Section 40-10-2(B)
912	Administration: Code Enforcement	05/01/18	Section 1-3-62(N)
913	Zoning: Business Signs	05/01/18	Section 40-8-12(E)
914	Utilities: Shut Offs	05/01/18	Section 38-2-1(J)
915	Employees: Probationary Pay	05/15/18	Section 12-1-8(C)
916	Appropriation	06/20/18	Special Legislation
917	Garbage	07/03/18	Chapter 16
918	Zoning: Small Wireless Facilities	07/07/18	Chapter 8 or 40
919	Zoning: Standards for Variations	09/04/18	Section 40-10-31
920	Employee Code: Salaries	09/18/18	Section 12-1-8
921	Mandated Policies: Sexual Harassment	11/06/18	Ch. 22; Art. X
922	Tax Levy	12/04/18	Special Legislation
923	Employees: Streets	12/18/18	Section 12-1-8
924	Employees: Streets	07/16/19	Section 12-1-8
924A	Employees: Streets	08/06/19	Section 12-1-8
925	Surplus Vehicle	07/16/19	Special Legislation
926	Appropriation	12/03/19	Special Legislation
927	Utilities: Irrigation Meters	12/17/19	Section 38-3-3(B)
928	Tax Levy	12/03/19	Special Legislation
929	Offenses: Cannabis Prohibited	12/17/19	Ch. 27; Art. XVII
930	Sale of Personal Property	01/22/20	Special Legislation
931	Sale of Property	02/18/20	Special Legislation
932	Offenses: Disturbing the Peace	03/03/20	Section 27-2-6
933	Declaring State of Emergency	03/25/20	
934	Declaring State of Emergency	04/07/20	
935	Declaring State of Emergency	04/21/20	
936	Employee Agreement	04/21/20	Section 12-1-7, 12-1-8
937	Declaring State of Emergency	05/05/20	
938	Business: Residential Rental Property Licenses	05/05/20	Ch. 6; Art. IV
939	Declaring State of Emergency	05/19/20	
940	Declaring State of Emergency	06/02/20	
941	2020 Appropriations		
942	Declaring State of Emergency	06/16/20	
943	Declaring State of Emergency	07/07/20	
944	Employee: Salaries	07/21/20	Section 12-1-8
945	Revised Code of Ordinances	08/04/20	
946	Motor Vehicles: Stop Signs	08/04/20	Section 24-3-3
947	Zoning Codes: Standards for Variations	08/18/20	Section 40-10-31
948	Nuisances: Dangerous and Unsafe Properties	08/18/20	Section 25-8-1

ORD. #	TITLE	DATE	LOCATION IN CODE
949	Street Dept. Pay	9/15/20	Section 12-1-8
950	Specific Nuisances Enumerated	9/1/20	Section 25-1-1
951	Sale of Surplus Vehicle	10/6/20	
952	Order of Business	10/6/20	Section 1-2-11
953	Noise	12/1/20	Section 27-2-35
954	Sale of Surplus Vehicle	10/6/20	
955	Graduated Rate Pay – Street Dept.	10/20/20	Section 12-1-8(B)
956	Tax Levy	12/15/20	Special Legislation
957	Sale of Surplus Vehicle	12/15/20	
958	Vehicle License	02/16/21	Chapter 39 Deleted
959	Animal Tags	02/16/21	Sec. 3-6-1 to 3-6-6 Deleted
960	Rental Property	02/16/21	Section 6-4-5 (E)
961	On-Call Compensation/Public Works Dept.	02/16/21	Section 12-1-13
962	Annexation: Joseph Gerold	4/6/21	Special Legislation
963	Employees	4/6/21	Section 12-1-8
964	Appropriations	6/15/21	Special Legislation
965	Business Code	7/06/21	Sec 7-1-5, 7-1-13.1-13.3
966	Annexation: Hunters Point	7/06/21	Special Legislation
967	Employees	10/05/21	Section 12-1-8
968	Public Works Mutual Aide	11/16/21	Special Legislation
969	Tax Levy	12/7/21	Special Legislation
970	Repealing Schedule 40-3-7D	12/7/21	Section 40-3-7D

CHAPTER 1 - ADMINISTRATION

ARTICLE	*TITLE*	*PAGE*
1	***GENERAL CODE PROVISIONS***	
	Division I - Title	
	Section 1-1-1 - Title	*1-1*
	Section 1-1-2 - Acceptance	*1-1*
	Section 1-1-3 - Amendments	*1-1*
	Section 1-1-4 - Code Alteration	*1-1*
	Section 1-1-5 - Jurisdiction	*1-1*
	Section 1-1-6 - 1-1-7 Reserved	
	Division II - Saving Clause	
	Section 1-1-8 - Repeal of General Ordinances	*1-2*
	Section 1-1-9 - Public Utility Ordinances	*1-2*
	Section 1-1-10 - Court Proceedings	*1-2*
	Section 1-1-11 - Severability of Provisions	*1-2*
	Section 1-1-12 - Village Clerk's Certificate	*1-2*
	Section 1-1-13 - 1-1-14 Reserved	
	Division III - Definitions	
	Section 1-1-15 - Construction of Words	*1-3*
	Section 1-1-16 - Definitions	*1-3*
	Section 1-1-17 - Catchlines	*1-6*
	Section 1-1-18 - 1-1-19 Reserved	
	Division IV - General Penalty	
	Section 1-1-20 - Penalty	*1-6*
	Section 1-1-21 - Service by Certified Mail	*1-6*
	Section 1-1-22 - Application	*1-6*
	Section 1-1-23 - Liability of Officers	*1-6*
	Section 1-1-24 - License	*1-7*
II	***VILLAGE OFFICIALS***	
	Division I - Village Board of Trustees	
	Section 1-2-1 - Composition and General Powers	*1-8*
	Section 1-2-2 - Regular Meetings	*1-8*
	Section 1-2-3 - Special Meetings	*1-8*
	Section 1-2-4 - Committees	*1-8*
	Section 1-2-5 - Special Committees	*1-9*
	Section 1-2-6 - Quorum	*1-9*
	Section 1-2-7 - Members: Non-Attendance at Meeting	*1-9*
	Section 1-2-8 - 1-2-10 Reserved	
	Division II - Rules of the Village Board	
	Section 1-2-11 - Rules of the Board	*1-9*
	Section 1-2-12 - Agenda	*1-12*
	Section 1-2-13 - Address by Non-Members	*1-12*

ARTICLE		TITLE	PAGE
II		VILLAGE OFFICIALS (CONTINUED)	
		Division III - Ordinances	
	Section 1-2-14	- Ordinances	1-13
	Section 1-2-15	- Reconsideration – Passing Over Veto	1-14
	Section 1-2-16	- No Vote to be Reconsidered at Special Meeting	1-14
	Section 1-2-17	- Reserved	
		Division IV - General Provisions	
	Section 1-2-18	- Corporate Seal	1-14
	Section 1-2-19	- Elections	1-15
	Section 1-2-20	- Appointment of Elected Officials	1-15
	Section 1-2-21	- Municipal Officers - Regulations	1-15
	Section 1-2-22	- Resignation of Appointed Officials	1-16
	Section 1-2-23	- Qualifications; Elective Office	1-16
	Section 1-2-24	- Bonds of Village Officers	1-17
	Section 1-2-25	- Liability Insurance	1-17
	Section 1-2-26	- Bidding and Contract Procedures	1-17
	Section 1-2-27	- Interests in Contracts Prohibited	1-21
	Section 1-2-28	- Salaries Regulation	1-23
	Section 1-2-29	- Claims	1-23
	Section 1-2-30	- Municipal Year	1-24
	Section 1-2-31	- Expenses - Reimbursement	1-24
	Section 1-2-32	- Official Records	1-24
	Section 1-2-33	- Federal Old Age and Survivor's Insurance System	1-24
	Section 1-2-34	- Illinois Municipal Retirement Fund	1-25
	Section 1-2-35	- Territorial Jurisdiction Established	1-25
	Section 1-2-36	- 1-2-47 Reserved	
		Division VI – Vacancies	
	Section 1-2-48	- Vacancy by Resignation	1-25
	Section 1-2-49	- Vacancy by Death or Disability	1-25
	Section 1-2-50	- Vacancy by Other Causes	1-26
	Section 1-2-51	- Election of an Acting Mayor	1-26
	Section 1-2-52	- Appointment to Fill Trustee Vacancy	1-26
	Section 1-2-53	- Election to Fill Vacancies in Municipal Offices With Four (4) Year Terms	1-27
	Section 1-2-54	- Vacancies Due to Election Being Declared Void	1-27
	Section 1-2-55	- Owing a Debt to the Municipality	1-27
	Section 1-2-56	- 1-2-59 Reserved	
III		ELECTED OFFICIALS	
		Division I - Mayor	
	Section 1-3-1	- Election	1-28
	Section 1-3-2	- Mayor Pro-Tem; Temporary Chairman	1-28
	Section 1-3-3	- Chief Executive Officer	1-28
	Section 1-3-4	- Mayor's Signature	1-28
	Section 1-3-5	- Appointment of Officers	1-28

ARTICLE		TITLE	PAGE
III		ELECTED OFFICIALS (CONTINUED)	
		Division I – Mayor (Continued)	
	Section 1-3-6	- Supervise Conduct of Officers; Removal of Officers	1-29
	Section 1-3-7	- Designation of Officers' Duties	1-29
	Section 1-3-8	- Formal Occasions	1-29
	Section 1-3-9	- General Duties	1-29
	Section 1-3-10	- Business License Commissioner	1-29
	Section 1-3-11	- Local Liquor Commissioner	1-29
	Section 1-3-12	- Health Commissioner	1-30
	Section 1-3-13	- Deciding Vote - Mayor	1-30
	Section 1-3-14	- 1-3-15 Reserved	
		Division II - Village Clerk	
	Section 1-3-16	- Election	1-30
	Section 1-3-17	- Vacancy	1-30
	Section 1-3-18	- Publication of Ordinances; Board Minutes; Records	1-30
	Section 1-3-19	- Delivery of Papers to Officers	1-31
	Section 1-3-20	- Preparation of Documents, Commissions and Licenses	1-31
	Section 1-3-21	- Village Licenses	1-31
	Section 1-3-22	- Report of Licenses	1-31
	Section 1-3-23	- Administration of Oaths	1-31
	Section 1-3-24	- Outstanding Bonds	1-31
	Section 1-3-25	- Reports	1-31
	Section 1-3-26	- Successor	1-32
	Section 1-3-27	- Payments	1-32
	Section 1-3-28	- Notification to Persons Appointed to Office	1-32
	Section 1-3-29	- Other Duties	1-32
	Section 1-3-30	- Deputy Clerk	1-32
	Section 1-3-31	- Reserved	
		Division III - Village Treasurer	
	Section 1-3-32	- Committee Established	1-32
	Section 1-3-33	- Finance Committee	1-32
	Section 1-3-34	- Treasurer Appointed; Vacancy	1-33
	Section 1-3-35	- Money; Warrants; Accounts; Payments	1-33
	Section 1-3-36	- Warrant Register	1-33
	Section 1-3-37	- Personal Use of Funds	1-33
	Section 1-3-38	- Bond	1-33
	Section 1-3-39	- Special Assessments	1-33
	Section 1-3-40	- Bookkeeping	1-33
	Section 1-3-41	- Statements	1-33
	Section 1-3-42	- Report Delinquent Officers	1-34
	Section 1-3-43	- Year-End Report	1-34
	Section 1-3-44	- Submit Appropriation to Village Board	1-34
	Section 1-3-45	- Deposit of Funds	1-34
	Section 1-3-46	- Fee for Returned Checks	1-35
	Section 1-3-47	- 1-3-48 Reserved	

ARTICLE		TITLE	PAGE
III	ELECTED OFFICIALS (CONTINUED)		
	Division IV – Village Attorney		
	Section 1-3-49	- Services of Attorney	1-35
	Section 1-3-50	- Duties	1-36
	Section 1-3-51	- 1-3-52 Reserved	
	Division V – Superintendent of Public Works		
	Section 1-3-53	- Office Created	1-36
	Section 1-3-54	- Duties	1-36
	Section 1-3-55	- Streets	1-37
	Section 1-3-56	- Lighting	1-37
	Section 1-3-57	- Department Employees	1-37
	Section 1-3-58	- Property Custodian	1-37
	Section 1-3-59	- 1-3-60 Reserved	
	Division VI – Code Enforcement Officer -- Zoning Administrator		
	Section 1-3-61	- Creation of Position	1-37
	Section 1-3-62	- Duties	1-37
	Section 1-3-63	- 1-3-64 Reserved	
IV	SALARIES		
	Section 1-4-1	- Salaries of Village Officials	1-39
V	MANAGEMENT ASSOCIATION		
	Section 1-5-1	- Participation	1-40
	Section 1-5-2	- Contribution	1-40
VI	MEETING PROCEDURES		
	Division I – Recording Closed Meetings		
	Section 1-6-1	- Recording Closed Sessions	1-41
	Section 1-6-2	- Responsibility for Recording Closed Sessions and Maintaining Recordings	1-41
	Section 1-6-3	- Closed Session Minutes	1-41
	Section 1-6-4	- Procedure for Recording	1-41
	Section 1-6-5	- Back-Up Equipment/Procedure for Equipment Malfunction	1-41
	Section 1-6-6	- Procedure for Review of Closed Session Minutes and Recordings	1-41
	Section 1-6-7	- Maintenance and Public Release of Recordings and Access to Tapes	1-42
	Section 1-6-8	- Procedure for Destruction of Recordings	1-42
	Section 1-6-9	- 1-6-10 Reserved	
	Division II – Remote Meeting Participation		
	Section 1-6-11	- Statutory Authority for Participation	1-42
	Section 1-6-12	- Definition of Meeting	1-42
	Section 1-6-13	- Amendment of Previous Terms	1-42
	Section 1-6-14	- Remote Participation Policy	1-42
	Addendum "A"	- Governmental Unit Remote Attendance Policy	1-43
	Addendum "B"	- Request for Auxiliary Aid(s) and/or Service(s)	1-44

EXHIBIT 'A'

CHAPTER 1

ADMININSTRATION

ARTICLE I – GENERAL CODE PROVISIONS

DIVISION I - TITLE

1-1-1 TITLE. Upon the adoption by the Village Board of Trustees, this Village Code is hereby declared to be and shall hereafter constitute the official **"Revised Code of Ordinances of the Village of Smithton, Illinois".** The Revised Code of Ordinances shall be known and cited as the **"Village Code",** and it is hereby published by authority of the Village Board and shall be kept up-to-date as provided in **Section 1-1-3** under the direction of the Village Attorney, acting for said Village Board. Any reference to the number of any section contained herein shall be understood to refer to the position of the same number, its appropriate chapter and article heading and to the general penalty clause relating thereto as well as to the section itself when reference is made to this Village Code by title in any legal document. **(65 ILCS 5/1-2-3)**

1-1-2 ACCEPTANCE. The Village Code as hereby presented in printed form shall hereafter be received without further proof in all courts and in all administrative tribunals of this State as the ordinances of the Village of general and permanent effect, except the excluded ordinances enumerated in **Section 1-1-8. (65 ILCS 5/1-2-6)**

1-1-3 AMENDMENTS. Any ordinance amending this Village Code shall set forth the article, chapter, and section number of the section or sections to be amended, and this shall constitute a sufficient compliance with any statutory requirement pertaining to the amendment or revision by ordinance of any part of this Village Code. All such amendments or revisions by ordinance shall be forwarded to the codifiers on an annual basis and the ordinance material shall be prepared for insertion in its proper place in each copy of this Village Code. Each such replacement page shall be properly identified and shall be inserted in each individual copy of the Village Code on an annual basis. **(65 ILCS 5/1-2-3)**

1-1-4 CODE ALTERATION. It shall be deemed unlawful for any person to alter, change, replace or deface in any way, any section or any page of this Code in such a manner that the meaning of any phrase or order may be changed or omitted. Replacement pages may be inserted according to the official instructions when so authorized by the Village Board. The Clerk shall see that the replacement pages are properly inserted in the official copies maintained in the office of the Clerk.

Any person having in his custody an official copy of this Code shall make every effort to maintain said Code in an up-to-date and efficient manner. He shall see to the immediate insertion of new or replacement pages when such are delivered to him or made available to him through the office of the Village Clerk. Said Code books, while in actual possession of officials and other interested persons shall be and remain the property of the Village and shall be returned to the office of the Clerk upon termination of office or separation of duties.

1-1-5 JURISDICTION. Unless otherwise provided herein, this Code applies to acts performed within the corporate limits of the Village. Provisions of this Code also apply to acts performed outside the corporate limits and up to the limits prescribed by law, where the law confers power on the Village to regulate such particular acts outside the corporate limits.

1-1-6 - 1-1-7 RESERVED.

DIVISION II - SAVING CLAUSE

1-1-8 REPEAL OF GENERAL ORDINANCES. All general ordinances of the Village passed prior to the adoption of this Code are hereby repealed, except such as are referred to herein as being still in force or are, by necessary implication, herein reserved from repeal **[subject to the saving clauses contained in the following sections],** from which are excluded the following ordinances, which are not hereby repealed:

Tax Levy Ordinances; Appropriation Ordinances; Ordinances Relating to Boundaries and Annexations; Franchise Ordinances and other Ordinances Granting Special Rights to Persons or Corporations; Contract Ordinances and Ordinances Authorizing the Execution of a Contract or the Issuance of Warrants; Ordinances Establishing, Naming, or Vacating Streets, Alleys, or Other Public Places; Improvement Ordinances; Bond Ordinances; Ordinances Relating to Elections; Ordinances Relating to the Transfer or Acceptance of Real Estate by or from the Village; and all Special Ordinances.

1-1-9 PUBLIC UTILITY ORDINANCES. No ordinance relating to railroads or railroad crossings with streets and other public ways or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the adoption of this Code or by virtue of the preceding section, excepting as this Code shall be considered as amending such ordinance or ordinances in respect to such provisions only.

1-1-10 COURT PROCEEDINGS. No new ordinance shall be construed or held to repeal a former ordinance, whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any claim arising under the former ordinance or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment be mitigated by any provision of a new ordinance, such provision may be, by the consent of the party affected, applied to any judgment announced after the new ordinance takes effect.

This Section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.

Nothing contained in this Chapter shall be construed as abating any action now pending under or by virtue of any general ordinance of the Village herein repealed and the provisions of all general ordinances contained in this Code shall be deemed to be continuing provisions and not a new enactment of the same provision; nor shall this Chapter be deemed as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the Village under any ordinance or provision thereof in force at the time of the adoption of this Code.

1-1-11 SEVERABILITY OF PROVISIONS. Each section, paragraph, sentence, clause and provision of this Code is severable, and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Code, nor any part thereof, other than that part affected by such decision.

1-1-12 VILLAGE CLERK'S CERTIFICATE. The Village Clerk's Certificate shall be substantially in the following form:

VILLAGE CLERK'S CERTIFICATE

STATE OF ILLINOIS)
COUNTY OF ST. CLAIR) ss. VILLAGE CLERK'S OFFICE
VILLAGE OF SMITHTON)

I, Annette Parker, Village Clerk of the **Village of Smithton, Illinois,** do hereby certify that the following **Revised Code of Ordinances of the Village of Smithton, Illinois of 2018,** published by authority of the Village Board of Trustees were duly passed by the Village Board of Trustees of the **Village of Smithton, Illinois,** approved by the Mayor and published in book form according to law on this date, and that these ordinances are true and perfect copies of the ordinances, as passed, approved and now of record and on file in my office as provided by law.

In witness whereof, I have set my hand and affixed the corporate seal of the **Village of Smithton, Illinois,** this 4th day of August, 2020.

ANNETTE PARKER
VILLAGE CLERK
VILLAGE OF SMITHTON

(SEAL)

1-1-13 - 1-1-14 RESERVED.

DIVISION III - DEFINITIONS

1-1-15 CONSTRUCTION OF WORDS. Whenever any word in any section of this Code, importing the plural number is used in describing or referring to any matters, parties or persons, any single matter, party or person shall be deemed to be included, although distributive words may not have been used.

When any subject matter, party or person is referred to in this Code by words importing the singular number only, or the masculine gender, several matters, parties or persons and females as well as males and bodies corporate shall be deemed to be included; provided that these rules of construction shall not be applied to any section of this Code which contains any express provision excluding such construction or where the subject matter or content may be repugnant thereto.

1-1-16 DEFINITIONS. Whenever the following words or terms are used in this Code, they shall have the meanings herein ascribed to them unless the context makes such meaning repugnant thereto:

"AGENT", as used in this Code shall mean a person acting on behalf of another.

"BOARD OF TRUSTEES", unless otherwise indicated shall mean the Mayor and the Board of Trustees of the Village of Smithton.

"CODE" OR "THIS CODE", shall mean the **"Revised Code of Ordinances of the Village of Smithton".**

"CORPORATE AUTHORITIES" shall mean the Mayor and the Village Board of Trustees. **(65 ILCS 5/1-1-2(2))**

"COUNTY" shall mean the **County of St. Clair.**

"EMPLOYEES" shall mean the following: Whenever reference is made in this Code to a Village employee by title only, this shall be construed as though followed by the words **"of the Village".**

"FEE" OR "FEES" as used in this Code shall mean a sum of money charged by the Village for carrying on of a business, profession or occupation.

"FISCAL YEAR". The "fiscal year" for the Village shall begin on **May 1st of each year and end on April 30th of the following year**. **(65 ILCS 5/1-1-2[5])**

"KNOWINGLY" imports only a knowledge that the facts exist which bring the act or omission within the provisions of this Code. It does not require any knowledge of the unlawfulness of such act or omission.

"LEGAL HOLIDAY" shall mean the holidays as authorized and recognized by the Village Board in the employee agreement.

"LICENSE" as used in this Code shall mean the permission granted for the carrying on of a business, profession or occupation.

"MAY" as used in this Code means permissible.

"MAYOR" as used in this Code shall mean the Village President or President of the Village Board of Trustees**. (65 ILCS 5/1-1-2.1)**

"MISDEMEANOR" as used in this Code shall mean any offense deemed a violation of the provisions of this Code which is a lesser offense than a felony as defined by state law.

"NEGLECT", "NEGLIGENCE", "NEGLIGENT" AND "NEGLIGENTLY" import a want of such attention to the nature of probable consequences of the act of omission as a prudent man ordinarily bestows in acting in his own concern.

"NUISANCE" shall mean anything offensive or obnoxious to the health and welfare of the inhabitants of the Village or any act or thing repugnant to or creating a hazard to or having a detrimental effect on the property of another person or to the community.

"OCCUPANT" as applied to a building or land shall include any person who occupies the whole or any part of such building or land whether alone or with others.

"OFFENSE" shall mean any act forbidden by any provision of this Code or the omission of any act required by the provisions of this Code.

"OFFICERS AND EMPLOYEES". Whenever reference is made in this Code to a Village Officer or employee by title only, this shall be construed as though followed by the words **"of the Village"** and shall be taken to mean the officer or employee of this Village having the title mentioned or performing the duties indicated.

No provision of this Code designating the duties of any officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty provided in this Code for a failure to perform such duty, unless the intention of the Village Board to impose such a fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty.

"OFFICIAL TIME". Central Standard Time shall be the official time for the transaction of Village business, except during applicable Daylight Savings Time set by National or State standards when the official time shall be advanced **one (1) hour**. All clocks and other timepieces in or upon public buildings or other premises maintained by or at the expense of the Village shall be set and run at the official time prescribed by this paragraph.

"OPERATOR" as used in this Code shall mean the person who is in charge of any operation, business or profession.

"OWNER" as applied to a building or land shall include any part-owner, joint-owner, tenant-in-common, joint-tenant or lessee of the whole or of a part of such building or land.

"PERSON" shall mean any natural individual, firm, trust, partnership, association, or corporation in his or its own capacity as administrator, conservator, executor, trustee, receiver or other representative appointed by the Court. Whenever the word "person" is used in any section of this Code prescribing a penalty or fine as applied to partnerships or any such word as applied to corporations, it shall include the officers, agents, or employees thereof who are responsible for any violation of said section.

"PERSONAL PROPERTY" shall include every description of money, goods, chattels, effects, evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished and every right or interest therein.

"RETAILER" as used in this Code, unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things in small quantities direct to the consumer.

"SHALL" as used in this Code means mandatory.

"STATE" OR "THIS STATE" unless otherwise indicated shall mean the **"State of Illinois".**

"STREET" shall include alleys, lanes, courts, boulevards, public squares, public places and sidewalks.

"TENANT" as applied to a building or land shall include any person who occupies the whole or any part of such building or land, whether alone or with others.

"WHOLESALER" AND "WHOLESALE DEALER" as used in this Code unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles, or things in quantity to persons who purchase for the purpose of resale.

"WILLFULLY" when applied to the intent with which an act is done or omitted implies simply a purpose or willingness to commit the act or make the omission referred to. It does not require any intent to violate law, or to injure another, or to acquire an advantage.

"WRITTEN" AND "IN WRITING" may include printing and any other mode of representing words and letters, but when the written signature of any person is required by law to any official or public writing or bond required by law, it shall be in the proper handwriting of such person, or in case he is unable to write, by his proper mark.

(In Part 65 ILCS 5/1-1-2)

1-1-17 CATCHLINES. The catchlines of the several sections of this Code are intended as mere catchwords to indicate the content of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

1-1-18 - 1-1-19 RESERVED.

DIVISION IV - GENERAL PENALTY

1-1-20 PENALTY.

(A) Any person convicted of a violation of any section of this Code shall be fined not less than **Seventy-Five Dollars ($75.00)** nor more than **Seven Hundred Fifty Dollars ($750.00)** for any **one (1) offense.**

(B) Any minor or person designated a juvenile by this State convicted of a violation of any section of this Code shall be fined not less than **Seventy-Five Dollars ($75.00)** nor more than **Seven Hundred Fifty Dollars ($750.00)** for any **one (1) offense**, but may not be confined except by provisions of the **Juvenile Court Act of the State of Illinois.**

(C) Whoever commits an offense against the Village or aids, abets, counsels, commands, induces or procures its commission is punishable as a principal.

(D) Whoever willfully causes an act to be done which, if directly performed by him or another would be an offense against the Village, is punishable as a principal.

1-1-21 SERVICE BY CERTIFIED MAIL. In all actions for violation of any municipal ordinance where the fine would not be in excess of **Seven Hundred Fifty Dollars ($750.00)** and no jail term could be imposed, service of summons may be made by the Municipal Clerk by certified mail, return receipt requested, whether service is to be within or without the State. **(65 ILCS 5/1-2-9.1)**

1-1-22 APPLICATION.

(A) The penalty provided in this Chapter shall be applicable to every section of this Village Code, the same as though it were a part of each and every separate section. Any person convicted of a violation of any section of this Village Code, where any duty is prescribed or obligation imposed, or where any act which is of a continuing nature or declared to be unlawful, shall be deemed guilty of a misdemeanor. A separate offense shall be deemed committed upon each day such duty or obligation remains unperformed or such act continues, unless otherwise specifically provided in this Village Code.

(B) In all cases where the same offense is made punishable or is created by different clauses or sections of this Village Code, the prosecuting officer may elect under which to proceed; but not more than one (1) recovery shall be had against the same person for the same offense; provided that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.

(C) Whenever the doing of any act or the omission to do any act constitutes a breach of any section or provision of this Village Code, and there shall be no fine or penalty specifically declared for such breach, the provisions of this Code shall apply and a separate offense shall be deemed committed upon each day during or on which a breach or violation occurs or continues.

1-1-23 LIABILITY OF OFFICERS. The failure of any officer or employee to perform any official duty imposed by this Code shall not subject such officer or employee to the penalty imposed for violation of this Code, unless a penalty is specifically provided for.

1-1-24 LICENSE. When a person is convicted of a violation of any Section of this Code, any license previously issued to him by the Village may be revoked by the court or by the Village Board.

ARTICLE II - VILLAGE OFFICIALS

DIVISION I - VILLAGE BOARD OF TRUSTEES

1-2-1 COMPOSITION AND GENERAL POWERS. The Village Board shall consist of **six (6) Trustees**, elected in conformity with this Code and State laws governing elections in villages and shall have such powers as are granted by **Chapter 65, Illinois Compiled Statutes,** as amended. The term of office shall be for **four (4) years** or until their successors are elected and have qualified. **(65 ILCS 5/3.1-25-5 and 5/3.1-10-50(D))**

1-2-2 REGULAR MEETINGS. The regular stated meetings of the Village Board shall be held in the Village Hall Building on the **first (1st) and third (3rd) Tuesdays** of each month at **7:30 P.M.** When the meeting date falls upon a legal holiday, the meeting shall be held on the next day at the same hour and place, unless otherwise designated. Adjourned and reconvened meetings may be held at such times as may be determined by the Trustees. **(65 ILCS 5/3.1-40-25 and 5 ILCS 120/1 et seq.)**

1-2-3 SPECIAL MEETINGS. Special meetings of the Village Board may be called by the Mayor or any **three (3) Trustees** by giving at least **forty-eight (48) hours** notice thereof by delivering to them personally written or printed notices of the time of such meeting at the residences of the Trustees. Such notices shall be served by mail, by the Chief of Police or a designated representative. Said notices shall specify the purpose of said special meeting and the business to be taken up at that time and place. Such notice shall be posted at the Village Hall and shall be provided to any local newspaper of general circulation or any local radio or television station that has filed an annual request for such notice. Said notice shall be provided to such news media in the same manner as said notice is given to the Mayor and members of the Village Board, provided such news media has given the Village an address within the Village at which such notice may be given. **(65 ILCS 5/3.1-40-25 and 5 ILCS 120/2.02 and 120/2.03)**

1-2-4 COMMITTEES. The following standing committees of the Village Board are hereby established, to-wit:

(A) (1) Finance & Insurance (5) Ordinance
(2) Street & Utility (6) Annexation & Building
(3) Police
(4) Park & Cemetery

(B) The committees shall be appointed annually by the Mayor. In addition the Mayor shall appoint the Chairman of each committee.

(C) The Mayor shall be ex-officio Chairman of each and every standing committee.

(D) So far as is practicable, reports of committees shall be in writing.

(E) As provided by law, any report of a committee of the Board shall be deferred for final action thereon to the next regular meeting of the same after the report is made, upon the request of any **two (2) Trustees** present. **(65 ILCS 5/3.1-40-35)**

(F) Each standing committee of the Village Board shall exercise a general supervision over the affairs of the department of municipal government with which it is connected; shall ascertain the condition and needs of said department; shall, from time to time, report the same to the Mayor and Village Board so that a full understanding thereof may be had, and generally, shall do all acts necessary to promote the efficiency of the Department.

(G) All committee meetings are subject to the Open Meeting Act requirements and minutes shall be taken. **(5 ILCS 120/1 and 120/2.06)**

1-2-5 SPECIAL COMMITTEES. Special Committees may be appointed by the Mayor, subject to the advice and consent of the Board of Trustees, as may be needed from time to time.

1-2-6 QUORUM. At all meetings of the Village Board, a majority of the corporate authorities shall constitute a quorum for the transaction of business, and if no such quorum attends such meeting of the Board, the Trustees may adjourn from day to day until a quorum is present; and shall have power to compel the attendance of absent members, except when such members are physically unable to attend such meetings. **(65 ILCS 5/3.1-40-20)**

EDITOR'S NOTE: When the Board has a Mayor and six (6) Trustees, a quorum is four (4), which may consist of the Mayor and three (3) Trustees, or four (4) Trustees.

1-2-7 MEMBERS: NON-ATTENDANCE AT MEETING. Any member of the Village Board who shall neglect or refuse to attend a regular and/or special Village Board meeting per month without good and sufficient reason to be passed upon by the Board shall not receive compensation for that meeting. Excused absences shall be paid. **(See Section 1-3-1 for salaries.) (65 ILCS 5/3.1-40-20)**

1-2-8 - 1-2-10 RESERVED.

DIVISION II - RULES OF THE VILLAGE BOARD

1-2-11 RULES OF THE BOARD. The following rules of order and procedure shall govern the deliberations and meetings of the Village Board.

(A) **Order of Business.** The order of business shall be as follows:

(1) Call meeting to order.
(2) Clerk's report.
(3) Treasurer's report.
(4) Good of the Village. *
(5) Police Chief's report.
(6) Engineer's report.
(7) Health Officer's report.
(8) Safety Committee report.
(9) Zoning Board report.
(10) Supervisor's report.
(11) Attorney's report.
(12) Committee as a whole.
(13) Approval of Committee minutes.
(14) Reports from Standing Committees.
    (a) Finance and Insurance Committee.
    (b) Street & Utility Committee.
    (c) Police Committee.
    (d) Park & Cemetery Committee.
    (e) Ordinance Committee.
    (f) Annexation & Building Committee.
(15) Bills and Payroll.
(16) Communications.
(17) Unfinished Business.
(18) New Business.

(19) Executive Session.
(20) Adjournment and Time.

All questions relating to the priority of business shall be decided by the Chair without debate, subject to appeal.

***See Section 1-2-13**
(Ord. 952; 10/5/20)

(B) **Duties of Presiding Officer.** The presiding officer shall preserve order and decorum and may speak to points of order in preference to other Trustees, and shall decide all question of order, subject to appeal.

(C) **Duties of Members.** While the presiding officer is putting the question, no member shall walk across or out of the Board Chamber.

Every member, prior to his speaking, making a motion or seconding the same shall not proceed with his remarks until recognized and named by the Chair. He shall confine himself to the question under debate, avoiding personalities and refraining from impugning the motives of any other Trustee's argument or vote.

(D) **Visitors.** After the public comment period, no person other than a member of the Board of Trustees shall address that body on the same question unless such person has been recognized by the presiding officer.

(E) **Presentation of New Business.** When a Trustee wishes to present a communication, petition, order, resolution, ordinance or other original matter, the member shall read such matter when reached in its proper order.

(F) **Debate.** No Trustee shall speak more than once on the same question, except by consent of the presiding officer or unless **three-fourths (3/4)** of the corporate authorities agree that one's right to debate should be limited to speak only once and then not until every other Trustee desiring to speak shall have had an opportunity to do so; provided, however, that the proponent of the matter under consideration, as the case may be, shall have the right to open and close debate.

The Village Board, by motion, may limit debate. The presiding officer shall have the right to participate in debate.

While a member is speaking, no Trustee shall hold any private discussion, nor pass between the speaker and the Chair.

(G) **Call of Trustees to Order.** A Trustee, when called to order by the Chair, shall thereupon discontinue speaking and take his seat and the order or ruling of the Chair shall be binding and conclusive, subject only to the right to appeal.

(H) **Appeals from Decision of the Chair.** Any Trustee may appeal to the Board from a ruling of the Chair, and if the appeal is seconded, the Trustee making the appeal may briefly state his reason for the same, and the Chair may briefly explain his ruling; but there shall be no debate on the appeal and no other person shall participate in the discussion. The presiding officer shall have the right to participate in debate.

The Chair shall then put the question, **"Shall the decision of the Chair be sustained?".** If a majority of the Trustees present vote **"No",** the decision of the Chair shall be overruled; otherwise, it shall be sustained.

(I) **Question of Personal Privilege.** The right of a member to address the Board on a question of personal privilege shall be limited to cases in which his integrity, character, or motives are assailed, questioned or impugned.

(J) **Voting.** Every other member who shall be present when a question is stated from the Chair shall vote thereon, unless he is personally interested in the question, in which case, he shall take whatever steps are necessary to insure that his vote is not taken.

(K) **Special Order of Business.** Any matter before the Village Board may be set down as a special order of business at a time certain if **two-thirds (2/3)** of the Trustees present vote in the affirmative, but not otherwise.

(L) **Seconding of Motions Required; Written Motions.** No motion shall be put or debated in the meeting or in committee unless it be seconded. When a motion is seconded, it shall be stated by the presiding officer before debate, and every motion in the Board, except motions of procedure, shall be reduced to writing if required by a member, and the proposer of the motion shall be entitled to the floor.

(M) **Division of Questions.** If any question under consideration contains several distinct propositions, the Trustees, by a majority vote of the Trustees present may divide such question.

(N) **Record of Motions.** In all cases where a resolution or motion is entered in the journal, the name of the Trustee moving the same shall be entered also.

(O) **Announcement and Changes of Vote.** The result of all votes by yeas and nays shall not be announced by the Clerk, but shall be handed by him to the Chairman for announcement, and no vote shall be changed after the tally list has passed from the hands of the Clerk.

(P) **Precedence of Motions.** When a question is under debate, the following motions shall be in order and shall have precedence over each other in order, as listed:

(1) To adjourn to a day certain.
(2) To adjourn.
(3) To take a recess.
(4) To lay on the table.
(5) The previous question.
(6) To refer.
(7) To amend.
(8) To defer or postpone to a time certain.
(9) To defer or postpone (without reference to time.)
(10) To defer or postpone indefinitely.

Numbers (2), (4), and (5) to be decided without debate.

(Q) **Motions to Adjourn.** A motion to adjourn the Village Board shall always be in order, except:

(1) When a Trustee is in possession of the floor.
(2) While the yeas and nays are being called.
(3) When the members are voting.
(4) When adjournment was the last preceding motion.
(5) When it has been decided that the previous question shall be taken.

A motion simply to adjourn shall not be subject to amendment or debate, but a motion to adjourn to a time certain shall be.

The Village Board may, at any time, adjourn over **one (1)** or more regular meetings on a vote of a majority of all the Trustees authorized by law to be elected.

(R) **Previous Question.** When the previous question is moved on the main question and seconded, it shall be put on this form: **"Shall the main question now be put?".** If such motion be carried, all further amendments and all further motions and debate shall be excluded, and the question put without delay upon the pending amendment in proper order and then upon the main question.

(S) **Motions to Lay on the Table and to Take From the Table.** A motion simply to lay the question on the table shall not be debatable, but a motion to lay on the table and publish, or with any other condition shall be subject to amendment and debate.

A motion to take any motion or other proposition from the table may be proposed at the same meeting at which such motion or proposition was laid upon the table, provided **two-thirds (2/3)** of the Trustees vote therefor.

A motion to lay any particular motion or proposition on the table shall apply to that motion or proposition only. An amendment to the main question or other pending question may be laid on the table and neither the main question nor such other pending question shall be affected thereby.

(T) **Indefinite Postponement; Motion to Defer or Postpone Without Any Reference to Time.** When consideration of a motion or other proposition is postponed indefinitely, it shall not be again taken up at the same meeting.

A motion to postpone indefinitely shall not open the main question to debate.

A motion to defer or postpone without any reference to time shall not be construed as a motion to postpone indefinitely, but shall be considered to be of the same general nature and to possess the same general attributes so far as applicable under these rules, as a motion to postpone indefinitely or to a time certain.

(U) **Motion to Refer.** A motion to refer to a standing committee shall take precedence over a similar motion to refer to a special committee.

(V) **Motion to Amend.** A motion to amend an amendment shall be in order, but one to amend an amendment to an amendment shall not be entertained.

An amendment modifying the intention of a motion shall be in order; but an amendment relating to a different subject shall not be in order.

On an amendment to **"Strike Out and Insert",** the paragraph to be amended shall first be read as it stands, then the words proposed to be stricken out, then those to be inserted, and finally, the paragraph as it will stand if so amended shall be read.

An amendment to the main question or other pending questions may be referred to a committee and neither the main question nor such other pending question shall be affected thereby.

(W) **Filling of Blanks.** When a blank is to be filled and different sums or times proposed, the question shall be taken first on the least sum or the longest time.

(X) **Motion to Substitute.** A substitute for any original proposition under debate or for any pending amendment or such proposition may be entertained notwithstanding that at such time, further amendment is admissible; and if accepted by the Trustees by a vote shall entirely supersede such original proposition or amendment, as the case may be, and cut off all amendments appertaining thereto.

(Y) **Reconsideration.** A vote or question may be reconsidered at any time during the same meeting, or at the first regular meeting held thereafter. A motion for reconsideration having been once made and decided in the negative shall not be renewed, nor shall a motion to reconsider be reconsidered.

A motion to reconsider must be made and seconded by Trustees who voted on the prevailing side of the question to be reconsidered, unless otherwise provided by law; provided, however, that where a motion has received a majority vote in the affirmative, but is declared lost solely on the ground that a greater number of affirmative votes is required by statute for the passage or adoption of such motion, then in such case, a motion to reconsider may be made and seconded only by those who voted in the affirmative on such question to be reconsidered.

(Z) **Adoption of Robert's "Rules of Order Revised".** The rules of parliamentary practice comprised in the latest published edition of **Robert's "Rules of Order Revised"** shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with the special rules of the Board.

(AA) **Temporary Suspension of Rules - Amendment of Rules.** These rules may be temporarily suspended by a vote of **two-thirds (2/3)** of the corporate authorities entitled by law to be elected and shall not be repealed, altered or amended, unless by concurrence of **two-thirds (2/3)** of all the corporate authorities entitled by law to be elected.

(BB) **Censure of Trustees - Expulsion of Trustees.** Any Trustee acting or appearing in a lewd or disgraceful manner, or who uses opprobrious, obscene and insulting language to or about any member of the Board, or who does not obey the order of the Chair, shall be, on motion, censured by a majority vote of the members present, or expelled by a **two-thirds (2/3) vote** of all Trustees elected. **(65 ILCS 5/3.1-40-15)**

1-2-12 AGENDA. An itemized agenda, along with all necessary supporting documentation shall be furnished to each member of the Village Board no later than **forty-eight (48) hours** prior to the regular Village Board meeting. In the case of matters of emergency which could not have been reasonably foreseen in sufficient time to comply with this section, a revised agenda shall be furnished to each member of the Village Board prior to the opening of the Board meeting. **(5 ILCS 120/2.02)**

1-2-13 ADDRESS BY NON-MEMBERS.

(A) **Public Comment Request.** Any person not a member of the Village Board may address the Village Board with regard to items of proposed business under the following rules:

(1) He or she shall rise (if not physically impaired) and state his or her name for the record and unless further time is granted by the Board to limit

remarks to **five (5) minutes**. All remarks shall be addressed to the Village Board, not to any member thereof.

(2) No person other than the Board member recognizing the individual addressing the Board and the person having the floor shall be permitted to enter into any discussion directly or through a member of the Board without the permission of the Mayor. No questions shall be asked of an Trustee except through the Mayor. Any person making personal or impertinent remarks or who shall become disruptive addressing the Village Board shall be forthwith evicted from the Board room by the Mayor.

(B) **Auxiliary Aid or Service.** The Village shall take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with orders.

(1) The Village shall furnish appropriate auxiliary aid(s) and service(s) where necessary to afford qualified individuals with disabilities including applicants, participants, companions, and members of the public, an equal opportunity to participate in, and enjoy the benefits, of a service, program, or activity of the Village.

(2) Auxiliary aids and services shall be provided in a timely manner.

(3) Individuals shall notify the Village Clerk **fourteen (14) days** in advance specifying the appropriate auxiliary aids or services required. **(See Addendum "B", Request for Auxiliary Aid(s) and/or Services)**

(C) The Chief of Police or his authorized designee shall be the Sergeant at Arms at the Board meetings. He or she shall carry out all orders and instructions of the Mayor for the purposes of maintaining order and decorum. The Sergeant at Arms shall remove any person violating order and decorum of the meeting. Such removal may be accompanied by further prosecution for any violation of any ordinance under this Code. **[5 ILCS 120/2.06]**

DIVISION III - ORDINANCES

1-2-14 ORDINANCES.

(A) **Attorney.** It shall be the duty of the Village Attorney to prepare such ordinances as may be required by the Village Board. It shall be the duty of the Village Attorney to review all ordinances before passage.

(B) **Introduced.** When a bill for ordinance shall be introduced, a vote on the passage of said bill may be taken upon motion and a second of the Village Trustees at that time.

(C) **Committees.** When a bill for ordinance shall be introduced, unless a vote on its passage pursuant to and provide in subparagraph (B) above is taken, it may be referred to the appropriate committee by the President or upon a motion and second by a Village Trustee, for further study, amendment, alteration or change. At any time, upon a motion and second of the Village Trustees, any bill previously referred to an appropriate committee, may be reported back to the Board of Trustees and considered for final passage. **(Ord. No. 400; 10-90)**

(D) **Vote required-Yeas and Nays Record.** The passage of all ordinances for whatever purpose, and of any resolution or motion (1) to create any liability against a Village or (2) for the expenditure or appropriation of its money, shall require the concurrence of a majority of all members then holding office on the Village Board, including the Mayor, unless otherwise expressly provided by the Code or any other act governing the passage of any ordinance, resolution, or motion; provided that, where the Board consists of an odd number of Trustees, the vote of the majority of the trustees shall be sufficient to pass an ordinance. The yeas and nays shall be taken upon the question of the passage of the designated ordinances, resolutions, or motions and recorded in the journal of the Village Board. In addition, the corporate authorities at any meeting may by unanimous consent to take a single vote by yeas or nays on the several questions of the passage on any **two (2)** or more of the designated ordinances, orders, resolutions or motions placed together for voting purposes in a single group. The single vote shall be entered separately in the journal under the designation "omnibus vote", and in such

event the Clerk may enter the words "omnibus vote" or "consent agenda" in the journal in each case in lieu of entering names of the members of Village Board voting "yea" and of those voting "nay" on the passage of each of the designated ordinances, orders, resolutions and motions included in such omnibus group or consent agenda. The taking of such single or omnibus vote and such entries of the words "omnibus vote" or "consent agenda" in the journal shall be a sufficient compliance with the requirements of this Section to all intents and purposes and with like effect as if the vote in each case had been separately by yeas and nays on the question of the passage of each ordinance, order, resolution and motion included in such omnibus group, and separately recorded in the journal. Likewise, the yeas and nays shall be taken upon the question of the passage of any other resolution or motion at the request of any trustee and shall be recorded in the journal. **(65 ILCS 5/3.1-40-40)**

(E) **Ordinances - Approval-Veto.** All resolutions and motions (1) which create any liability against the Village, or (2) that provide for the expenditure or appropriation of its money, or (3) to sell any Village property, and all ordinances, passed by the Village Board shall be deposited with the Village Clerk. If the Mayor approves an ordinance or resolution, the Mayor shall sign it. Those ordinances, resolutions and motions which the Mayor disapproves shall be returned to the Village Board, with the Mayor's written objections, at the next regular meeting of the Village Board occurring not less than **five (5) days** after their passage. The Mayor may disapprove of any **one (1)** or more sums appropriated in any ordinance, resolution, or motion making an appropriation, and, if so, the remainder shall be effective. However, the Mayor may disapprove entirely of an ordinance, resolution, or motion making an appropriation. If the Mayor fails to return any ordinance or any specified resolution or motion with his written objections, within the designated time, it shall become effective despite the absence of the Mayor's signature. **(65 ILCS 5/3.1-40-45)**

1-2-15 RECONSIDERATION--PASSING OVER VETO. Every resolution and motion, specified in **Section 1-2-14** and every ordinance, that is returned to the Village Board by the Mayor shall be reconsidered by the Village Board at the next regular meeting following the regular meeting at which the Village Board receives the Mayor's written objection. If, after reconsideration, **two-thirds (2/3)** of all the Trustees then holding office on the Village Board agree at that regular meeting to pass an ordinance, resolution, or motion, notwithstanding the Mayor's refusal to approve it, then it shall be effective. The vote on the question of passage over the Mayor's veto shall be by yeas and nays, and shall be recorded in the journal. **(65 ILCS 5/3.1-40-50)**

1-2-16 NO VOTE TO BE RECONSIDERED AT SPECIAL MEETING. No vote of the Village Board shall be reconsidered or rescinded at a special meeting unless there are present at the special meeting at least as many Village Trustees as were present when the vote was taken. **(65 ILCS 5/3.1-40-55)**

1-2-17 RESERVED.

DIVISION IV - GENERAL PROVISIONS

1-2-18 CORPORATE SEAL.

(A) The Corporate Seal of the Village shall be the same as that heretofore provided and used by the Village. It shall be circular in form with the words, **"St. Clair County"** in the exterior circle, and the words **"Village of Smithton, Illinois"** in the interior circle. **(65 ILCS 5/2-2-12)**

(B) The Corporate Seal shall be used as such seal in all cases provided for by law or by the ordinances of the Village and in all other cases in which, by law and custom, it is usual and necessary for the corporation to use a seal. The seal shall be and remain with the Village Clerk who shall be the legal custodian. **(65 ILCS 5/3.1-35-90)**

1-2-19 ELECTIONS.

(A) **Election Procedure.** The provisions of the **Illinois Compiled Statutes, Chapter 10** concerning municipal elections shall govern the conduct of the Village elections. **(65 ILCS 5/3.1-10-10)**

(B) **Inauguration.** The inauguration of newly elected Village officials shall occur at the first regular or special meeting of the Village Board in the month of May following the general municipal election in April. **(65 ILCS 5/3.1-10-15)**

1-2-20 APPOINTMENT OF ELECTED OFFICIALS. A Mayor, President, alderman, trustee, clerk, or treasurer shall not hold any other office under the municipal government during the term of that office, except when the officer is granted a leave of absence from that office or except as otherwise provided in **65 ILCS 5/3.1-10-50 and 5/3.1-35-135**. Moreover, an officer may serve as a volunteer fireman and receive compensation for that service.

1-2-21 MUNICIPAL OFFICERS - REGULATIONS.

(A) **Effect.** The provisions of this Division shall apply alike to all officers and employees of the Village regardless of the time of creation of the office or position or the time of the appointment of the officer or employee.

(B) **Qualifications; Appointive Office.**

(1) No person shall be eligible for any appointive municipal office unless that person is a qualified elector of the municipality or otherwise provided by law.

(2) The residency requirements do not apply, however, to municipal engineers, health officers, attorneys, or other officers who require technical training or knowledge, to appointed village treasurers, or to appointed village collectors (unless the Village has designated by ordinance that the Village Clerk shall also hold the office of collector). **(65 ILCS 5/3.1-10-6)**

(C) **Bond.** Every officer and employee shall, if required by the Village Board upon entering upon the duties of his office, give a bond in such amount and with such sureties as may be determined by the Board, conditioned upon the faithful performance of the duties of his office or position. **(65 ILCS 5/3.1-10-30)**

(D) **Books Delivered to Successor.** Every officer shall, upon going out of office, deliver to his successor, all books, papers, furniture, and other things appertaining to such office, and which are the property of the Village. Within **five (5) days** after notification and request, any person who has been an officer of a municipality is required to deliver to his successor in office, all property, books and effects in his possession belonging to the municipality, or pertaining to the office he has held. Upon his refusal to do so, he shall be liable for all damages caused thereby, and shall, upon conviction, be penalized according to the provisions of **Section 1-1-20** of this Code. He shall not receive his final check until his Village Code Book and keys are turned over to the Village Clerk. **(65 ILCS 5/3.1-10-35)**

(E) **Books Open to Inspection.** Every officer shall, at all times when required, submit the books and papers of his office to the inspection of the Mayor or any committee or member of the Board of Trustees.

(F) **Fees; Report of Fees.** No officer of the municipality shall be entitled to charge or receive any fees as against the Village. All officers of the Village entitled to receive fees shall keep a correct account thereof, and make a report thereof under oath to the Village Board prior to the regular meeting of each month. In the report, they shall specify from whom such fees were received, for what service, and when received. All fees received shall be paid over into the Village Treasury.

(G) **Other Rules and Regulations.** Every officer of the Village shall perform such other duties and be subject to such other rules and regulations as the Village Board may provide by law. **(65 ILCS 5/3.1-10-40)**

(H) **Conservators of Peace.**

(1) After receiving a certificate attesting to the successful completion of a training course administered by the Illinois Law Enforcement Training Standards Board, the Mayor, Trustees and policemen in municipalities shall be conservators of the peace. Those persons and others authorized by ordinance shall have power:
   (a) to arrest or cause to be arrested, with or without process, all persons who break the peace or are found violating any municipal ordinance or any criminal law of the State,
   (b) to commit arrested persons for examination,
   (c) if necessary, to detain arrested persons in custody over night or Sunday in any safe place or until they can be brought before the proper court, and
   (d) to exercise all other powers as conservators of the peace prescribed by the corporate authorities.

(2) All warrants for the violation of municipal ordinances or the State criminal law, directed to any person, may be served and executed within the limits of a municipality by any policeman of the municipality. For that purpose, policemen have all the common law and statutory powers of sheriffs. **(65 ILCS 5/3.1-15-25)**

(I) **Oath.** Before entering upon the duties of their respective offices, all municipal officers, whether elected or appointed shall take and subscribe to the following oath:

"I, _____, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Illinois, and that I will faithfully discharge the duties of the office of _____, according to the best of my ability."

The Mayor and the Clerk shall have the power to administer this oath or affirmation upon all lawful occasions.
(65 ILCS 5/3.1-15-20)
(See "Administration of Oaths", Section 1-3-23)

1-2-22 RESIGNATION OF APPOINTED OFFICIALS. Any officer of the Village may resign from office. If such officer resigns he shall continue in office until his successor has been chosen and has qualified. If there is a failure to appoint a Village officer, or the person appointed fails to qualify, the person filling the office shall continue in office until his successor has been chosen and has qualified. **(65 ILCS 5/3.1-10-50)**

1-2-23 QUALIFICATIONS; ELECTIVE OFFICE.

(A) A person is not eligible for an elective municipal office unless that person is a qualified elector of the municipality and has resided in the municipality at least **one (1) year** next preceding the election or appointment except as provided by Illinois Statutes.

(B) A person is not eligible to take the oath of office for a municipal office if that person is, at the time required for taking the oath of office, in arrears in the payment of a tax or other indebtedness due to the municipality or has been convicted in any court located in the United States of any infamous crime, bribery, perjury, or other felony.

(C) If a person (i) is a resident of a municipality immediately prior to the active duty military service of that person or that person's spouse, (ii) resides anywhere outside of the municipality during that active duty military service, and (iii) immediately upon completion of that active duty military service is again a resident of the municipality, then the time during which the person resides outside the municipality during the active duty military service is deemed to be time during which the person is a resident of the municipality for purposes of determining the residency requirement under subsection (A). **(65 ILCS 5/3.1-10-5)**

1-2-24 BONDS OF VILLAGE OFFICERS.

(A) **Amount.** Bonds of Village officers required under **Illinois Compiled Statutes, Chapter 65, Section 5/3.1-10-30** shall be executed in the following penal sums:

(1)	Mayor	$ 50,000.00
(2)	Village Treasurer	50,000.00
(3)	Village Clerk	50,000.00
(4)	Police Chief	50,000.00
(5)	Deputy Clerk	50,000.00

(B) **Premium Payment by Village.** The surety bonds required by law shall be paid by the Village. **(5 ILCS 270/1)**

(C) **Surety.** The Village Board shall not receive or approve any bond or security whereon the name of the Village Board, any one of the Board of Trustees or any elected or appointed officer of the Village appear as bondsman or security. If, by mistake, a bond containing the name of any such officer is approved by the Village Board or if any bondsman, after becoming such is elected or appointed to any Village office, this Section shall not act as a release of any such obligation incurred.

1-2-25 LIABILITY INSURANCE.

(A) **Purchase Of.** The Village Board shall have the power to purchase liability insurance covering and insuring all municipal officers, employees and elected officials; said insurance to cover incidents occurring while in the performance of their duties, which insurance may insure, cover and protect any liability which the municipal corporation, officer, employee or elected official may incur. When the insurance has been purchased, the Village shall be responsible for all premiums and deductible charges called for by any valid liability insurance policy covering the municipal corporation, officer, employee or elected official.

(B) **Indemnification.** If the Village Board elects not to purchase liability insurance covering and insuring municipal officers, elected officials and employees as provided in this Section, then the Village shall indemnify and cause to defend municipal officers, elected officials and employees from any claim filed by an individual, partnership or corporation when the claim is founded on any act or omission of the municipal officers, elected officials or employees while in the performance of their official duties, except the Village shall not indemnify, but shall defend any municipal officer, elected official or employee from any claim made by an individual, partnership or corporation wherein the claim alleges that the municipal officer, elected official or employee acted intentionally, maliciously or wantonly and further, shall not indemnify or cause to defend the officials or employees where the claim is directly or indirectly related to the negligent care or use of a vehicle as defined by the **Illinois Compiled Statutes**, and the Village shall not indemnify any municipal officer, elected official or employee from any claim made by a municipal officer, elected official or employee.

Notwithstanding any other provisions of this Code, the Village shall not indemnify or cause to defend any municipal officers, elected officials or employees if the municipal officers, elected officials or employees have liability insurance insuring the municipal officers, elected officials or employees from the alleged claim; however, the Village shall indemnify the municipal officer, elected official or employee the personal deductible limits of his personal policy. **(745 ILCS 10/2-201 et seq.)**

1-2-26 BIDDING AND CONTRACT PROCEDURES.

(A) **Competitive Bidding Required.** Any work or other public improvement which is not to be paid for in whole or in part by special assessment or special taxation, and all purchases of and contracts for supplies, materials, and services shall, except as specifically provided herein, be based whenever possible on competitive bids.

(B) **Formal Contract Procedure.**

(1) All work or other public improvement which is not to be paid for in whole or in part by special assessment or special taxation, and all purchases, orders or contracts for supplies, materials, equipment or contractual services except as otherwise provided herein, when the estimated cost thereof shall exceed **Twenty-Five Thousand Dollars ($25,000.00),**

shall be purchased from the lowest responsible bidder, after due notice inviting bids, unless competitive bidding is waived by a vote of **two-thirds (2/3)** of the Trustees then holding office.

(2) For all work or other public improvement which is not to be paid in whole or in part by special assessment or special taxation, and all purchases, orders for contracts or supplies, materials, equipment, or contractual services, except as otherwise provided herein, having an estimated cost thereof of less than **Twenty-Five Thousand Dollars ($25,000.00)**, but more than **One Hundred Dollars ($100.00)** may be purchased from the lowest responsible bidder, after due notice inviting bids, if any, unless competitive bidding is required by a vote of **two-thirds (2/3)** of the Trustees then holding office.

(3) The Village shall not be required to bid contracts that do not exceed **Twenty-Five Thousand Dollars ($25,000.00)**, except as otherwise required by State law and specifically the Illinois Municipal Code, **65 ILCS 5/8-9-1**. In the event the Village elects to bid contracts which do not exceed **Twenty-Five Thousand Dollars ($25,000.00)**, the bidding and contract procedurers set forth herein shall control.

(4) In no event shall bidding be required for any work or other public improvement which is not to be paid for in whole or in part by special assessment or special taxation, or any purchase, order or contract for supplies, materials, equipment, or contractual services wghich do not exceed **One Hundred Dollars ($100.00)**.

(C) **Notice Inviting Bids.** Notice inviting bids shall be published at least once in a newspaper with general circulation within the Village. The Village shall also advertise all pending work or purchases by posting a notice on the public bulletin board in the Village Hall.

(D) **Scope of Notice.** The newspaper notice required herein shall include a general description of the work to be performed or the articles to be purchased, shall state where specifications may be secured, and the time and place for opening bids.

(E) **Bid Deposits.** When deemed necessary by the Board of Trustees, bid deposits shall be prescribed in the public notices inviting bids. Unsuccessful bidders shall be entitled to the return of their bid deposits upon the award of the contract by the Board of Trustees. A successful bidder shall forfeit any bid deposit required by the Board of Trustees upon failure on his part to enter into a contract within **ten (10) days** after the award.

(F) **Bid Opening Procedure.**

(1) **Sealed.** Bids shall be submitted sealed to the Village and shall be identified as bids on the envelope.

(2) **Opening.** Bids shall be opened in public at the time and place stated in the public notice.

(3) **Tabulation.** A tabulation of all bids received shall be made by the Board of Trustees or by a Village employee, in which event, a tabulation of the bids shall be furnished to the Board of Trustees at its next regular meeting.

(G) **Rejection of Bids.** The Village shall have the authority to reject all bids or parts of all bids when the public interest will be served thereby.

(H) **Bidders in Default to Village.** The Village shall not accept the bid of a contractor who is in default on the payment of taxes, licenses or other monies due the Village.

(I) **Award of Contract.**

(1) **Authority in Village.** The Board of Trustees shall have the authority to award contracts within the purview of this Section.

(2) **Lowest Responsible Bidder.** Contracts shall be awarded to the lowest responsible bidder on the basis of the bid that is in the best interest of the Village to accept. In awarding the contract, in addition to price, the Board of Trustees shall consider:

(a) The ability, capacity and skill of the bidder to perform the contract to provide the service required;
(b) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
(c) The character, integrity, reputation, judgment, experience and efficiency of the bidder;
(d) The quality of the performance of previous contracts or services;
(e) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
(f) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
(g) The quality, availability and adaptability of the supplies or contractual services to the particular use required;
(h) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
(i) The number and scope of conditions attached to the bid.
(j) Whether the bidder has furnished a Certificate of Insurance indicating Worker's Compensation and Employers' Liability coverage and the policy limits for such coverage.
(k) In addition to the other requirements of this Section, any other applicable provisions of the ordinances, and State and Federal law, the Village shall require a bidder on construction projects to meet and satisfy the following applicable criteria and to submit evidence of such compliance:
    (i) All applicable laws prerequisite to doing business in Illinois.
    (ii) Evidence of compliance with:
        a. Federal Taxpayer Identification Number or Social Security Number (for individuals).
        b. Provisions of Section 2000(e) of Chapter 21, Title 42 of the United States Code and Federal Executive Order No. 11246 as amended by Executive Order No. 11375 (known as the Equal Opportunity Employer provisions).
    (iii) Certificates of insurance indicating the following coverages: general liability, workers' compensation, completed operations, automobile, hazardous occupation, and product liability.
    (iv) Compliance with all provisions of the Illinois Prevailing Wage Act, including wages, medical and hospitalization insurance and retirement for those trades covered in the act.
    (v) The bidder and all bidders' sub-contractors must participate in active apprenticeship and training programs approved and registered with the United States Department of Labor's Bureau of Apprenticeship and Training for each of the trades of work contemplated under the awarded contract.
    (vi) All contractors and sub-contractors are required to turn in certified payrolls as specified in Illinois Public Act 94-0515.

(3) **Performance Bonds.** The Board of Trustees shall have the authority to require a performance bond, before entering into a contract, in such amounts as it shall find reasonably necessary to protect the best interests of the Village.

(J) **Open Market Procedure.** All work and purchases of supplies, materials and services of less than the estimated value of **Twenty-Five Thousand Dollars ($25,000.00)** shall be made in the open market, without newspaper advertisement and without observing the procedure prescribed by this Section for the award of formal contracts, unless the Village elects to engage in competitive bidding by a vote of **two-thirds (2/3)** of the Trustees then holding office as sey forth in Section (B)(ii) above.

(K) **Professional Services Exempt From Bidding Requirements.** All contracts for professional services, including, but not limited to, attorneys, engineers, real estate appraisers and architects and any other profession whose ethical code involved prohibits or discourages involvement in normal bidding procedures, may be entered into by the Village without observing the bidding procedures prescribed by this Section for the award of formal contracts.

(L) **Emergency Purchases.** In case of an apparent emergency which requires immediate work or purchase of supplies, materials or services, the Board of Trustees shall be empowered to secure by open market procedure as herein set forth, at the lowest obtainable price, any work, supplies, materials or services regardless of the amount of the expenditure.

(M) **Cooperative Purchasing.** The Village shall have the authority to join with other units of government in cooperative purchasing plans when the best interests of the Village would be served thereby. **(65 ILCS 5/8-9-1 and 8-9-2)**

(N) **Responsible Bidder for Construction Contracts.** A responsible bidder for construction contract means a bidder who meets all of the job specifications, the following applicable criteria, and submits evidence of such compliance:

(1) All applicable laws prerequisite to doing business in Illinois.

(2) Evidence of compliance with:

(a) Federal Employer Tax Identification Number or Social Security Number (for individuals)

(b) Provision of Section 2000(e) of Chapter 21, Title 42 of the United States Code and Federal Executive Order No. 11246 as amended by Executive Order No. 11375 (known as the Equal Opportunity Employer provisions).

(3) Certificates of insurance indicating the following coverages: general liability, worker's compensation, completed operations, automobile, hazardous occupation and product liability.

(4) Compliance with all provisions of the Illinois Prevailing Wage Act, including wages, medical and hospitalization insurance and retirement for those trades covered in the act.

(5) The bidder and all bidder's sub-contractors must participate in active apprenticeship and training programs approved and registered with the United States Department of Labor's Bureau of Apprenticeship and Training for each of the trades of work contemplated under the awarded contract.

(6) All contractors and sub-contractors are required to turn in certified payrolls as specified in Illinois Public Act 94-0515, and follow all provisions of the Employee Classification Act, **820 ILCS 185/1 et seq.**

(7) All bidders must provide **three (3)** projects of a similar nature as being performed in the immediate past **five (5) years** with the name, address, and telephone number of the contact person having knowledge of the project along with **three (3) references** (name, address, and telephone number) with knowledge of the integrity and business practices of the contractor. **(Ord. No. 769; 11-17-09)**

1-2-27 INTERESTS IN CONTRACTS PROHIBITED.

(A) A municipal officer shall not be financially interested directly in the officer's own name or indirectly in the name of any other person, association, trust, or corporation, in any contract, work, or business of the municipality or in the sale of any article whenever the expense, price, or consideration of the contract, work, business, or sale is paid either from the treasury or by an assessment levied by statute or ordinance. A municipal officer shall not be interested, directly or indirectly, in the purchase of any property that (1) belongs to the municipality, (2) is sold for taxes or assessments, or (3) is sold by virtue of legal process at the suit of the municipality. For the purposes of this Section only, however, a municipal officer shall not be deemed interested if the officer is an employee of a company or owns or holds an interest of **one percent (1%)** or less in the municipal officer's individual name in a company, or both, that company is involved in the transaction of business with the municipality, and that company's stock is traded on a nationally recognized securities market, provided the interested member (i) publicly discloses the fact that he or she is an employee or holds an interest of **one percent (1%)** or less in a company before deliberation of the proposed award of the contract; (ii) refrains from evaluating, recommending, approving, deliberating, or otherwise participating in the negotiation, approval, or both, of the contract, work, or business; (iii) abstains from voting on the award of the contract though he or she shall be considered present for purposes of establishing a quorum; and (iv) the contract is approved by a majority vote of those members currently holding office.

A municipal officer shall not be deemed interested if the officer owns or holds an interest of **one percent (1%)** or less, not in the officer's individual name but through a mutual fund or exchange-traded fund, in a company, that company is involved in the transaction of business with the municipality, and that company's stock is traded on a nationally recognized securities market.

This Section does not prohibit any person serving on a municipal advisory panel or commission or nongoverning board or commission from having an interest in a contract, work, or business of the municipality unless the municipal officer's duties include evaluating, recommending, approving, or voting to recommend or approve the contract, work, or business.

(B) **Exceptions.** Any elected or appointed member of the governing body may, however, provide materials, merchandise, property, services, or labor, subject to the following provisions under either (1) or (2):

(1) If:

(a) the contract is with a person, firm, partnership, association in which the interested member of the governing body of the municipality member has less than a **seven and one-half percent (7 ½%)** share in the ownership;

(b) the interested member publicly discloses the nature and extent of the interest before or during deliberations concerning the proposed award of the contract;

(c) the interested member abstains from voting on the award of the contract (though the member shall be considered present for the purposes of establishing a quorum);

(d) the contract is approved by a majority vote of those members presently holding office;

(e) the contract is awarded after sealed bids to the lowest responsible bidder if the amount of the contract exceeds **One Thousand Five Hundred Dollars ($1,500.00)** (but the contract may be awarded without bidding if the amount is less than **One Thousand Five Hundred Dollars ($1,500.00)**; and

(f) the award of the contract would not cause the aggregate amount of all contracts so awarded to the same person, firm, association, partnership, corporation, or cooperative association in the same fiscal year to exceed **Twenty-Five Thousand Dollars ($25,000.00)**.

(2) If:

(a) the award of the contract is approved by a majority vote of the governing body of the municipality (provided that the interested member shall abstain from voting);

(b) the amount of the contract does not exceed **Two Thousand Dollars ($2,000.00)**;

(c) the award of the contract would not cause the aggregate amount of all contracts so awarded to the same person, firm, association, partnership, corporation, or cooperative association in the same fiscal year to exceed **Four Thousand Dollars ($4,000.00)**;

(d) the interested member publicly discloses the nature and extent of his interest before or during deliberations concerning the proposed award of the contract; and

(e) the interested member abstains from voting on the award of the contract (though the member shall be considered present for the purposes of establishing a quorum).

(3) In addition to the above exemptions, any elected or appointed member of the governing body may provide materials, merchandise, property, services, or labor if:

(a) the contract is with a person, firm, partnership, association, corporation, or cooperative association in which the interested member of the governing body of the municipality, advisory panel, or commission has less than a **one percent (1%)** share in the ownership; and

(b) the award of the contract is approved by a majority vote of the governing body of the municipality provided that any such interested member shall abstain from voting; and

(c) such interested member publicly discloses the nature and extent of his interest before or during deliberations concerning the proposed award of the contract; and

(d) such interested member abstains from voting on the award of the contract, though he shall be considered present for the purposes of establishimg a quorum.

(C) A contract for the procurement of public utility services by a municipality with a public utility company is not barred by this Section by one or more members of the governing body being an officer or employee of the public utility company, or holding an ownership interest in no more than **seven and one-half percent (7 ½%)** in the public utility company, or holding an ownership interest of any size if the municipality has a population of less than **seven thousand five hundred (7,500)** and the public utility's rates are approved by the Illinois Commerce Commission. An elected or appointed member of the governing body or a nongovernmenting board or commission having an interest described in this subsection (D) does not have a prohibited interest under this Section.

(D) An officer who violates this Section is guilty of a Class 4 felony. In addition, any officer held by an officer so convicted shall become vacant and shall be so declared as part of the judgment of the court.

(E) Nothing contained in this Section, including the restrictions set forth in subsections (B) and (C), shall preclude a contract of deposit of moneys, loans, or other financial services by a municipality with a local bank or local savings and loan association, regardless of whether a member of the governing body of the municipality is interested in the bank or savings and loan association as an officer or employee or as a holder of less than **seven and one-half percent (7 ½%)** of the total ownership interest. A member holding an interest described in this subsection (E) in a contract does not hold a prohibited interest for purposes of this Act. The interested member of the governing body must publicly state the nature and extent of the interest during deliberations concerning the proposed award of the contract but shall not participate in any further deliberations concerning the proposed award. The interested member shall not vote on the proposed award. A member abstaining from participation in deliberations and voting under this Section may be considered present for purposes of establishing a

quorum. Award of the contract shall require approval by a majority vote of those members presently holding office. Consideration and award of a contract in which a member is interested may only be made at a regularly scheduled public meeting of the governing body of the municipality.

(F) Notwithstanding any other provision of this Section or any other law to the contrary, until January 1, 1994, a member of the city council of a municipality with a population under **twenty thousand (20,000)** may purchase real estate from the municipality, at a price of not less than **one hundred percent (100%)** of the value of the real estate as determined by a written MAI certified appraisal or by a written certified appraisal of a State certified or licensed real estate appraiser, if the purchase is approved by a unanimous vote of the city council members then holding office (except for the member desiring to purchase the real estate, who shall not vote on the question).

(G) Under either of the following circumstances, a municipal officer may hold a position on the board of a not-for-profit corporation that is interested in a contract, work, or business of the municipality:

(1) If the municipal officer is appointed by the governing body of the municipality to represent the interests of the municipality on a not-for-profit corporation's board, then the municipal officer may actively vote on matters involving either that board or the municipality, at any time, so long as the membership on the not-for-profit board is not a paid position, except that the municipal officer may be reimbursed by the not-for-profit board for expenses incurred as the result of membership on the not-for-profit board.

(2) If the municipal officer is not appointed to the governing body of a not-for-profit corporation by the governing body of the municipality, then the municipal officer may continue to serve; however, the municipal officer shall abstain from voting on any proposition before the municipal governing body directly involving the not-for-profit corporation and, for those matters, shall not be counted as present for the purposes of a quorum of the municipal governing body.

(65 ILCS 5/3.1-55-10)

1-2-28 SALARIES REGULATION.

(A) **Elected.** No salary or compensation of any elected municipal officer who is elected for a definite term of office shall be increased or diminished during such term.

(B) **Appointed.** No salary or compensation of any appointed official who is appointed for a definite term of office shall be decreased during such term, but may be increased.

(65 ILCS 5/3.1-50-5 and 5/3.1-50-10)

EDITOR'S NOTE: The salary of appointed officials and employees may be established in the appropriation ordinance or annual budget. The salary of elected officials must be established in an ordinance other than the appropriation ordinance at least **one hundred eighty (180) days** before the beginning of the terms of the officers whose compensation is to be filed.

1-2-29 CLAIMS.

(A) **Presentation.** All claims against the Village for goods purchased, damaged, or originating in any other way, except for claims for salaries and other allowances that are fixed by ordinance shall be presented on or before the Monday preceding the monthly meeting of each month to the Village Clerk. All such claims must be in writing and items shall be specified.

(B) **Exception.** This does not prohibit the Village Board from passing on any claims not previously presented to the Village Clerk if, in the opinion of the Board, justice to the claimant requires it.

1-2-30 MUNICIPAL YEAR. The municipal year shall commence on **May 1st** and shall end on the following **April 30th.** No appointments shall be made during the last month of the municipal year in the year of a mayoral election.

1-2-31 EXPENSES - REIMBURSEMENT. Each member of the corporate authorities may receive reimbursement from the municipality for expenses incurred by the member in attending committee meetings of the corporate authorities or for other expenses incurred by the member in the course of performing official duties. **(65 ILCS 5/3.1-50-15(B))**

(A) **Definitions.**

(1) "Entertainment" includes, but is not limited to, shows, amusements, theaters, circuses, sporting events, or any other place of public or private entertainment or amusement, unless ancillary to the purpose of the program or event.

(2) "Public Business" means the expenses incurred in the performance of a public purpose which is required or useful for the benefit of the Village to carry out the responsibilities of Village business.

(3) "Travel" means any expenditure directly incident to official travel by employees and officers of the Village or by wards or charges of the Village involving reimbursement to travelers or direct payment to private agencies providing transportation or related services.

(B) The Village shall only reimburse the following types of travel, meal, and lodging expenses incurred by its employees and officers up to the following maximum allowable amounts: **Two Thousand Dollars ($2,000.00)**. Alcohol is specifically excluded from reimbursement.

(C) No reimbursement of travel, meal or lodging expenses incurred by a Village employee or officer shall be authorized unless the "Tavel, Meal and Lodging Expense Reimbursement Request Form", attached hereto and made a part hereof, has been submitted and approved. All documents and information submitted with the form shall be subject to disclosure under the Freedom of Information Act **(5 ILCS 140/1 et seq.)**. **(See Exhibit "A")**

(D) Expenses for travel, meals, and lodging of: (1) any officer or employee that exceeds the maximum reimbursement allowed under the regulations adopted under this Section or (2) any member of the corporate authorities of the Village may only be approved by roll call vote at an open meeting of the corporate authorities of the Village. However, in the event of an emergency or other extraordinary circumstances, the corporae authorities may approve more than the maximum allowable expenses set forth above.

(E) The Village shall not reimburse any elected official, employee, or officer for any activities which would be considered entertainment. Activities which would otherwise be considered entertainment, but which are excluded from the prohibition on reimbursement due to being ancillary to the purpose of the program or event, may be reimbursed in accordance with the provisions of this Section.

(F) Any policy or ordinance that conflicts with the provisions of this Section shall be and is hereby repealed to the extent of such conflict.

(Ord. No. 884; 12-20-16)

1-2-32 OFFICIAL RECORDS. All official records, including the Corporate Seal, shall be kept in the Village Hall.

1-2-33 FEDERAL OLD AGE AND SURVIVOR'S INSURANCE SYSTEM.

(A) **Eligible employees** shall mean all employees of the Village, eligible under the Federal Act, except persons elected to office by popular election and also the Village Treasurer and Village Attorney.

(B) **Withholdings** from salaries or wages of employees for the purpose provided in sections hereof are hereby authorized to be made in the amounts and at such times as may be required by applicable State or Federal laws or regulations, and shall be paid quarterly.

1-2-34 ILLINOIS MUNICIPAL RETIREMENT FUND.

(A) The Village does hereby elect to participate in the Illinois Municipal Retirement Fund.

(B) **Special Tax.** The Village includes in its levy and appropriation ordinance provision for the levying of a special tax to pay the Village's cost of participating in the Retirement Fund and appropriate therefrom funds to pay the cost of participation.

(C) **Coverage.** To be eligible to be included in the IMRF a person shall have to work a minimum of **one thousand (1,000) hours** per year.

1-2-35 TERRITORIAL JURISDICTION ESTABLISHED. The Village Board shall have jurisdiction in and over all places within **one-half (1/2) mile** of the corporate limits for the purpose of enforcing health and quarantine ordinances and regulations. **(65 ILCS 5/7-4-1)**

1-2-36 - 1-2-47 RESERVED.

DIVISION VI - VACANCIES

1-2-48 VACANCY BY RESIGNATION. A resignation is not effective unless it is in writing, signed by the person holding the elective office, and notarized.

(A) **Unconditional Resignation.** An unconditional resignation by a person holding the elective office may specify a future date, not later than **sixty (60) days** after the date the resignation is received by the officer authorized to fill the vacancy, at which time it becomes operative, but the resignation may not be withdrawn after it is received by the officer authorized to fill the vacancy. The effective date of a resignation that does not specify a future date at which it becomes operative is the date the resignation is received by the officer authorized to fill the vacancy. The effective date of a resignation that has a specified future effective date is that specified future date or the date the resignation is received by the officer authorized to fill the vacancy, whichever date occurs later.

(B) **Conditional Resignation.** A resignation that does not become effective unless a specified event occurs can be withdrawn at any time prior to the occurrence of the specified event, but if not withdrawn, the effective date of the resignation is the date of the occurrence of the specified event or the date the resignation is received by the officer authorized to fill the vacancy, whichever date occurs later.

(C) **Vacancy Upon the Effective Date.** For the purpose of determining the time period that would require an election to fill the vacancy by resignation or the commencement of the **sixty (60) day** time period referred to in **Section 1-2-52**, the resignation of an elected officer is deemed to have created a vacancy as of the effective date of the resignation.

(D) **Duty of the Clerk.** If a resignation is delivered to the Clerk of the Municipality, the Clerk shall forward a certified copy of the written resignation to the official who is authorized to fill the vacancy within **seven (7) business days** after receipt of the resignation.

1-2-49 VACANCY BY DEATH OR DISABILITY. A vacancy occurs in an office by reason of the death of the incumbent. The date of the death may be established by the date shown on the death certificate. A vacancy occurs in an office by permanent physical or mental disability rendering the person incapable of performing the duties of the office. The corporate authorities have the authority to make the determination whether an officer is incapable of performing the duties of the office because

of a permanent physical or mental disability. A finding of mental disability shall not be made prior to the appointment by a court of a guardian ad litem for the officer or until a duly licensed doctor certifies, in writing, that the officer is mentally impaired to the extent that the officer is unable to effectively perform the duties of the office. If the corporate authorities find that an officer is incapable of performing the duties of the office due to permanent physical or mental disability, that person is removed from the office and the vacancy of the office occurs on the date of the determination.

1-2-50 VACANCY BY OTHER CAUSES.

(A) **Abandonment and Other Causes.** A vacancy occurs in an office by reason of abandonment of office; removal from office; or failure to qualify; or more than temporary removal of residence from the Municipality, as the case may be. The corporate authorities have the authority to determine whether a vacancy under this Section has occurred. If the corporate authorities determine that a vacancy exists, the office is deemed vacant as of the date of that determination for all purposes including the calculation under **Sections 1-2-52 or 1-2-53**.

(B) **Guilty of a Criminal Offense.** An admission of guilt of a criminal offense that upon conviction would disqualify the municipal officer from holding the office, in the form of a written agreement with State or federal prosecutors to plead guilty to a felony, bribery, perjury, or other infamous crime under State or federal law, constitutes a resignation from that office, effective on the date the plea agreement is made. For purposes of this Section, a conviction for an offense that disqualifies a municipal officer from holding that office occurs on the date of the return of a guilty verdict or, in the case of a trial by the court, on the entry of a finding of guilt.

(C) **Election Declared Void.** A vacancy occurs on the date of the decision of a competent tribunal declaring the election of the officer void.

1-2-51 ELECTION OF AN ACTING MAYOR. The election of an acting Mayor pursuant to **Section 1-2-53 or 1-2-54** does not create a vacancy in the original office of the person on the Village Board, unless the person resigns from the original office following election as acting Mayor. If the person resigns from the original office following election as acting Mayor, then the original office must be filled pursuant to the terms of this Section and the acting Mayor shall exercise the powers of the Mayor and shall vote and have veto power in the manner provided by law for a Mayor. If the person does not resign from the original office following election as acting Mayor, then the acting Mayor shall exercise the powers of the Mayor but shall be entitled to vote only in the manner provided for as the holder of the original office and shall not have the power to veto. If the person does not resign from the original office following election as acting Mayor, and if that person's original term of office has not expired when a Mayor is elected and has qualified for office, the acting Mayor shall return to the original office for the remainder of the term thereof.

1-2-52 APPOINTMENT TO FILL TRUSTEE VACANCY. An appointment by the Mayor or acting Mayor, as the case may be, of a qualified person as described in **Section 1-2-23** of this Code to fill a vacancy in the office of Trustee must be made within **sixty (60) days** after the vacancy occurs. Once the appointment of the qualified person has been forwarded to the corporate authorities, the corporate authorities shall act upon the appointment within **thirty (30) days**. If the appointment fails to receive the advice and consent of the corporate authorities within **thirty (30) days**, the Mayor or acting Mayor shall appoint and forward to the corporate authorities a second qualified person as described in **Section 1-2-23**. Once the appointment of the second qualified person has been forwarded to the corporate authorities, the corporate authorities shall act upon the appointment within **thirty (30) days**. If the appointment of the second qualified person also fails to receive the advice and consent of the corporate authorities, then the Mayor or acting Mayor, without the advice and consent of the corporate authorities, may make a temporary appointment from those persons who were appointed but whose appointments failed to receive the advice and consent of the corporate authorities. The person receiving the temporary appointment shall serve until an appointment has received the advice and

consent and the appointee has qualified or until a person has been elected and has qualified, whichever first occurs.

1-2-53 ELECTION TO FILL VACANCIES IN MUNICIPAL OFFICES WITH FOUR (4) YEAR TERMS. If a vacancy occurs in an elective municipal office with a **four (4) year term** and there remains an unexpired portion of the term of at least **twenty-eight (28) months**, and the vacancy occurs at least **one hundred thirty (130) days** before the general municipal election next scheduled under the general election law, then the vacancy shall be filled for the remainder of the term at that general municipal election. Whenever an election is held for this purpose, the Village Clerk shall certify the office to be filled and the candidates for the office to the proper election authorities as provided in the general election law. If a vacancy occurs with less than **twenty-eight (28) months** remaining in the unexpired portion of the term or less than **one hundred thirty (130) days** before the general municipal election, then:

(A) **Mayor.** If the vacancy is in the office of Mayor, the vacancy must be filled by the corporate authorities electing one of their members as acting Mayor. Except as set forth in **Section 1-2-51**, the acting Mayor shall perform the duties and possess all the rights and powers of the Mayor until a Mayor is elected at the next general municipal election and has qualified. However, in villages with a population of less than **five thousand (5,000)**, if each of the trustees either declines the election as acting Mayor or is not elected by a majority vote of the trustees presently holding office, then the trustees may elect, as acting Mayor, any other Village resident who is qualified to hold municipal office, and the acting Mayor shall exercise the powers of the Mayor and shall vote and have veto power in the manner provided by law for a Mayor.

(B) **Trustee.** If the vacancy is in the office of Trustee, the vacancy must be filled by the Mayor or acting Mayor, as the case may be, in accordance with **Section 1-2-52**.

(C) **Other Elective Office.** If the vacancy is in any elective municipal office other than Mayor or Trustee, the Mayor or acting Mayor, as the case may be, must appoint a qualified person to hold the office until the office is filled by election, subject to the advice and consent of the Board of Trustees, as the case may be.

1-2-54 VACANCIES DUE TO ELECTION BEING DECLARED VOID. In cases of vacancies arising by reason of an election being declared void pursuant to **Section 1-2-40(C)**, persons holding elective office prior thereto shall hold office until their successors are elected and qualified or appointed and confirmed by advice and consent, as the case may be.

1-2-55 OWING A DEBT TO THE MUNICIPALITY. A vacancy occurs if a municipal official fails to pay a debt to a municipality in which the official has been elected or appointed to an elected position subject to the provisions of **65 ILCS 5/3.1-10-50(C)(4)**.

(65 ILCS 5/3.1-10-50)

1-2-56 - 1-2-59 RESERVED.

ARTICLE III – ELECTED OFFICIALS

DIVISION I - MAYOR

1-3-1 ELECTION. The Mayor shall be elected for a **four (4) year** term and shall serve until a successor is elected and has qualified. **(65 ILCS 5/3.1-15-5 and 5/3.1-25-15)**

1-3-2 MAYOR PRO-TEM; TEMPORARY CHAIRMAN.

(A) If the Mayor is temporarily absent because of an incapacity to perform official duties, but the incapacity does not create a vacancy in the office, the corporate authorities shall elect one of their members to act as Mayor pro tem. The Mayor pro tem, during this absence or disability, shall perform the duties and possess all the rights and powers of the Mayor but shall not be entitled to vote both as Mayor pro tem and as a trustee.

(B) In the absence of the Mayor, or Mayor pro tem, the corporate authorities may elect one of their members to act as a temporary Chairman. The temporary Chairman shall have only the powers of a presiding officer and a right to vote only in the capacity as trustee on any ordinance, resolution, or motion. **(65 ILCS 5/3.1-35-35)**

1-3-3 CHIEF EXECUTIVE OFFICER. The Mayor shall be the chief executive officer of the Village and shall see to the enforcement of all laws and ordinances. The Mayor shall preside over the meetings of the Board of Trustees and perform such duties as may be required of him by statute or law. The Mayor shall have supervision over all of the executive officers and Village employees; provided, however, his or her control is subject to the power of the Village Board to prescribe the duties of various officers and employees. The Mayor shall have the power and authority at any reasonable time to inspect all books, papers and records pertaining to Village affairs and kept by any officer of the Village. **(65 ILCS 5/3.1-15-10 and 3.1-35-20)**

1-3-4 MAYOR'S SIGNATURE. The Mayor shall sign all Village warrants, commissions, permits and licenses granted by authority of the Village Board, except as otherwise provided, and such other acts and deeds as law or ordinance may require his or her official signature.

The Mayor may designate another to affix his or her signature to any written instrument that requires the Mayor's signature. The Mayor must send written notice of this designation to the Village Board stating: (1) the name of the person whom he or she has selected, and (2) what instrument the person will have authority to sign.

A written signature of the Mayor executed by the person so designated with the signature underneath the signature of the person so designated shall be attached to the notice. The notice with the signature attached shall be recorded in the journal of the Village Board and then filed with the Village Clerk. When the signature of the Mayor is placed on a written instrument at the direction of the Mayor in the specified manner, the instrument, in all respects, shall be as binding on the Village as if signed by the Mayor in person. **(65 ILCS 5/3.1-35-30)**

1-3-5 APPOINTMENT OF OFFICERS.

(A) **Appointed.** At the first annual meeting in May, the Mayor shall appoint, by and with the advice and consent of the Village Board, all officers of the Village whose election or appointment is not otherwise provided for, and said officers shall hold their offices for the ensuing month or year, and until their respective successors are appointed and qualified. Any vacancy occurring in an appointive office shall be filled in the same manner. The Mayor shall issue a commission or certificate of appointment to all persons appointed to office in the municipality. **(65 ILCS 5/3.1-30-5)**

(B) **Filling Vacancies.** The Mayor shall appoint, by and with the advice and consent of the Village Board, all officers of the Village whose appointment will not otherwise be provided for by law; and whenever a vacancy shall occur in any office, which by law or ordinance the Mayor is empowered and required to fill, the Mayor shall, at the next regular meeting of the Village Board, communicate to it the name of the appointee to such office and pending the concurrence of the Village Board in such appointment, the Mayor may designate some suitable person to discharge the functions of such office. **(50 ILCS 105/2)**

1-3-6 SUPERVISE CONDUCT OF OFFICERS; REMOVAL OF OFFICERS. The Mayor shall supervise the conduct of all officers of the Village and see that they faithfully and efficiently discharge the duties of their respective offices. Except where otherwise provided by statute, the Mayor may remove any officer appointed by the Mayor under this Code, on any written charge, whenever the Mayor is of the opinion that the interests of the municipality demand removal. The Mayor shall report the reasons for the removal to the corporate authorities at a meeting to be held not less than **five (5) days** nor more than **ten (10) days** after the removal. If the Mayor fails or refuses to report to the corporate authorities the reasons for the removal, or if the corporate authorities by a **two-thirds (2/3) vote** of all members authorized by law to be elected disapprove of the removal, the officer thereupon shall be restored to the office from which the officer was removed. The vote shall be by yeas and nays, which shall be entered upon the journal of the corporate authorities. Upon restoration, the officer shall give a new bond and take a new oath of office. No officer shall be removed a second time for the same offense. **(65 ILCS 5/3.1-35-10)**

1-3-7 DESIGNATION OF OFFICERS' DUTIES. Whenever there is a dispute as to the respective duties or powers of any appointed officer of the Village, this dispute shall be settled by the Mayor, after consultation with the Village Attorney; and the Mayor shall have the power to delegate to any appointive officer, any duty which is to be performed when no specific officer has been directed to perform that duty.

1-3-8 FORMAL OCCASIONS. The Mayor shall act for and on behalf of the Village on formal occasions and receptions, but in the absence or inability to attend any such function, the Mayor may select any other Village officer to so act.

1-3-9 GENERAL DUTIES. The Mayor shall perform all the duties which are prescribed by law and shall take care that the laws and ordinances are faithfully executed.

The Mayor from time to time, may and annually shall give the Village Board information relative to the affairs of the Village, and may recommend for their consideration such measures as he or she believes expedient. **(65 ILCS 5/3.1-35-5)**

1-3-10 BUSINESS LICENSE COMMISSIONER. The Mayor is hereby designated as License Commissioner to issue and revoke any and all business licenses as prescribed by law, with the advice and consent of the Village Board.

1-3-11 LOCAL LIQUOR COMMISSIONER. The Mayor is hereby designated as Local Liquor Commissioner with all the powers to license and/or revoke any Village liquor license according to State and Village laws. **(235 ILCS 5/4-2)**

1-3-12 HEALTH COMMISSIONER. The Mayor is hereby declared to be Health Commissioner with all powers to abate and remove all nuisances or health hazards within the jurisdictional boundaries of the Village authority as prescribed by law.

1-3-13 DECIDING VOTE - MAYOR. The Mayor shall preside at all meetings of the Village Board. The Mayor shall not vote on any ordinance, resolution or motion, except:

(A) Where the vote of the Trustees has resulted in a tie; or

(B) Where **one-half (1/2)** of the Trustees elected have voted in favor of an ordinance, resolution or motion, even though there is no tie; or

(C) Where a vote greater than a majority of the corporate authorities is required by the **Illinois Compiled Statutes** to adopt an ordinance, resolution or motion.

In each instance specified, the Mayor shall vote. Nothing in this Section shall deprive an Acting Mayor or Mayor Pro-tem from voting in his or her capacity as Trustee, but he or she shall not be entitled to another vote in his or her capacity as Acting Mayor or Mayor Pro-tem. **(65 ILCS 5/3.1-40-30)**

1-3-14 - 1-3-15 RESERVED.

DIVISION II - VILLAGE CLERK

1-3-16 ELECTION. The Village Clerk shall be elected for a **four (4) year term** and shall serve until a successor is elected and has qualified. **(65 ILCS 5/3-5-9)**

1-3-17 VACANCY. Whenever there is a vacancy in the office of Village Clerk, the office shall be filled by the Mayor with the advice and consent of the Village Board for the remainder of the term. **(65 ILCS 5/3.1-25-90) (See Division V of Article II)**

1-3-18 PUBLICATION OF ORDINANCES; BOARD MINUTES; RECORDS.

(A) **Ordinances.** The Village Clerk shall cause all ordinances passed by the Village Board and approved by the Mayor, imposing any fine, penalty, imprisonment or forfeiture, or making any appropriation to be published or printed in book or pamphlet form, published by authority of the corporate authorities, or be published at least once within **thirty (30) days** after passage, in **one (1)** or more newspapers published in the Village. **(65 ILCS 5/1-2-5)**

(B) **Minutes; Records.**

(1) **Open Meetings.** The Village Clerk shall attend all meetings of the Village Board and shall keep in a suitable book to be styled **"The Journal of the Village Board",** a full and faithful record of its proceedings. The Village Clerk shall record and properly index in a book kept for that purpose, all ordinances passed by the Village Board, and at the foot of the record of each ordinance so recorded, the Clerk shall make a memorandum of the date of the passage, when published, and a memorandum of the publication of such ordinance. **(65 ILCS 5/3.1-35-90)**

(2) **Closed Meetings.** The Clerk shall prepare and preserve the minutes of closed meetings according to the provisions of the Closed Meetings Act. At least twice a year, corporate authorities shall meet to review minutes of all closed sessions and make a public statement as to whether there is still a need to maintain such matters in confidence or whether minutes or portions of minutes from closed meetings no longer require confidential

treatment and are available for public inspection. **(5 ILCS 120/2.06(c))**

(C) **Bonds.** The Clerk shall also record in proper books for the purpose, all official bonds and note upon each bond so recorded when the same was entered of record and the book and pages where recorded. **(65 ILCS 5/3.1-35-110)**

(D) **Issue Notices.** The Clerk shall issue and cause to be served upon all Trustees, notices of all special meetings of the Village Board; also notices to the members of the different committees of that body and all persons whose attendance may be required before any such committee, when so directed by the Chairman thereof. **(65 ILCS 5/1-2-4, 5/1-2-5 and 5/3.1-35-90)**

1-3-19 DELIVERY OF PAPERS TO OFFICERS. The Clerk shall deliver to the several committees of the Village Board and to the officers of this Village, all petitions, communications, reports and resolutions, orders, claims and other papers referred to those committees or officers by the Board on demand therefor. The Clerk shall also, without delay, deliver to the Mayor, all ordinances or resolutions, orders and claims in his or her charge which may require to be approved or otherwise acted upon by the Mayor. **(65 ILCS 5/3.1-35-90)**

1-3-20 PREPARATION OF DOCUMENTS, COMMISSIONS AND LICENSES. The Clerk shall prepare all commissions, licenses, permits and other official documents required to be issued by him or her under this Code and shall attest the same with the corporate seal, and the Clerk shall, in like manner, attest all deeds for the sale of real estate owned and conveyed by this Village.

1-3-21 VILLAGE LICENSES. In all cases where the Village requires a license to be obtained for the purpose of engaging in or carrying on any business or occupation, and the licensee is required to obtain plates, tags or stickers from the Clerk, it shall be the duty of the Clerk to provide such plates, tags, or stickers to the person paying the license fee.

1-3-22 REPORT OF LICENSES. The Clerk shall report to the Village Board at its regular meeting each month and more often if the Board so requires the data contained in the license register with respect to licenses issued during the previous month.

1-3-23 ADMINISTRATION OF OATHS. The Clerk shall have the power to administer oaths or affirmations for all lawful purposes. **(65 ILCS 5/3.1-15-20)**

1-3-24 OUTSTANDING BONDS. The Clerk shall keep in his office in a book or books kept expressly for that purpose a correct list of all the outstanding bonds of the Village, showing the number and amount of each, for and to whom the bonds are issued; and when the Village bonds are issued, or purchased, or paid, or cancelled, the book or books shall show that fact; [and in the annual report, the Clerk shall describe particularly the bonds sold during the year and the terms of sale with each and every item of expense thereof]. **(65 ILCS 5/3.1-35-110)**

1-3-25 REPORTS. The Clerk shall, on or before the regular meeting in each month, make out and submit to the Village Board a statement or report in writing of all the monies received and warrants drawn during the preceding month, showing therein from or what sources and on what account monies were received, and for what purposes and on what account the warrants were drawn or paid.

1-3-26 SUCCESSOR. The Village Clerk shall carefully preserve all books, records, papers, maps and effects of every detail and description belonging to the Village or pertaining to the office, and not in actual use and possession of other Village officers; and upon the expiration of his or her official term, the Clerk shall deliver all such books, records, papers and effects to the successor in office. **(65 ILCS 3.1-10-35)**

1-3-27 PAYMENTS. The Clerk shall prepare monthly an itemized list of all monies received and shall deliver a copy of the same to the Village Treasurer and shall also pay over to the Treasurer all monies received in the office and take a receipt therefor.

1-3-28 NOTIFICATION TO PERSONS APPOINTED TO OFFICE. Within **five (5) days** after an appointment is made, the Clerk shall notify all persons appointed to office of their appointment. The office becomes vacant unless the person appointed qualifies within **ten (10) days** after such notice.

1-3-29 OTHER DUTIES. In addition to the foregoing duties, the Clerk shall perform all such other duties pertaining to the office as are or may be imposed upon the office by law or resolution or ordinance of the Village Board. **(65 ILCS 5/3.1-10-40)**

1-3-30 DEPUTY CLERK. The Village Clerk, when authorized by the Village Board, may appoint the Deputy Clerk who shall have the power and duty to execute all documents required by any law to be executed by the Clerk and affix the seal of the Village thereto whenever required. In signing any documents, the Deputy Clerk shall sign the name of the Village Clerk followed with the word, **"By"** and the Deputy Clerk's name and the words, **"Deputy Clerk".**

The powers and duties herein described shall be executed by such Deputy Clerk only in the absence of the Village Clerk from the Village Clerk's office in the Village Hall, and only when either written direction has been given by the Village Clerk to such Deputy Clerk to exercise such power or the Village Board has determined by resolution that the Village Clerk is temporarily or permanently incapacitated to perform such functions. **(65 ILCS 5/3.1-30-10 and 5/3.1-10-45 and 5/3.1-35-95)**

1-3-31 RESERVED.

DIVISION III - VILLAGE TREASURER

1-3-32 COMMITTEE ESTABLISHED. There is hereby established a department of the municipal government of the Village which shall be known as the "Finance Committee". It shall embrace the Village Board Committee on Finance and the Village Treasurer.

1-3-33 FINANCE COMMITTEE. The standing committee on Finance shall exercise a general supervision over the affairs of the Finance Department. It shall ascertain the condition and needs thereof; shall, from time to time, report the same to the Mayor and Village Board so that a full understanding thereof shall be had and generally, shall do all the acts necessary to promote the efficiency of the Department.

1-3-34 TREASURER APPOINTED; VACANCY. The Treasurer shall be appointed for a **two (2) year term** by the Mayor with the advice and consent of the Village Board and shall serve until a successor is appointed and has qualified. All vacancies shall be filled in the manner prescribed in **Division V** of this Chapter. **(65 ILCS 5/3.1-30-5)**

1-3-35 MONEY; WARRANTS; ACCOUNTS; PAYMENTS. The Village Treasurer shall receive all monies belonging to this Village and shall pay all warrants signed by the Mayor and countersigned by the Village Clerk and not otherwise; and shall keep a separate account of each fund or appropriation and the debits and credits belonging thereto. The Treasurer shall give to every person paying money into the Village Treasury a receipt therefor, specifying the date of payment, and upon what account paid, and shall file copies of such receipts with the Clerk with the monthly reports. **(65 ILCS 5/3.1-35-40)**

1-3-36 WARRANT REGISTER. The Treasurer shall keep a register of all warrants redeemed and paid, showing the number, date, and amount of each, the fund from which paid, and the name of the person to whom and when paid; and the Treasurer shall cancel all warrants as soon as they are redeemed. **(65 ILCS 5/3.1-35-40 and 5/3.1-35-45)**

1-3-37 PERSONAL USE OF FUNDS. The Village Treasurer shall keep all money belonging to the Municipality and in the Treasurer's custody separate and distinct from the Treasurer's own money and shall not use, either directly or indirectly, the Municipality's monies or warrants for the personal use and benefit of the Treasurer or of any other person. Any violation of this provision shall subject the Treasurer to immediate removal from office by the corporate authorities, who may declare the Treasurer's office vacant. **(65 ILCS 5/3.1-35-55)**

1-3-38 BOND. The Treasurer shall give bond conditioned upon the faithful performance of his duties and to indemnify the Village for any loss due to neglect of duty or wrongful act on his part; and the amount of such bond shall not be less than **ten percent (10%)** of the highest amount of taxes and special assessments received by the Treasurer during any fiscal year in the preceding **five (5) fiscal years,** nor less than one and one-half times the largest amount which the Board estimates will be in his custody at any one time, nor less than **three (3) times** the number of residents of the Village, as determined by the last Federal Census. Such bond shall be filed with the Clerk as required by statute. **(65 ILCS 5/3.1-10-45)**

1-3-39 SPECIAL ASSESSMENTS. The Treasurer shall collect all payments on special assessments and shall see to it that the same are properly recorded and credited to the particular account entitled thereto. **(65 ILCS 5/3.1-35-85)**

1-3-40 BOOKKEEPING. The Treasurer shall keep the books and accounts in such a manner as to show with accuracy, all monies received and disbursed for the Village, stating from whom and on what account received, and to whom and on what account paid out, and in such a way that the books and accounts may be readily investigated and understood, and the books and accounts and all files and papers of the office shall be, at all times, open to examination by the Mayor or the Finance Committee of the Board. **(65 ILCS 5/3.1-35-40)**

1-3-41 STATEMENTS. The Treasurer shall report to the corporate authorities at the regular monthly meeting, a full and detailed account of all receipts and expenditures of the municipality as shown by his books up to the time of the report. **(65 ILCS 5/3.1-35-45)**

1-3-42 REPORT DELINQUENT OFFICERS. It shall be the duty of the Treasurer to report to the Village Clerk any officer of the Village authorized to receive money for the use of the Village who may fail to make a return of the monies received by the Treasurer at the time required by law or by ordinances of the Village.

1-3-43 YEAR-END REPORT. Within **six (6) months** after the end of each fiscal year, the Treasurer shall prepare and file annually with the Village Clerk an account of monies received and expenditures incurred during the preceding fiscal year as specified in this Section. The Treasurer shall show the following in such account:

(A) All monies received by the Village, indicating the total amounts in the aggregate received in each account of the Village, with a general statement concerning the source of such receipts; provided, however, for the purposes of this paragraph, the term **"account"** shall not be construed to mean each individual taxpayer, householder, licensee, utility user, or such other persons whose payments to the Village are credited to the general account; and

(B) Except as provided in paragraph (C) of this Section all monies paid out by the Village where the total amount paid during the fiscal year exceeds **Two Thousand Five Hundred Dollars ($2,500.00),** giving the name of each person to whom paid, on what account paid, and the total amount in the aggregate paid to each person from each account; and

(C) All monies paid out by the Village as compensation for personal services, giving the name of each person to whom paid, on whataccount paid, and the total amount in the aggregate paid to each person from each account; and

(D) A summary statement of operations for all funds and account groups of the Village as excerpted from the annual financial report, as filed with the appropriate state agency of the State of Illinois.

Upon receipt of such account from the Village Treasurer, the Village Clerk shall publish the account at least once in one or more newspapers published in the Village. **(65 ILCS 5/3.1-35-65)**

[NOTE: The Treasurer shall file a copy of the report with the County Treasurer as provided in Sec. 5/3.1-35-70 of Chapter 65 of the Illinois Compiled Statutes.]

1-3-44 SUBMIT APPROPRIATION TO VILLAGE BOARD. The Treasurer shall on or before the **fifteenth (15th) day of May in each year,** and before the annual appropriations to be made by the Village Board, submit to the Village Board a report of the estimates as nearly as may be of monies necessary to defray the expenses of the corporation during the current fiscal year. The Treasurer shall, in said report, classify the different objects and branches of expenditures, giving as nearly as may be the amount required for each; and for the purpose of making such a report, the Treasurer is hereby authorized to require of all officers their statement of the condition and expenses of their respective offices or departments with any proposed improvements, and the probable expense thereof, all contracts made and unfinished and the amount of any and all unexpended appropriations of the preceding year.

The Treasurer shall, in such report, show the aggregate income of the preceding fiscal year, from all sources, the amount of liabilities outstanding upon which interest is to be paid, the bonds and debts payable during the year, when due and when payable; and in such report, shall give such other information to the Village Board as he or she may deem necessary to the end that the Village Board may fully understand the money exigencies and demands upon the corporation for the current year. **(65 ILCS 5/3.1-35-115)**

1-3-45 DEPOSIT OF FUNDS.

(A) **Designation by Board.** The Treasurer is hereby required to keep all funds and monies in his or her custody belonging to the Village in such places of deposit as have been designated by **Section 1-2-85(F).** When requested by the Treasurer, the corporate authorities shall designate a bank or banks in which may be kept the funds and monies of the Village in the custody of the Treasurer. When a bank or savings and loan association has been designated as a depository, it shall continue as such depository until **ten (10) days** have elapsed after a new depository is designated and has qualified

by furnishing the statements of resources and liabilities as required by this Section. When a new depository is designated, the corporate authorities shall notify the sureties of the Village Treasurer of that fact in writing at least **five (5) days** before the transfer of funds. The Treasurer shall be discharged from responsibility for all funds or money that the Treasurer deposits in a designated bank or savings and loan association while the funds and money are so deposited.

(B) The Village Treasurer may require any bank or savings and loan association to deposit with the Treasurer securities or mortgages that have a market value at least equal to the amount of the funds or monies of the municipality deposited with the bank or savings and loan association that exceeds the insurance limitation provided by the Federal Deposit Insurance Corporation.

(C) The Village Treasurer may enter into agreements of any definite or indefinite term regarding the deposit, redeposit, investment, reinvestment, or withdrawal of municipal funds.

(D) Each Village Treasurer may:

(1) combine monies from more than one fund of a single municipality for the purpose of investing those funds and;

(2) join with other municipal treasurers or municipalities for the purpose of investing the municipal funds of which the Treasurer has custody.

Joint investments shall be made only in investments authorized by law for the investment of municipal funds. When monies of more than one fund of a single municipality or monies of more than one municipality are combined for investment purposes, the monies combined for that purpose shall be accounted for separately in all respects and the earnings from investments shall be separately and individually computed, recorded, and credited to the fund or municipality, as the case may be, for which the investment was acquired.

(E) No bank or savings and loan association shall receive public funds as permitted by this Section unless it has complied with the requirements established by Section 6 of the Public Funds Investment Act. **(65 ILCS 5/3.1-35-50 and 30 ILCS 235/6)**

(F) The following bank(s) are herewith designated as places of deposit where the Treasurer of the Village is required to keep all funds and monies in his custody belonging to this municipality:

(1) Midland States Bank, Smithton Branch
(2) Regions Bank, Smithton Branch
(3) Citizens Community Banks
(4) 1st National Bank of Waterloo
(5) Dieterich Bank, Belleville Branch

1-3-46 FEE FOR RETURNED CHECKS. Whenever any person, entity, organization or institution submits a check or other negotiable instrument of any kind, payable to the Village, its departments, funds or accounts for utility services, utility deposits, taxes, municipal fees, permits, licenses, or which may be submitted for a payment related to any other purpose of any other kind or nature, whether directly or indirectly related thereto for any amount owed to the Village and that check is returned "unpaid" by a bank, savings and loan, credit union or other financial institution of any kind or nature for insufficient funds, closed account or for any other reason, the person, entity, organization or institution that submitted said check or negotiable instrument shall be assessed and pay a service fee of **Twenty-Five Dollars ($25.00)** which shall be added to the original account which is due and owing. **(Ord. No. 732; 03-18-08)**

1-3-47 - 1-3-48 RESERVED.

DIVISION IV - VILLAGE ATTORNEY

1-3-49 SERVICES OF ATTORNEY. The Attorney shall have full charge of the legal affairs of the Village, and shall be known as the "Village Attorney", and shall receive **Five Hundred Dollars ($500.00)** per month to attend the regular meetings of the Village Board held on the **first (1st)**

and **third (3rd) Tuesday** of each month at **7:30 P.M.** at the Village Hall Building, and shall also receive reasonable fees for other services rendered when in his judgment or the judgment of the Mayor or Village Board, the same are necessary or for the best interests of the Village. **(Ord. No. 827; 09-18-12)**

1-3-50 DUTIES.

(A) **Prosecute for Village.** The Village Attorney shall prosecute or defend on behalf of the Village in all cases in which the interests of the corporation or any officer thereof are involved; and the Village Clerk shall furnish him or her with certified copies of any ordinance, bond or paper in keeping necessary to be filed or used in any suit or proceedings.

(B) **Preparation of Ordinances.** The Attorney shall, when required, advise the Village Board or any officer in all matters of law in which the interests of the corporation are involved, and shall draw such ordinances, bonds, forms and contracts, or examine and pass upon the same, as may be required by the Mayor, the Village Board, or any committee thereof.

(C) **Judgments.** The Attorney shall direct executions to be issued upon all judgments recovered in favor of the Village, and shall direct their prompt service. The Attorney shall examine all the bills of the officers of courts, and of other officers of the law, and shall certify to their correctness and the liability of the Village therefore.

(D) **Violations of Ordinances.** The Attorney shall institute and prosecute an action in every case of violation of a Village ordinance when instructed to do so by the Mayor or the Village Board.

(E) **Prosecution of Suits.** The Attorney shall not be required to prosecute any suit or action arising under the ordinances of the Village when, upon investigation of the same, the Attorney shall become satisfied that the complaint was instituted maliciously, vexatiously, or without just cause; and shall dismiss or discontinue any such suit or proceeding upon such terms as he or she may deem just or equitable.

(F) **Collection of Taxes.** The Attorney is hereby authorized and instructed to enforce the collection of any and all taxes and special assessments in the collection of which the Village is interested and to attend all sales of real or personal property made to enforce the collection of such taxes or special assessments and to bid thereat on behalf of the Village.

(G) **Commissions.** The Village Attorney shall act as the legal advisory for the Utilities Systems, for the Zoning Board of Appeals and for all other boards and commissions hereafter established by the Village Board. The Attorney shall perform all legal services as may be required for those boards and commissions.

1-3-51 - 1-3-52 RESERVED.

DIVISION V - SUPERINTENDENT OF PUBLIC WORKS

1-3-53 OFFICE CREATED. There is hereby created the office of Superintendent of Public Works, an executive officer of the Village. The Superintendent shall be appointed by the Mayor, with the advice and consent of the Board of Trustees for a term of **one (1) year**. **(65 ILCS 5/3.1-30-5)**

1-3-54 DUTIES. The Superintendent shall have charge of the operation and maintenance of the municipal water and sewer distribution systems as provided in Chapter 38 of this Code. In addition he shall have charge of the Village Park and Cemetery as provided in this Code.

1-3-55 STREETS. The Superintendent shall have charge of the construction and care of all public streets, alleys, and driveways in the Village, and with keeping the same clean. He shall see to it that all gutters and drains therein function properly and that the same are kept free from defects.

1-3-56 LIGHTING. The Superintendent shall supervise the lighting (i.e. location of street lights) of the public streets and alleys.

1-3-57 DEPARTMENT EMPLOYEES. All officers or employees assigned to the Department shall perform their duties subject to the orders and under the supervision of the Superintendent.

1-3-58 PROPERTY CUSTODIAN. The Superintendent shall be the custodian of all property of the Village which is not assigned to the care or custody of any other officer.

1-3-59 - 1-3-60 RESERVED.

DIVISION VI – CODE ENFORCEMENT OFFICER -- ZONING ADMINISTRATOR

1-3-61 CREATION OF POSITION. There is hereby created the position of Zoning Administrator. The Zoning Administrator shall be hired under the provisions of **Section 1-2-46** of the Revised Code. The Zoning Administrator shall also serve as the building inspector, flood plain inspector, and as the code enforcement officer. Additional duties shall be outlined in the zoning administrator's job description and may be amended from time to time by the Village Board.

1-3-62 DUTIES. The Zoning Administrator or his authorized representative shall administer and enforce the Zoning Code, as amended from time to time and is in effect, in accordance with the powers and duties therein set forth, and in furtherance of such authority shall:

(A) Issue all Building Permits and Zoning Certificates, and make and maintain records thereof.

(B) Issue all Certificates of Occupancy, and make and maintain records thereof.

(C) Issue Building and Zoning Occupancy Permits as authorized by the Zoning Code.

(D) Conduct inspections of buildings, structures, and land to determine compliance with the Zoning Code and to notify in writing the person responsible for any violation found, indicating the nature of the violation and ordering the action necessary to correct it.

(E) Order the discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes, discontinuance of any illegal work being done; or shall take any other action authorized by statute or by the Zoning Code to ensure compliance with or to prevent violation of the provisions.

(F) Prepare and cause to be published on or before **March 31st of each year**, a map showing the existing zoning uses, divisions, restrictions, regulations, and classifications in effect on the preceding **December 31st.**

(G) Maintain permanent and current records of the Zoning Code, including, but not limited to, all maps, amendments, special-use permits, planned building developments, variances, appeals, and applications therefor.

(H) Provide and maintain a source of public information relative to all matters arising out of the Zoning Code.

(I) Receive, file, and forward to the Plan Commission, all applications for amendments, use variances and special permits, and other matters upon which the Plan Commission is required to act under the Zoning Code.

(J) Receive, file, and forward to the Zoning Board of Appeals all applications for variance, appeals, and other matters upon which the Zoning Board of Appeals is required to act under the Zoning Code.

(K) Keep the Mayor and Village Board advised of zoning activities by written report once each month, including statements of permits and certificates issued and orders promulgated.

(L) The Zoning Administrator may request and shall receive so far as may be necessary in the discharge of his duties, the assistance and cooperation of the Chief of Police in enforcing orders, of the Village Attorney in prosecuting violators, and of other Village officials and officers.

(M) The Zoning Administrator shall perform other duties as a Code Enforcement Officer as prescribed by Laws and the Village Code and as may be specifically assigned to him or her by the Village Board. Such Laws and Code may include, but not be limited to, the Manufactured Home Code, Subdivision Code, and the Building Code, as adopted and amended from time to time by the Village Board.

(N) The Zoning Administrator shall be responsible for, render and make all initial decisions regarding, relating or concerning in any manner the interpretation, implementation, application, or enforcement of any and all provisions of **Chapter 40**, the **"Zoning Code"** of the Village. **(Ord. No. 912; 05-01-18)**

1-3-63 - 1-3-64 RESERVED.

ARTICLE IV - SALARIES

1-4-1 SALARIES OF VILLAGE OFFICIALS. The following salaries are hereby established for elected Village Officials:

(A) **Mayor.** The Mayor shall receive **Six Thousand Six Hundred Dollars ($6,600.00)** per year plus **One Hundred Dollars ($100.00)** per committee meeting beginning **May 1, 2016**. **(Ord. No. 824; 09-04-12)**

The Mayor shall, with the approval of the Village Board, also receive reimbursement from the Village for any expenses incurred and wages or income lost, directly or indirectly, when he is acting in the course of his duties as Mayor, however, said reimbursement shall comply with **Section 1-2-31**.

(B) **Village Clerk.** The Village Clerk shall receive **Three Thousand Three Hundred Sixty Dollars ($3,360.00)** per year. **(Ord. No. 827; 09-18-12)**

(C) **Trustees.** Trustees will receive **One Hundred Dollars ($100.00)** per meeting. Trustees shall receive **One Hundred Dollars ($100.00)** per committee meeting beginning **May 1, 2016**. **(Ord. No. 824; 09-04-12)**

All members shall be allowed **four (4) absences** in each year for which compensation shall be paid, unless the absence is excused by the Board.

Each Trustee shall, with the approval of the Village Board, receive reimbursement from the Municipality for any expenses incurred and/or wages or income lost directly or indirectly by any Trustee when he is acting in the course of his duties as Trustee, however, said reimbursement shall comply with **Section 1-2-31`** of this Chapter. **(Ord. No. 824; 09-04-12)**

(D) **Village Treasurer.** The Treasurer shall receive **One Thousand Eight Hundred Dollars ($1,800.00)** per year.

(E) **Benefits for Mayor.** The Village of Smithton shall pay all costs incurred for the cellular telephone used by the Mayor. **(Ord. No. 824; 09-04-12)**

(65 ILCS 5/3.1-50-5; 5/3.1-50-10; 5/3.1-50-15)

[ED. NOTE: The salaries of elected officials who hold elective office for a definite term shall neither be increased nor diminished during that term and shall be fixed at least one hundred eighty (180) days before the beginning of the terms of the officers whose compensation is to be filed.

The ordinance fixing compensation for members of the corporate authorities shall specify whether those members are to be compensated (i) at an annual rate or, (ii) for each meeting of the corporate authorities actually attended if public notice of the meeting was given.]

ARTICLE V - MANAGEMENT ASSOCIATION

1-5-1 PARTICIPATION. The Village Board of Trustees does hereby authorize and approve membership in the Illinois Municipal League Risk Management Association and directs the Mayor and Clerk to execute an Intergovernmental Cooperation Contract with the Illinois Municipal League Risk Management Association for membership for a period of **one (1) year** beginning the date the Association commences providing risk coverage to its members and each year thereafter unless this ordinance is repealed.

1-5-2 CONTRIBUTION. Each member hereby agrees to contribute to the Association a sum of money to be determined by the Association at the time of application based on the needs of the Association and the loss experience of the Member, which sum shall constitute the cost of the Member's first year contribution for membership in the Association. Membership contributions for second and subsequent years shall be calculated in accordance with the loss experience of the Village, and the needs of the Association including total losses and expenditures of the Self-Insured Retention Fund of the Association.

ARTICLE VI – MEETING PROCEDURES

DIVISION I – RECORDING CLOSED MEETINGS

1-6-1 RECORDING CLOSED SESSIONS. The Village shall keep a verbatim record of all closed or executive session meetings of the corporate authorities of the Village or any subsidiary "public body" as defined by the Illinois Open Meetings Act, **5 ILCS 120/1**. The verbatim record shall be in the form of an audio or video recording as determined by the corporate authorities. **(5 ILCS 120/2)**

1-6-2 RESPONSIBILITY FOR RECORDING CLOSED SESSIONS AND MAINTAINING RECORDINGS. The Village Clerk or his or her designee shall be responsible for arranging for the recording of such closed or executive sessions. In the absence of the Village Clerk or his or her designee, the meeting Chair will arrange for the audio or video recording of the closed or executive session of the Village Board. Each subsidiary public body of the Village shall designate an individual who will be responsible for the recording of any and all closed or executive sessions of the subsidiary body and for providing the Village Clerk with a copy of such recording. The Village Clerk, or his or her designee, shall securely maintain the verbatim recordings of all closed sessions of the corporate authorities of the Village and all subsidiary public bodies of the Village.

1-6-3 CLOSED SESSION MINUTES. In addition to the recordings of the closed and executive session as addressed in this Division, the Village will keep minutes of all closed meetings in accordance with the requirements of the Open Meetings Act, **5 ILCS 120/2.06**.

1-6-4 PROCEDURE FOR RECORDING. At the beginning of each closed session, those present shall identify themselves by voice for the audio recording. If the meeting is videotaped, those present shall individually appear on camera and identify themselves by voice at the beginning of the closed session. The meeting Chair shall also announce the times the closed session commences and ends at the appropriate points on the recording.

1-6-5 BACK-UP EQUIPMENT/PROCEDURE FOR EQUIPMENT MALFUNCTION. The Village shall maintain sufficient tapes, batteries and equipment for the Village to comply with this Division. The Village Clerk or his/her designee shall periodically check the equipment to confirm that it is functioning. In the event that anyone present at a closed session determines that the equipment is not functioning properly, the closed session will be temporarily suspended to attempt to correct any malfunction. In the event that an equipment malfunction cannot be corrected immediately, the closed session will terminate until such time as the closed session may proceed with a functioning recording device.

1-6-6 PROCEDURE FOR REVIEW OF CLOSED SESSION MINUTES AND RECORDINGS. At one meeting at least every **six (6) months**, the agenda shall include the item: "Review of the minutes and recordings of all closed sessions that have not yet been released for public review, and determination of which minutes, if any, may be released." Minutes shall be reviewed in closed session and shall not be released unless the corporate authorities of the Village find that it is no longer necessary to protect the public interest or the privacy of an individual by keeping them confidential. As to any minutes not released, the corporate authorities shall find that the "need for confidentiality still exists" as to those minutes. Minutes of closed sessions shall be kept indefinitely.

1-6-7 MAINTENANCE AND PUBLIC RELEASE OF RECORDINGS AND ACCESS TO TAPES. The audio or video tape recordings of closed sessions shall be maintained for **eighteen (18) months** after the closed session and shall not be released to the public unless such release is required by a court order or specifically authorized for release by a vote of the Village Board. Members of the corporate authorities may listen to the closed session recordings in the presence of the Village clerk or his or her designee. Copies of such tapes will not be made or provided to anyone unless specifically authorized by vote of the Village Board.

1-6-8 PROCEDURE FOR DESTRUCTION OF RECORDINGS. The Village Clerk or his or her designee is hereby authorized to destroy the audio and video recordings of those closed sessions for which:

(A) The corporate authorities of the Village have approved the minutes of the closed sessions as to accurate content, regardless of whether the minutes have been released for public review;

(B) More than **eighteen (18) months** have elapsed since the date of the closed session;

(C) There is no court order requiring the preservation of such recording; and

(D) The corporate authorities of the Village have not passed a motion requiring the preservation of the verbatim recording of that meeting.

1-6-9 - 1-6-10 RESERVED.

DIVISION II – REMOTE MEETING PARTICIPATION

1-6-11 STATUTORY AUTHORITY FOR PARTICIPATION. Pursuant to Public Act 94-1058 which amends the Open Meetings Act in **5 ILCS 120/7**, this municipality does hereby establish a policy that permits members of the corporate body to attend meetings by means other than physical presence.

1-6-12 DEFINITION OF MEETING. The term "meeting" shall mean "any gathering, whether in person or by video or audio conference, telephone calls, electronic means (such as, without limitation, electronic mail, electronic chat and instant messaging), or other means of contemporary interactive communication, of a majority of a quorum of the members of a public body held for the purpose of discussing public business" or such other definition as shall be contained within the state statutes.

1-6-13 AMENDMENT OF PREVIOUS TERMS. The definition of "meeting" set forth in **Section 1-6-12** shall supersede and replace any other definition used in any previous or existing ordinance.

1-6-14 REMOTE PARTICIPATION POLICY. The Village hereby adopts the Remote Participation Policy, as outlined in Addendum "A", that permits a member of the public body to attend and participate in any meeting of a public body as defined in the Open Meetings Act from a remote location via telephone, video, or internet connection provided that such attendance and participation is in compliance with the policy and any applicable laws.

ADDENDUM "A"

GOVERNMENTAL UNIT
REMOTE ATTENDANCE POLICY

(A) **Policy Statement.** It is the policy of the Village that a member of any group associated with this unit of government which is subject to the provisions fo the Open Meetings Act may attend and participate in any open or closed meeting of that Covered Group from a remote location via telephone, video or internet connection, provided that such attendance and participation is in compliance with this policy and any other applicable laws.

(B) **Prerequisites.** A member of the Covered Group of the Village shall be provided the opportunity to attend an open and closed meeting or only one of such meetings from a remote location if the member meets that following conditions and a majority of a quorum of the Covered Body votes to approve the remote attendance;

(1) the member must notify the recording secretary or clerk of the Covered Body at least **twenty-four (24) hours** before the meeting unless advance notice is impractical;

(2) the member must meet one of three reasons described herein why he or she is unable to physically attend the meeting, including either: (a) that the member cannot attend because of personal illness or disability; (2) the member cannot attend because of employment purposes or the business of the Village; or (3) the member cannot attend because of a family or other emergency; and

(3) a quorum of the Covered Body must be physically present.

(C) **Voting Procedure.** After roll call, a vote of the Covered Body shall be taken, considering the prerequisites set forth in paragraph (B), on whether to allow an off-site board member to participate remotely. All of the members physically present are permitted to vote on whether remote participation will be allowed. A vote may be taken to permit remote participation for a stated series of meetings if the same reason applies in each case. Otherwise, a vote must be taken to allow each remote participation.

(D) **Quorum and Vote Required.** A quorum must be established by members physically present at any meeting before it can be considered whether to allow a member to participate in the meeting remotely. A vote of a majority of a quorum shall be necessary to decide the issue. For the meeting to continue there shall always need to be a quorum physically present.

(E) **Minutes.** The member participating remotely shall be considered an off-site participant and counted as present by means of video or audio conference, for that meeting of the members and is allowed to participate. The meeting minutes of the Village shall also reflect and state specifically whether each member is physically present, present by video, or present by audio means.

ADDENDUM "B"

REQUEST FOR AUXILIARY AID(S) AND/OR SERVICE(S)

NAME OF APPLICANT: _____

NAME OF COMPANION: _____

ADDRESS: _____

TELEPHONE: _____ CELL NO.: _____

DATE OF NEEDED AUXILIARY AID OR SERVICE: _____

SPECIFY AUXILIARY AID(S) AND/OR SERVICES REQUIRED: _____

_____

DATE: _____ SIGNED: _____

Please keep in mind that pursuant to Section 1-2-13 that establishes rules governing the address of the Village Board, all remarks must be kept to a maximum of five minutes, shall be addressed to the Village Board, and shall not be disruptive to the business of the Board. The Mayor is empowered to remove individuals from any meeting should they fail to adhere to the rules regarding address of the Board.

EXHIBIT "A"

VILLAGE OF SMITHTON
TRAVEL, MEAL, AND LODGING EXPENSE REIMBURSEMENT REQUEST FORM

Before an expense for travel, meals, or lodging may be approved under Section 1-2-31, the following minimum documentation must first be submitted, in writing, to the corporate authorities of the Village:

1. The name of the individual who received or is requesting the travel, meal, or lodging expense and the individual's job title or office.

   _____
   Name of the Employee or Officer

   _____
   Job Title/Office

2. The date or dates and nature of the official business in which the travel, meal, or lodging expense was or will be expended. Please attach supporting documentation describing the nature of the official business event or program.

   _____ _____
   Name of Event or Program Date(s) of Event or Program

   _____ _____
   Location of Event or Program Purpose of Event or Program

3. An estimate of the cost of travel, meals, or lodging if expenses have not been incurred or a receipt of the cost of the travel, meals, or lodging if the expenses have already been incurred. Please attach either (a) a document explaining the basis for your estimate if expenses have not yet been incurred or (b) receipts if the expenses have already been incurred.

   You may also provide such other documentation as would assist the corporate authorities in considering your request for reimbursement. In the discretion of the corporate authorities, additional documentation relevant to the request for reimbursement may be required prior to action by the corporate authorities with respect to the reimbursement request.

_____ _____
Employee/Officer Signature Date

VILLAGE OF SMITHTON, ILLINOIS

CLOSED SESSIONS – MINUTES

NOTE: The identifying names have been changed to preserve confidentiality for Smithton.

Inventory	Date	Purpose	Discussion	Proposed Action	Comments

Key

P **Personnel**
P/L **Pending Litigation**
L/A **Land Acquisition**
CB **Collective Bargaining**

CHAPTER 3 - ANIMALS

ARTICLE		*TITLE*	*PAGE*
I	*GENERAL REGULATIONS*		
Section 3-1-1	-	*Short Title*	*3-1*
Section 3-1-2	-	*Definitions*	*3-1*
Section 3-1-3	-	*Injury to Property*	*3-3*
Section 3-1-4	-	*Manner of Keeping*	*3-3*
Section 3-1-5	-	*Keeping Barking Dogs and Crying Cats*	*3-3*
Section 3-1-6	-	*Cruelty to Animals Prohibited*	*3-3*
Section 3-1-7	-	*Exhibiting Wild or Vicious Animals*	*3-4*
Section 3-1-8	-	*Health Hazard*	*3-4*
Section 3-1-9	-	*Limitation on Number of Dogs and Cats Kept*	*3-4*
Section 3-1-10	-	*Animals, Etc. in Village*	*3-5*
II	*DOGS AND CATS*		
Section 3-2-1	-	*Definitions*	*3-7*
Section 3-2-2	-	*Dogs to be Inoculated and to Have Name Tags Affixed to Collars*	*3-7*
Section 3-2-3	-	*Inoculation to be Performed by Licensed Veterinarian; Issuance of Certificate*	*3-7*
Section 3-2-4	-	*Duration of Inoculation*	*3-7*
Section 3-2-5	-	*Specifications for Tag*	*3-7*
Section 3-2-6	-	*Exhibition of Certificate Upon Request*	*3-7*
Section 3-2-7	-	*Restraint of Animals*	*3-7*
Section 3-2-8	-	*Impoundment of Dogs or Cats Running at Large or Unlicensed Dogs; Citation of Owner or Keeper*	*3-7*
Section 3-2-9	-	*Notice and Citation to Owner or Keeper of Impoundment*	*3-8*
Section 3-2-10	-	*Obstructing Poundmaster*	*3-8*
Section 3-2-11	-	*Impoundment of Dogs Which Have Bitten Persons*	*3-8*
Section 3-2-12	-	*Impoundment*	*3-8*
Section 3-2-13	-	*Redemption of Impounded Animals*	*3-9*
Section 3-2-14	-	*Village Pound Designated*	*3-9*
Section 3-2-15	-	*Disposition of Dogs Deemed Nuisances*	*3-9*
Section 3-2-16	-	*Dangerous Dog - Female Dog at Large*	*3-9*
Section 3-2-17	-	*Female Dog with Other Dogs*	*3-9*
Section 3-2-18	-	*Removal of Excrement*	*3-9*
Section 3-2-19	-	*Confinement in Motor Vehicle*	*3-9*
Section 3-2-20	-	*Vicious Animals Prohibited*	*3-10*
III	*VICIOUS AND DANGEROUS DOGS*		
Section 3-3-1	-	*Definitions*	*3-11*
Section 3-3-2	-	*Unlawful to Maintain*	*3-11*
Section 3-3-3	-	*Owner's Responsibility*	*3-12*
Section 3-3-4	-	*Dog Permitted to Leave Premises*	*3-12*
Section 3-3-5	-	*Injunction*	*3-12*

ARTICLE		TITLE	PAGE
III	VICIOUS AND DANGEROUS DOGS (CONTINUED)		
	Section 3-3-6	- Liability of Owner or Dog Attacking or Injuring Person	3-12
	Section 3-3-7	- Right of Entry – Inspections	3-12
IV	TETHERING		
	Section 3-4-1	- Tethering Dog Regulations	3-13
V	CAT CODE		
	Section 3-5-1	- Definitions	3-14
	Section 3-5-2	- Vaccination Against Rabies Rquired; Vaccination Tag	3-14
	Section 3-5-3	- License Required	3-15
	Section 3-5-4	- License Tag	3-15
	Section 3-5-5	- Information Required; Receipt; Tag	3-15
	Section 3-5-6	- Cats Running at Large While in Heat	3-15
	Section 3-5-7	- Wearing of Collars; Removal of License Tag	3-15
	Section 3-5-8	- Public Nuisance	3-15
	Section 3-5-9	- Cats Injuring or Destroying Property of Others	3-15
	Section 3-5-10	- Minimum Standards of Sanitation	3-16
	Section 3-5-11	- Enforcement	3-16
	Section 3-5-12	- Poisoning or Injuring Cats	3-16
	Section 3-5-13	- Duty to Place Cat Under Observation; When Required; Procedure	3-16
	Section 3-5-14	- Holding Impounded Cats	3-17
	Section 3-5-15	- Shelter Fee; Release From Shelter	3-17
	Section 3-5-16	- Impounding Time Limit	3-18
	Section 3-5-17	- Receiving Cats at Shelter; Registration	3-18
	Section 3-5-18	- Interference with Capture of Cats	3-18
VI	LICENSES		
	Section 3-6-7	- Dog or Hobby Kennel or Cattery Permit	3-19

CHAPTER 3

ANIMALS

ARTICLE I - GENERAL REGULATIONS

3-1-1 SHORT TITLE. This Chapter shall be known and may be cited as the Animal Control Code. **(510 ILCS 5/1)**

3-1-2 DEFINITIONS. For the purposes of this Chapter, the following definitions are adopted and shall be used:

"ANIMAL" shall mean any animal, other than man, which may be affected by rabies. **(510 ILCS 5/2.02)**

"ANIMAL CONTROL WARDEN" means any person appointed by the Mayor and approved by the Village Board to perform duties enforcing this Code or any animal control official appointed and acting under authority of the Village Board. **(510 ILCS 5/2.03)**

"AT LARGE". Any dog shall be deemed to be at large when it is off the property of its owner and not under the control of a responsible person.

"CAT" shall mean any feline, regardless of age or sex.

"CONFINED" means restriction of an animal at all times by the owner, or his agent, to an escape-proof building or other enclosure away from other animals and the public. **(510 ILCS 5/2.05)**

"DANGEROUS DOG" means:

(A) any individual dog anywhere other than upon the property of the owner or custodian of the dog and unmuzzled, unleashed, or unattended by its owner or custodian that behaves in a manner that a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to a person or companion animal, or

(B) a dog that, without justification bites a person and does not cause serious injury. **(510 ILCS 5/2.052A)**

"DEPARTMENT OF AGRICULTURE" means the Department of Agriculture of the State of Illinois. **(510 ILCS 5/2.06)**

"DOG". "Dog" means all members of the family Canidae. **(510 ILCS 5.211)**

"ENCLOSURE" means a fence or structure of at least **six (6) feet** in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to confine a vicious dog in conjunction with other measures that may be taken by the owner or keeper, such as tethering of the vicious dog within the enclosure. The enclosure shall be securely enclosed and locked and designed with secure sides, top, and bottom and shall be designed to prevent the animal from escaping from the enclosure. If the enclosure is a room within a residence, it cannot have direct ingress from or egress to the outdoors unless it leads directly to an enclosed pen and the door must be locked. A vicious dog may be allowed to move about freely within the entire residence if it is muzzled at all times. **(510 ILCS 5/2.11a)**

"FERAL CAT" means a cat that:

(A) is born in the wild or is the offspring of an owned or feral cat and is not socialized,

(B) is a formerly owned cat that has been abandoned and is no longer socialized, or
(C) lives on a farm.

(510 ILCS 5/2.11b)

"HAS BEEN BITTEN" means has been seized with the teeth or jaws so that the person or animal seized has been nipped, gripped, wounded, or pierced, and further includes contact of saliva with any break or abrasion of the skin. **(510 ILCS 5/2.12)**

"INOCULATION AGAINST RABIES" means the injection of an anti-rabies vaccine approved by the Department. **(510 ILCS 5/2.13)**

"KENNEL" means any structure or premises or portion thereof on which more than **four (4) dogs**, cats, or other household domestic animals, over **four (4) months** of age, are kept or on which more than **two (2)** such animals are maintained, boarded, bred, or cared for in return for remuneration or are kept for the purpose of sale. **(Ord. No. 2009-644; 08-24-09)**

"LEASH" means a cord, rope, strap, or chain which shall be securely fastened to the collar or harness of a dog or other animal and shall be of sufficient strength to keep such dog or other animal under control. **(510 ILCS 5/2.14)**

"LICENSED VETERINARIAN". "Licensed veterinarian" means a veterinarian licensed by the State in which he engages in the practice of veterinary medicine. **(510 ILCS 5/2.15)**

"OWNER". For the purpose of this Code, the word "owner" means a person having a right of property in a dog or other animals or who keeps or harbors a dog, or who has a dog in his care, or who acts as its custodian, or who knowingly permits a dog or other domestic animal to remain on or about any premises occupied by him. **(510 ILCS 5/2.16)**

"POTENTIALLY DANGEROUS DOG" means a dog that is unsupervised and found running at large with **three (3)** or more other dogs. **(510 ILCS 5.17c)**

"POUND". "Pound" means any facility approved by the Administrator and licensed as such by the Department of Agriculture for the purpose of enforcing this Code and used as a shelter for seized, stray, homeless, abandoned, or unwanted dogs or other animals. **(510 ILCS 5/2.18)**

"REGISTRATION CERTIFICATE". "Registration Certificate" means a printed form prescribed by the Department of Agriculture for the purpose of recording pertinent information as required by the Department under the Animal Control Act. **(510 ILCS 5/2.19)**

"RESTRAINT". A dog is under "restraint" within the meaning of this Code if it is controlled by a leash; within an enclosed vehicle being driven or parked on the streets; or within the property limits of his owner or keeper.

"SHADE" shall mean protection from the direct rays of the sun during the months of June through September.

"SHELTER", as it applies to dogs, shall mean a moisture-proof structure of suitable size to accommodate the dog and allow retention of body heat, made of durable material with a solid floor raised at least **two inches (2")** from the ground and with the entrance covered by a flexible, windproof material. Such structure shall be provided with a sufficient quantity of suitable bedding to provide insulation and protection against cold and dampness.

"UNOWNED STRAY DOG". "Unowned stray dog" means any dog not on the premises of the owner or keeper or under control by leash or other recognized control methods, and which does not, at that time and place, bear a current rabies inoculation tag issued pursuant to the provisions of this Code, by means

of which, by reference to records of current registration certificates, the Administrator or his deputies or assistants may determine the name and address of the owner or keeper thereof, or some other means of identification from which the Administrator or his deputies or assistants may directly determine the name and address of the owner or keeper thereof. **(510 ILCS 5/2)**

"VICIOUS ANIMAL" shall mean any animal which has previously attacked or bitten any person or which has behaved in such a manner that the person who harbors said animal knows or should reasonably know that the animal is possessed of tendencies to attack or bite persons.

"WILD ANIMAL" shall mean any live monkey or ape, raccoon, skunk, fox, snake, or other reptile, leopard, panther, tiger, lion, lynx or any other animal or any bird of prey which can normally be found in the wild state. **(510 ILCS Sec. 5/24)**

3-1-3 INJURY TO PROPERTY.

(A) **Unlawful.** It shall be unlawful for any person owning or possessing a dog or cat to permit such dog or cat to go upon any sidewalk, parkway, or private lands or premises without the permission of the owner of such premises and break, bruise, tear up, crush or injure any lawn, flower bed, plant, shrub, tree or garden in any manner whatsoever, or to defecate thereon.

(B) **Waste Products Accumulations.** It shall be unlawful for any person to cause or permit a dog or cat to be on property, public or private, not owned or possessed by such person unless such person has in his immediate possession an appropriate device for scooping excrement and an appropriate depository for the transmission of excrement to a receptacle located upon property owned or possessed by such person. This section shall not apply to a person who is visually or physically handicapped.

3-1-4 MANNER OF KEEPING.

(A) **Pens, Yards, or Runs.** All pens, yards, runs or other structures wherein any animal is kept shall be of such construction so as to be easily cleaned and kept in good repair.

(B) **Fences.** Fences which are intended as enclosures for any animal shall be securely constructed, shall be adequate for the purpose, kept in good repair and shall not be allowed to become unsightly.

3-1-5 KEEPING BARKING DOGS AND CRYING CATS.

(A) **Harboring.** It shall be unlawful for any person to knowingly keep or harbor any dog which habitually barks, howls or yelps, or any cat which habitually cries or howls to the great discomfort of the peace and quiet of the neighborhood, or
in such manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities. Such dogs and cats are hereby declared to be a public nuisance.

(B) **Petitions of Complaint.** Whenever any person shall complain to the Police Department that a dog which habitually barks, howls or yelps or a cat which habitually cries or howls is being kept by any person in the Village, the Police Department shall notify the owner of said dog or cat that a complaint has been received and that the person should take whatever steps are necessary to alleviate the howling, yelping or crying.

3-1-6 CRUELTY TO ANIMALS PROHIBITED.

(A) **Cruelty to Animals Prohibited.** It shall be unlawful for any person to willfully or maliciously inflict unnecessary or needless cruelty, torture, abuse or cruelly beat, strike or abuse any animal, or by an act, omission or neglect, cause or inflict any unnecessary or unjustifiable pain, suffering, injury or death to any animal, whether such animal belongs to such person or to another, except that reasonable force may be employed to drive away vicious or trespassing animals. Any unwanted animals should be delivered to the County Animal Control Facility for proper disposal.

(B) **Food and Shelter.** It shall be unlawful for any person in charge of any animal to fail, refuse, or neglect to provide such animal with food, potable water, shade or shelter, or to cruelly or unnecessarily expose any such animal in hot, stormy, cold or inclement weather, or to carry any such animal in or upon any vehicle in a cruel or inhumane manner. The terms used in this section shall comply with **Section 3-1-2. (65 ILCS 5/11-5-6)**

(C) **Inspection.** Upon presentation of proper identification, the animal warden shall have the right to inspection of the premises.

3-1-7 EXHIBITING WILD OR VICIOUS ANIMALS.

(A) It shall be unlawful for any person to keep or permit to be kept on his premises any wild or vicious animal as described in this Chapter for display or for exhibition purposes, whether gratuitously or for a fee. This section shall not be construed to apply to zoological parks, performing animal exhibitions, or circuses.

(B) It shall be unlawful for any person to keep or permit to be kept any wild animal as a pet, unless a permit is granted by the Department of Natural Resources of the State of Illinois.

(C) It shall be unlawful for any person to harbor or keep a vicious animal within the Village. Any animal which is found off the premises of its owner may be seized by any police officer or humane officer and upon establishment to the satisfaction of any Court of competent jurisdiction of the vicious character of said animal, it may be killed by a police officer or humane officer; provided, however, that this section shall not apply to animals under the control of a law enforcement or military agency nor to animals which are kept for the protection of property, provided that such animals are restrained by a leash or chain, cage, fence, or other adequate means from contact with the general public or with persons who enter the premises with the actual or implied permission of the owner or occupant.

(D) The Department of Agriculture shall issue a temporary permit for the keeping, care, and protection of any infant animal native to this area which has been deemed to be homeless, then said animal may be kept on a temporary basis.

3-1-8 HEALTH HAZARD. The Mayor shall have the power to issue an order prohibiting the keeping of any animal, fowl or bird which is deemed to be a nuisance or pose a health hazard to the general public.

3-1-9 LIMITATION ON NUMBER OF DOGS AND CATS KEPT.

(A) **Nuisance.** The keeping of an unlimited number of dogs and cats in the Village for a considerable period of time detracts from and, in many instances, is detrimental to the healthful and comfortable life for which such areas were created.

The keeping of an unlimited number of dogs and cats is, therefore, declared to be a public nuisance. The terms "dog" and "cat" shall be construed as provided in **Section 3-1-2.**

(B) **Limitation; Exception.**

(1) It shall be unlawful for any person or persons to keep more than **five (5) dogs** or **cats** within the Village, with the exception that a litter of pups, a litter of kittens or a portion of a litter may be kept for a period of time not exceeding **five (5) months** from birth.

(2) The provisions of this section shall not apply to any establishment wherein dogs or cats are kept for breeding, sale, sporting purposes or boarding.

(C) **Kennels.** In the areas where kennels are permitted, no kennel shall be located closer than **two hundred (200) feet** to the boundary of the nearest adjacent residential lot. **(See Zoning Code)**

3-1-10 ANIMALS, ETC. IN VILLAGE.

(A) **Certain Prohibitions.** It shall be unlawful, and is hereby declared a nuisance for any person to keep or allow to be kept any animal of the species of horse, mule, swine, sheep, goat, cattle, poultry (with the exception of chickens, ducks, quail, pheasant, pigeons and rabbits as herein provided), skunks, or poisonous reptiles within the limits of the Village.

(1) It shall be unlawful to keep roosters within the Village limits.

(2) Allowable animals shall be deemed Hobby Animals.

(3) Applicants shall register with Village Hall obtaining annual permit and have proof of registration on-site. Registration fee of **Twenty-Five Dollars ($25.00)** per year.

(4) Care for Hobby Animals shall follow the provisions set forth in this Chapter.

(a) Hobby Animals shall be kept in such a way so as not to cause a nuisance.

(b) Hobby Animal runs, yards and coops shall be constructed and maintained to reasonably prevent the collection of standing water; and shall be cleaned of droppings, uneaten or discarded feed, feathers, and other waste with such frequency as is necessary to ensure the yard, coop and pen do not become nuisances.

(i) Coops, pens and yards shall be large enough to provide at least **four (4) square feet** per animal.

(ii) The coop must be built to provide ventilation, shade, protection from precipitation, protection from cold weather and to be secure from predators, wild birds and rodents.

(iii) Openings in windows and doors must be covered by wire mesh or screens to deter predators.

(iv) Access doors must be sized and placed for ease of cleaning.

(v) The enclosed run must be attached to the coop or must surround the coop. The sides of the run must be made of fencing or wire mesh that discourages predators.

(vi) The run must be enclosed on all sides, including the top or roof plane.

(vii) Odors from pens, manure or related substances shall not be detectable from property lines. Manure must be stored and disposed of. Manure may be composted. All manure not composted must be removed from property regularly.

(c) Licenses for coops must be obtained and shall meet the rules of this Chapter where applicable.

(i) Prior to a license being granted to an applicant, the applicant must show proof of notice to all adjacent landowners except landowners that are municipalities or utilities.

(ii) Coops over **one hundred twenty (120) square feet** will require a building permit.

(iii) A license shall not be granted unless the applicant has obtained all necessary building permits and can show

proof that a pen, yard and coop that comply with this Section have been erected.

(iv) The chicken coop and run shall be located in the rear of the residential structure. The pen, coop and run are allowed in the rear yard, but not the side or front yards.

(v) The coop and run shall be located at least **five (5) feet** from the property line and at least **twenty-five (25) feet** from any dwelling.

(vi) Coop licenses shall not run with the land.

(vii) Licenses will only be granted to persons who reside on parcels with single-family dwellings. An applicant who lives in an apartment, multi-family units or condominium building is not eligible to receive a Hobby Animal license.

(viii) The Village may deny a license to any person who:

a. Owes money to the Village; or

b. has, in the last **five (5) years** prior to application for a license under this Section been convicted or plead guilty to any code violation of animals, nuisance, noise, property maintenance or zoning.

(ix) If the licensee is found to be in violation of this Section or of Cruelty to Animals, the license will be immediately and permanently revoked.

(x) Applications shall be submitted to the Village Clerk's office.

(xi) No person shall slaughter any Hobby Animal within Village limits in view of the public.

(xii) No Hobby Animal shall be permitted to run at large. All animals shall be kept in a designated coop or run. Hobby Animals may be allowed to exercise in a rear yard with a **six (6) foot** or higher fence with supervision.

(xiii) No lawfully owned cat or dog shall be deemed dangerous, vicious or otherwise punished for attacking or killing any Hobby Animal allowed to run astray whether by accident or design.

(xiv) Any resident currently owning a designated Hobby Animal shall have **ninety (90) days** from enactment of this Section to comply with all the provisions set forth.

(xv) If the licensee is found to be in violation of these standards **three (3)** or more times, the license will be immediately and permanently revoked.

(xvi) Pens, coops and runs not maintained according to this Section shall be deemed a public nuisance and the license will be immediately and permanently revoked.

(xvii) Any person found to be in violation of this Section shall be fined not less than **One Hundred Dollars ($100.00)**, nor more than **Seven Hundred Fifty Dollars ($750.00)** for each offense. Each day an owner is not compliant with this Section shall constitute a separate offense.

(B) **Exceptions.** This Section shall not apply in areas of the Village that are zoned agricultural in nature nor shall this Section apply to livestock brought into the Village for the purpose of being shipped out of the Village.

(65 ILCS 5/11-1-1; 5/11-5-6 and 5/11-20-9)

ARTICLE II – DOGS AND CATS

3-2-1 DEFINITIONS. The terms used in this Article shall comply with **Section 3-1-2** of this Chapter unless otherwise provided in this Article.

3-2-2 DOGS TO BE INOCULATED AND TO HAVE NAME TAGS AFFIXED TO COLLARS.

(A) Each calendar year or at such intervals as may hereafter be promulgated by the Department of Agriculture, every owner or keeper of a dog **four (4) months** or more of age shall cause such dog to be inoculated against rabies. Such owner or keeper of such dog shall cause a serially numbered tag evidencing such inoculation to be attached to a collar or harness worn by the dog.

(B) Every owner or keeper of a dog, regardless of age, shall cause the dog to wear a collar or harness and shall affix thereto a metallic or other suitable tag inscribed with the name, address and phone number, if any, of the owner or keeper of the dog.

3-2-3 INOCULATION TO BE PERFORMED BY LICENSED VETERINARIAN; ISSUANCE OF CERTIFICATE. The inoculation of dogs required by **Section 3-2-2(A)** shall be performed by a veterinarian duly licensed to practice his profession in this State. Upon performing such inoculation, such veterinarian shall issue to the owner or keeper a certificate showing such fact and shall also deliver to the owner or keeper a metallic or other suitable tag to be attached to the collar or harness of the dog, which tag shall also certify to the fact of the inoculation against rabies.

3-2-4 DURATION OF INOCULATION. The inoculation performed under the provisions of **Section 3-2-3** shall be effective until the expiration of the calendar year in which the vaccination was performed or the expiration of such period of time as may be promulgated by the Department of Agriculture.

3-2-5 SPECIFICATIONS FOR TAG. The tag issued under the provisions of **Section 3-2-3** shall be in such form as shall be determined by the Department of Agriculture.

3-2-6 EXHIBITION OF CERTIFICATE UPON REQUEST. At any reasonable time upon request of any member of the Police Department or Village employee, the owner or keeper of any unmuzzled dog shall exhibit his certificate issued under the provisions of **Section 3-2-3,** showing the inoculation against rabies of any dog owned or controlled by him.

3-2-7 RESTRAINT OF ANIMALS. The owner or keeper of the dog or cat shall keep the animal under restraint at all times and shall not permit such animal to be at large, off the premises of the property of the owner or keeper, unless the animal is under complete control as defined in **Section 3-1-2. (65 ILCS 5/11-20-9) (Ord. No. 12-2; 05-07-12)**

3-2-8 IMPOUNDMENT OF DOGS OR CATS RUNNING AT LARGE OR UNLICENSED DOGS; CITATION OF OWNER OR KEEPER.

(A) It shall be the duty of such employees and officers of the Police Department as shall be designated for that purpose by the Mayor to take up and impound in such place as may be designated and set apart for that purpose, any dog or cat found running at large or unlicensed dog in the Village, contrary to any of the provisions of this Chapter or other regulations of the Village.

(B) When dogs or cats are found running at large or dogs are found unlicensed and their ownership is known to the designated employee(s), such dogs or cats may be impounded at the discretion of such employee(s), but the employee(s) may cite the owner of such dog or cat to answer charges of violation of this Chapter.

(C) Any dog or cat permitted to run at large within the Village is hereby declared to be a nuisance.

(D) Any impounded dog or cat which shall not be redeemed within **three (3) days** shall be humanely destroyed or otherwise disposed of by the poundkeeper.

(E) The Village Board shall establish a reasonable fee by motion for each day that a dog or cat is housed in the pound. **(510 ILCS 5/10)**

(Ord. No. 12-3; 05-07-12)

3-2-9 NOTICE AND CITATION TO OWNER OR KEEPER OF IMPOUNDMENT. In case of impounding and where the owner or keeper of such dog or cat is disclosed by any tax or license tag worn by it or is otherwise known to the officers impounding the same, the designated official shall make reasonable attempts to contact the owner, informing him of the impounding of his dog or cat and shall cite the owner or keeper of such dog or cat to answer charges of violation of this Chapter. **(Ord. No. 12-10; 07-02-12)**

3-2-10 OBSTRUCTING POUNDMASTER. Any person(s) who shall bring any dog or cat into the Village for the purpose of causing the same to be impounded or any person who shall resist, hinder or molest the poundmaster or dogcatcher or police officer while engaged upon the duties imposed upon them by this Chapter or any person who shall break into the dog or cat pound and release or deliver any dog or cat therefrom without having first paid the fees herein specified, or any owner or keeper of any dog or cat who shall permit any dog or cat to run at large within the corporate limits of the Village, upon conviction, of any part of this Chapter shall be subject to penalties as set forth in **Section 1-1-20** of this Code. **(Ord. No. 12-11; 07-02-12)**

3-2-11 IMPOUNDMENT OF DOGS WHICH HAVE BITTEN PERSONS. Any dog which shall have bitten or otherwise injured any person so as to cause an abrasion of the skin shall be immediately taken, impounded and kept separated from other dogs for **ten (10) days**. If, during that period, such dog develops symptoms of illness, a veterinarian shall be called to diagnose its condition. If the symptoms disclosed are such as to indicate the presence of rabies, such dog shall be destroyed in such a manner, however, as to preserve intact the head, which shall thereupon be detached and immediately sent to the diagnostic laboratory of the Department of Agriculture. In case such dog cannot be safely taken up and impounded, it may be shot, care being taken to preserve the head intact which shall thereupon be immediately detached and be delivered to the diagnostic laboratory of the Department of Agriculture.

If, at the expiration of the **ten (10) days** no symptoms of rabies have developed in such dog so impounded, the same may be redeemed by the owner upon payment of the redemption fees and charges specified by this Chapter; provided, however, that in case any dog so impounded for biting a person shall have previously bitten any person, such dog shall be humanely destroyed by the poundkeeper. After having been notified that his dog has bitten or otherwise injured any person, the owner or keeper thereof shall not, under any circumstances, permit such animal to be at large unless securely muzzled.

3-2-12 IMPOUNDMENT. Those persons charged with the duty of enforcing this Chapter may employ any method found practical and humane in capturing and impounding any dog or cat found running at large.

3-2-13 REDEMPTION OF IMPOUNDED ANIMALS. The owner of any animal impounded under this Chapter may redeem the same by paying all the costs and charges assessed, if any, that have accrued up to the time of making redemption and on paying the same; it shall be the duty of the authorities to release the animal from the pound and deliver it to its owner, or certify the release thereof to any County authority having possession of the animal.

3-2-14 VILLAGE POUND DESIGNATED. The Village Board shall designate a Village Pound.

3-2-15 DISPOSITION OF DOGS DEEMED NUISANCES. Any dog which may, in any manner, continually disturb the quiet of any person or neighborhood or shall destroy or in any manner injure any animal, plant, shrub or other property not on the premises of its owner or keeper is hereby declared to be a nuisance, and such dog shall be taken up and impounded and may be redeemed or disposed of in the manner provided for under this Code.

3-2-16 DANGEROUS DOG - FEMALE DOG AT LARGE. It shall be unlawful for the owner or keeper of any fierce or dangerous dog or of any female dog, while in heat, to run at large within the limits of this Village.

3-2-17 FEMALE DOG WITH OTHER DOGS. No person in control or possession of a female dog or permitting the same to remain upon his or her premises, shall permit any such female dog, while in heat, to consort with any other dog or dogs in an indecent manner in any place of public view, whether upon his own or any other premises.

3-2-18 REMOVAL OF EXCREMENT. No person who owns, possesses, is in charge of, controls, or has custody of any animal, including but not limited to a dog, shall appear or be present with said animal upon any sidewalk, street, alley, roadway, park, any public right-of-way, or public property or place of any kind or nature, or upon the private property of another without the permission of the property owner, without some means, facility, tool, or apparatus to be utilized for the removal of excrement, nor shall any person fail to properly clean the area and remove any excrement deposited by said animal. This Section shall not apply to support or guide dogs for the blind, visually handicapped or otherwise physically handicapped person walking their dog. A minimum fine of **Seventy-Five Dollars ($75.00)** and a maximum fine of **Seven Hundred Fifty Dollars ($750.00)** shall be imposed for each violation of this Section. **(Ord. No. 738; 06-17-08)**

3-2-19 CONFINEMENT IN MOTOR VEHICLE. No owner or person shall confine any animal in a motor vehicle in such a manner that places it in a life or health threatening situation by exposure to a prolonged period of extreme heat or cold, without proper ventilation or other protection from such heat or cold. In order to protect the health and safety of an animal, an animal control officer, law enforcement officer, or Department investigator who has probable cause to believe that this Section is being violated shall have authority to enter such motor vehicle by any reasonable means under the circumstances after making a reasonable effort to locate the owner or other person responsible. **(510 ILCS 70/7.1)**

3-2-20 VICIOUS ANIMALS PROHIBITED. It shall be unlawful for any person to bring or transfer into the incorporated area of the Village any dog or animal that has been declared "vicious" by any unit of local government.

(65 ILCS 5/11-1-1 and 5/11-20-9)

ARTICLE III - VICIOUS AND DANGEROUS DOGS

3-3-1 DEFINITIONS. As used in this Article, the following words shall have the following meanings and definitions:

(A) **"Vicious dog"** means:

(1) Any individual dog that when unprovoked inflicts bites or attacks a human being or other animal either on public or private property.

(2) Any individual dog with a known propensity, tendency or disposition to attack without provocation, to cause injury or to otherwise endanger the safety of human beings or domestic animals.

(3) Any individual dog that has a trait or characteristic and a generally known reputation for viciousness, dangerousness or unprovoked attacks upon human beings or other animals, unless handled in a particular manner or with special equipment.

(4) Any individual dog which attacks a human being or domestic animal without provocation.

(5) Any individual dog which has been found to be a "dangerous dog" upon **three (3)** separate occasions.

No dog shall be deemed "vicious" if it bites, attacks, or menaces a trespasser on the property of its owner or harms or menaces anyone who has tormented or abused it or is a professionally trained dog for law enforcement or guard duties. Vicious dogs shall not be classified in a manner that is specific as to breed.

If a dog is found to be a vicious dog, the dog shall be subject to enclosure.

(B) **"Dangerous dog". See Section 3-1-2**.

(C) **"Enclosure"** means a fence or structure of at least **six (6) feet** in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to confine a vicious dog in conjunction with other measures that may be taken by the owner or keeper, such as tethering of the vicious dog within the enclosure. The enclosure shall be securely enclosed and locked and designed with secure sides, top, and bottom and shall be designed to prevent the animal from escaping from the enclosure. If the enclosure is a room within a residence, it cannot have direct ingress from or egress to the outdoors unless it leads directly to an enclosed pen and the door must be locked. A vicious dog may be allowed to move about freely within the entire residence if it is muzzled at all times. **(510 ILCS 5/2.11a)**

(D) **"Impounded"** means taken into the custody of the public pound in the Village or town where the vicious dog is found.

(E) **"Found to Be Vicious Dog"** means:

(1) that the County Veterinarian, Animal Control Warden, or a law enforcement officer has conducted an investigation and made a finding in writing that the dog is a vicious dog as defined in **Section 3-1-2** and, based on that finding, the County Veterinarian, or the Animal Control Warden has declared in writing that the dog is a vicious dog or

(2) that the circuit court has found the dog to be a vicious dog as defined in **Section 3-1-2** and has entered an order based on that finding.

3-3-2 UNLAWFUL TO MAINTAIN. It shall be unlawful for any person to keep or maintain any dog which has been found to be a vicious dog unless such dog is at all times kept in an enclosure. The only times that a vicious dog may be allowed out of the enclosure are:

(A) If it is necessary for the owner or keeper to obtain veterinary care for the dog or

(B) To comply with the order of a court of competent jurisdiction, provided that the dog is securely muzzled and restrained with a chain having a tensile strength of **three hundred (300) pounds** and not exceeding **three (3) feet** in length, and shall be under the direct control and supervision of the owner or keeper of the dog.

Any dog which has been found to be a vicious dog and which is not confined to an enclosure shall be impounded by the Animal Control Warden, or the police and shall be turned over to a licensed veterinarian for destruction by lethal injection.

(C) The owner charged with maintaining a vicious or dangerous dog may request a hearing before the Village Board within **five (5) days** of being charged.

3-3-3 OWNER'S RESPONSIBILITY. If the owner of the dog has not appealed the impoundment order to the circuit court in the County in which the animal was impounded within **fifteen (15) working days,** the dog may be humanely dispatched. A dog found to be a vicious dog shall not be released to the owner until the Animal Control Warden approves the enclosure as defined in this Article.

No owner or keeper of a vicious dog shall sell or give away the dog. **(510 ILCS 5/15)**

3-3-4 DOG PERMITTED TO LEAVE PREMISES. It is unlawful for any person to maintain a public nuisance by permitting any dangerous dog or other animal to leave the premises of its owner when not under control by leash or other recognized control methods.

Guide dogs for the blind or hearing impaired, support dogs for the physically handicapped, and sentry, guard, or police-owned dogs are exempt from this Section; provided, no attack or injury to a person occurs while the dog is performing duties as expected. To qualify for exemption under this Section, each such dog shall be currently inoculated against rabies in accordance with this Code. It shall be the duty of the owner of such exempted dog to notify the Warden of changes of address. In the case of a sentry or guard dog, the owner shall keep the Warden advised of the location where such dog will be stationed. The Warden shall provide police and fire departments with a categorized list of such exempted dogs, and shall promptly notify such departments of any address changes reported to him. **(510 ILCS 5/15)**

3-3-5 INJUNCTION. The Animal Control Warden, the Village Attorney, or any citizen of the Village in which a dangerous or vicious dog or other animal exists may file a complaint to enjoin all persons from maintaining or permitting such, to abate the same, and to enjoin the owner of such dog or other animal from permitting same to leave his premises when not under control by leash or other recognized control methods. Upon the filing of a complaint in the circuit court, the court, if satisfied that this nuisance may exist, shall grant a preliminary injunction with bond in such amount as the court may determine enjoining the defendant from maintaining such nuisance. If the existence of the nuisance is established, the owner of such dog or other animal shall be in violation of this Act, and in addition the court shall enter an order restraining the owner from maintaining such nuisance and may order that such dog or other animal be humanely dispatched. **(510 ILCS 5/17)**

3-3-6 LIABILITY OF OWNER OR DOG ATTACKING OR INJURING PERSON. If a dog, or other animal, without provocation, attacks or injures any person who is peaceably conducting himself in any place where he may lawfully be, the owner of such dog or other animal is liable in damages to such person for the full amount of the injury sustained. **(510 ILCS 5/16)**

3-3-7 RIGHT OF ENTRY - INSPECTIONS. For the purpose of carrying out the provisions of this Code and making inspections hereunder, the Animal Control Warden, or his authorized representative, or any officer of the law may enter upon private premises to apprehend a straying dog or other animal, a dangerous dog or other animal, or a dog or other animal thought to be infected with rabies. If, after request therefor, the owner of such dog or other animal shall refuse to deliver the dog or other animal to the officer, the owner shall be in violation of this Code. **(510 ILCS 5/17)**

(65 ILCS 5/11-1-1 and 5/11-20-9)
(See also 510 ILCS 5/24)

ARTICLE IV – TETHERING

3-4-1 TETHERING DOG REGULATIONS. The following regulations shall be applicable to owners and guardians of dogs in their care to-wit:

(A) **Animal Welfare.** A dog that is outside for **one (1) hour** or more, whether fenced, kenneled, or tethered shall have proper food, water, and shelter. Owners and guardians shall be responsible for the welfare of their pets in severe heat, cold, rain, snow, ice, and wind.

(B) No dog shall be tethered within **fifty (50) feet** of a school, daycare, or school bus stop.

(C) No dog shall be tethered on any public easement, or public access to private property.

(D) No dog shall be tethered on private property within **ten (10) feet** of public or neighboring property.

(E) No dog shall be tethered on land without a dwelling or a vacant dwelling.

(F) No dog shall be left inside a vacant dwelling.

(G) No more than **one (1) dog** shall be attached to a tether.

(H) A properly constructed fence, of a height and strength, that prevents the dog from jumping, climbing, or digging out, and running at large, is acceptable containment.

(I) A properly constructed kennel, of a height and strength, that prevents the dog from jumping, climbing, or digging out, and running at large, is acceptable containment if the following conditions are met. The dimensions of the kennel shall be dictated by the size of the dog. The kennel shall have a doghouse large enough for the dog to stand and turn around, with roof and **four (4) sides**. The acceptable kennel size is **one hundred twenty-five (125) square feet** per dog of under **fifty (50) pounds**.

(J) Tethering shall not be used as permanent means of containment for any companion pet.

(K) Tethering shall be acceptable under the following conditions:

(1) Trolley or pulley types of tethering systems are recommended.

(2) Fixed point tethers shall be acceptable upon inspection and approval by Animal Control.

(3) All tethers will be a minimum of **fifteen (15) feet** in length and no more than **one-eighth (1/8)** the dog's weight.

(4) The tether shall have a swivel mechanism on both ends and attached to a properly fitting, non-metal, buckle type collar or a harness.

(5) No pinch or choke collars shall be allowed.

(6) No tether shall be directly attached to the dog.

(L) Owners shall be responsible to maintain a clean and healthy environment on their property and provide medical treatment when needed.

(510 ILCS 70/3)

ARTICLE V - CAT CODE

3-5-1 DEFINITIONS. As used in this Code, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

"BOARD OF HEALTH": The term "Board of Health" shall mean the Board of Health of the County.

"CAT": The term "cat" shall apply both male and female cats.

"DEPARTMENT OF HEALTH: The term "department of health" shall mean the Department of Health of the County.

"DIRECTOR": The term "director" shall mean the director of the Department of Health or his or her duly authorized representative.

"HOBBY KENNEL OR CATTERY": The term "hobby kennel or cattery" shall mean any kennel where cats are kept for organized shows, breeding for exhibition, or for the enjoyment of the household.

"INOCULATION, VACCINATION OR VACCINATION FOR RABIES": The terms "inoculation" and "vaccination" or "vaccination for rabies" shall mean the inoculation of a cat with a vaccine approved by the Department of Health for use in the prevention of rabies.

"KEEP OR HARBOR": The terms "keep" or "harbor" shall mean the habitually permitting to remain or to be lodged or to be fed within the house, store, yard, enclosure, or other place.

"KENNEL": The term "kennel" shall be construed to mean the house, store yard, enclosure or place where **two (2)** or more weaned, unspayed or unneutered cats are harbored or kept; provided, however, this definition shall not apply to spayed female cats nor to the animal shelter or to animal hospitals operated by veterinarians duly licensed under the laws of the state keeping cats for others for treatment or boarding.

"OWN": The term "own" unless otherwise indicated in the text, shall be deemed to mean and include own, keep, harbor, or have charge, custody, or control of a cat.

"OWNER": The term "owner" shall mean any person or persons, firm, association, or corporation owning, keeping, or harboring a cat.

"PERSON": The term "person" shall mean and include any individual, firm, corporation, association, or partnership.

"RUNNING AT LARGE": The term "running at large" shall mean off the premises of the owner and not under the control of the owner or a member of his or her immediate family.

"WARDEN": The term "warden" shall mean the person in charge of enforcing this Code and appointed by the Mayor.

3-5-2 VACCINATION AGAINST RABIES REQUIRED; VACCINATION TAG. Any person within the Village owning a cat **four (4) months** of age or older shall have such cat vaccinated once each year against rabies. Each unvaccinated cat acquired or moved into the municipality must be vaccinated within **thirty (30) days** after purchase or arrival provided that no cat under **four (4) months** of age shall be required to be vaccinated until it reaches the age of **four (4) months.** It shall

be the duty of every veterinarian, at the time of vaccinating any cat, to provide a copy of the rabies vaccination certificate to the warden and to provide a rabies vaccination tag to the owner. The rabies vaccination tag shall be attached to and kept upon the collar or harness of the cat.

3-5-3 LICENSE REQUIRED. It shall be unlawful for any person within the Village to own a cat over **four (4) months** of age without procuring a license for such cat as provided in this Code.

3-5-4 LICENSE TAG. It shall be unlawful for the owner of any cat to permit or allow such cat to wear any license tag issued for another cat or for another year.

3-5-5 INFORMATION REQUIRED; RECEIPT; TAG. Application for such license shall be made to the director, and the following information, including presentation of a valid rabies certificate showing that the cat has been immunized for rabies shall be furnished:

(A) Name and address of the owner or harborer of such cat;

(B) Such description of the cat as may be required for the purpose of identification; and

(C) The license number of the tag issued.

The warden shall furnish to the owner, upon payment of the license fees as hereinafter required, a license receipt showing thereon such information and metallic tag bearing the tag number, the license year for which issued and the words "**Cat Tag"** engraved thereon.

3-5-6 CATS RUNNING AT LARGE WHILE IN HEAT. It is hereby declared unlawful for any owner, keeper, or harborer of any female cat to permit such cat to run at large while in heat, whether or not a valid registration tag is attached.

3-5-7 WEARING OF COLLARS; REMOVAL OF LICENSE TAG. Each licensed cat must wear a collar bearing the license tag and rabies vaccination tag. This is the owner's responsibility. It shall be unlawful for any person to remove, or cause to be removed, the collar, harness, or metallic license tag or rabies vaccination tag from any licensed cat.

3-5-8 PUBLIC NUISANCE. Any cat running at large in violation of the provisions of this Code is declared to be a public nuisance, and shall be impounded by the director as in this ordinance provided, or if the residence of the owner of such cat is determined by the capturing animal control officer before such cat is delivered to the animal shelter, such cat may be delivered to the owner upon said owner's written acceptance of delivery upon a form to be provided by the director. If such cat is so delivered to the owner, an impoundment fee of **Twenty-Five Dollars ($25.00)** shall be paid by the owner to director within **five (5) days** of delivery, and failure to pay said fee shall constitute a separate violation of this section.

The warden shall not release any such cat from being impounded until the owner of the cat shall have obtained a license as provided in this Code.

3-5-9 CATS INJURING OR DESTROYING PROPERTY OF OTHERS. It shall be unlawful for any person to own, or allow to be in or upon any premises occupied by him or her or under his or her charge or control, any cat that in any manner injures or destroys any real or personal property of any description belonging to another. If upon the trial of any offense mentioned in this section it shall appear to municipal judge that the person be guilty as charged in said complaint, said judge may, in addition to the usual judgment of conviction, order the person so offending to make restitution to the party injured in an amount equal to the value of the property so injured or destroyed.

3-5-10 MINIMUM STANDARDS OF SANITATION.

(A) Animal housing facilities shall be constructed of nontoxic materials and in a structurally sound design. The facility shall be kept in good repair and kept clean and sanitary at all times, so as to protect animals from disease and injury.

(B) Animals maintained in pens, cages, or runs for periods exceeding **twenty-four (24) hours** shall be provided with adequate space to prevent overcrowding and to maintain normal exercise according to species. Cages are to be of material and construction that permit cleaning and sanitizing.

(C) **Indoor Housing.** These facilities shall be sufficiently temperature controlled and ventilated to provide for the animals comfort and health.

(D) Outside housing or enclosures shall allow adequate protection against weather extremes. Floors of buildings, runs, and wall shall be of an impervious material to permit proper cleaning and disinfection. Outside runs must be within a yard with an additional or separate fence around it, and screened from view by either plantings or the additional fence.

(E) Provisions shall be made for the removal and proper disposal of animal and food waste, bedding, dead animals, and debris. Disposal facilities shall be provided and so operated as to minimize vermin infestation, odors, and disease hazards.

(F) All animal quarters and runs are to be kept clean, dry, and in a sanitary condition.

(G) The food shall be free from contamination, wholesome, palatable, and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the animal.

(H) All animals shall have fresh water available at all times. Water vessels shall have weighted bottoms or be mounted or secured in a manner that prevents tipping and be of the removable type

(I) Each cat shall be observed daily by the cat caretaker in charge or his or her representative. Sick, diseased, injured, lame, or blind animals shall be provided with proper veterinary care.

3-5-11 ENFORCEMENT. The enforcement of the provisions of this Code shall be under the direction of the animal control warden. For the purpose of enforcing this Code the warden or any animal control warden or police officer may obtain a search warrant or other appropriate court order to permit entering private premises.

3-5-12 POISONING OR INJURING CATS. It shall be unlawful for any person to administer, or cause to be administered, poison of any sort whatsoever to any cat, or to neglect, or in any manner to mistreat, injure, maim, or destroy except as elsewhere in the ordinance specifically authorized, or in any manner to attempt to mistreat, injure, maim, or destroy a cat of another, or to place any poison, poisoned food or poisoned bait where the same is accessible to any cat. This section shall not be interpreted to prohibit an act of a licensed veterinarian in causing a cat's death in a humane manner with the approval of the owner of the cat.

3-5-13 DUTY TO PLACE CAT UNDER OBSERVATION; WHEN REQUIRED; PROCEDURE. When any person owning a cat has been notified by any person injured or by someone in his or her behalf, or by someone with knowledge of said injury, that the person has been bitten or attacked by said cat, or when any person owning a cat has been notified by any person that said cat has been bitten by a rabid animal, the owner shall immediately place the cat under the care and observation of the director or of a licensed veterinarian within the municipality with the expense thereof to be borne by the owner of such cat; and failure of the owner to submit said cat or other animal within **twenty-four (24) hours** after notice of said bite or attack to the director or a veterinarian within the Village constitutes a violation of this ordinance. The warden or licensed veterinarian shall impound said cat for care and observation for a period of **ten (10) days** in compliance with standards adopted by the

corporate authorities. It shall be lawful for the warden or an agent of the warden, to destroy in a humane manner any cat that has been determined by the director to have rabies, or that has been impounded for observation after the period of observation has expired unless the owner shall, within **five (5) days** after notice has been given, redeem such cat by paying such expense incident to such impounding, observation, or treatment. It shall be illegal for any person to release any cat held for observation to any person prior to expiration of the period of observation. Before any such cat shall be released the person to whom it is released shall submit proof in the form of a certificate issued by a license veterinarian or other person authorized by law to administer rabies inoculation that such cat does not have rabies and has been properly inoculated for rabies. Such impounded cat may be released temporarily directly by a license veterinarian.

3-5-14 HOLDING IMPOUNDED CATS. Any cat impounded because of not being properly licensed shall be held by the warden for not less than **seven (7) days,** unless sooner redeemed or released as hereinafter provided. The warden shall notify the owner of any cat impounded if such owner's identity and address can be ascertained upon reasonable investigation. Such notice shall be given within **twenty-four (24) hours** after such cat is impounded under any of the provisions of this ordinance. The notice shall inform the owner that the cat has been impounded, the purpose or reason for such impounding, and the requirements to permit release of the cat.

(A) Any cat remaining in the shelter unclaimed or not redeemed at the expiration of the time limit of **seven (7) days** may be destroyed in a humane manner unless in the judgment of the warden a suitable home may be found for such cat.

(B) In the event the warden shall find a suitable home for such cat within the municipality, the person taking such cat shall first procure from said warden a license and metallic tag for that particular cat as provided for hereinbefore in this Code. The warden is not required to charge for the sale of the cat, except for a charge for license fee and, if such cat is **six (6) months** of age or older and has not had a vaccination for rabies as required by this Code, the person receiving the cat must have the cat vaccinated for rabies at that person's expense.

(C) The humane society or like institution with whom the warden has contracted to enforce the provisions of this Code, may sell and transfer to a new owner any cat impounded in the animal shelter after the expiration of the time limit as set by this section, if such new owner procures a license and metallic tag for that particular cat under the provisions of this chapter. The proceeds of sale of any such cat shall be applied to any impoundment fees owing on the cat by the Village, and any excess proceeds may be retained by the humane society. This paragraph shall not be interpreted to prohibit the humane society from giving away any cat.

(D) Any impounded cat placed with a new owner shall be neutered or spayed within **fifteen (15) days** after release from impoundment, except for cats under **four (4) months** of age. Payment for neutering must be made at the time of release and will be forwarded to a licensed veterinarian who will present a statement signed by the veterinarian and the owner stating that the surgery has been performed.

(E) The owner of any cat which is impounded and destroyed under this Code shall be held responsible for payment of the impoundment fee set out in this Code, plus the expense incident to the impoundment for observation required by this Code, and shall pay such fee or expense to the warden within **fifteen (15) days** after destruction of such cat.

3-5-15 SHELTER FEE; RELEASE FROM SHELTER. Any cat held or impounded in the animal shelter because of the violation of any of the provisions of this Code by its owner, shall be released to the owner thereof by the warden upon proof of ownership of such cat and upon presentation of the license and valid rabies certificate for the current year showing that such cat has been properly licensed and inoculated for rabies, and further upon the payment of a shelter fee of **Twenty-Five Dollars ($25.00).** All cats which shall have remained in the shelter **seven (7) days** without being claimed or released may be destroyed in a humane manner, except as hereinbefore provided.

3-5-16 IMPOUNDING TIME LIMIT. It shall be unlawful for the warden to destroy or cause or permit to be destroyed any cat impounded until the expiration of impounding time limit of **seven (7) days,** except that the warden may, when in his or her judgment a cat so impounded is suffering from any injury or disease and recovery is doubtful, destroy such cat in a humane manner.

3-5-17 RECEIVING CATS AT SHELTER; REGISTRATION. The warden shall not receive a cat into the shelter from any person unless such person shall give his or her full name and place of residence which shall be registered in a proper book kept by the shelter manager. It shall be unlawful for any person delivering to or receiving any cat from said shelter, to give any false information concerning the same.

3-5-18 INTERFERENCE WITH CAPTURE OF CATS. It shall be unlawful for any person to hinder, delay, interfere with, or obstruct the warden while engaged in capturing, securing, or taking to the animal shelter any cat or cats subject to be impounded, or to break open or in any manner directly or indirectly aid, counsel, or advise the breaking open of any animal shelter, or any ambulance, wagon, or other vehicle used for the collecting or conveying of cats to the shelter.

ARTICLE VI - LICENSES

3-6-1 Through 3-6-6 Deleted (Ordinance No. 959) (02/16/2021)

3-6-7 DOG OR HOBBY KENNEL OR CATTERY PERMIT. It shall be unlawful for any person to have or maintain a dog or hobby kennel or cattery within the municipality without first having obtained a hobby kennel or cattery permit from the Village as herein provided. All locations shall be in compliance with the Zoning Code.

Any person having a hobby kennel or cattery shall make application to the Village for the permit. Upon a finding by the warden that the premises are in compliance with the law and upon payment of the permit fee, said permit will be issued.

(A) Permits are not transferable from one person to another person or place.

(B) A permit holder shall notify the warden of any change in his or her operations which may affect the status of his or her permit and shall keep the warden apprised of any change in name or location of his or her kennel.

(C) The permit shall expire **April 30th** of the following calendar year for which it is issued. All permits shall be due **May 1st** of each year and shall expire on **April 30th** of the following year.

(D) The permit fee shall be as follows:

(1) For each kennel with 2 to 10 cats or dogs, $35.00.

(2) For each kennel with 11 to 18 cats or dogs, $50.00.

(3) For each kennel with 19 cats or dogs or more, $5.00 per cat or dog.

(E) The above permit fee shall be in lieu of the license fee for individual cats or dogs as provided for hereinbefore in this Code.

Any decision of the warden under the provisions of this Section may be appealed to the Village Board, which shall hear and render a decision in this matter.

CHAPTER 6 – BUILDING REGULATIONS

ARTICLE		*TITLE*	*PAGE*
I	*BUILDING PERMITS*		
	Section 6-1-1	*- Building Permit Required*	*6-1*
	Section 6-1-2	*- Building Permit Fees*	*6-1*
II	*INTERNATIONAL BUILDING CODE*		
	Section 6-2-1	*- Adoption of International Building Code*	*6-3*
	Section 6-2-2	*- Revised Sections*	*6-3*
III	*INTERNATIONAL RESIDENTIAL CODE*		
	Section 6-3-1	*- Adoption of International Residential Code by Reference*	*6-4*
	Section 6-3-2	*- Revised Sections*	*6-4*
IV	*RESIDENTIAL RENTAL PROPERTY LICENSE*		
	Section 6-4-1	*- Purpose*	*6-5*
	Section 6-4-2	*- Definitions*	*6-5*
	Section 6-4-3	*- Permit Required*	*6-5*
	Section 6-4-4	*- Owner/Agent and Management Company Permit Application and Requirements*	*6-6*
	Section 6-4-5	*- Tenant/Lessee Permit Application and Requirements*	*6-6*
	Section 6-4-6	*- Enforcement*	*6-6*
	Section 6-4-7	*- Violations*	*6-6*
	Section 6-4-8	*- Changes in Ownership*	*6-7*
	Section 6-4-9	*- Fees*	*6-7*
	Section 6-4-10	*- Permit Suspension and Revocations*	*6-7*
	Section 6-4-11	*- Safety and Security*	*6-7*
	Section 6-4-12	*- Notice of Violation*	*6-7*
	Section 6-4-13	*- Administrative Appeals*	*6-8*
	Section 6-4-14	*- Validity and Severability*	*6-8*
	Section 6-4-15	*- Savings Clause*	*6-8*

CHAPTER 6

BUILDING REGULATIONS

ARTICLE I – BUILDING PERMITS

6-1-1 BUILDING PERMIT REQUIRED.

(A) Any person, firm, corporation or any other entity desiring or intending to make any improvement or contract, build, or erect any building or other structure in the Village of Smithton, shall obtain a permit from the Zoning Administrator prior to initiating any such work.

(B) Application for said permit shall be made on forms provided by the Zoning Administrator, which shall be at a minimum, include a detailed description of the work to be done, the materials to be used the locality of the premises, and the exact size and dimensions of same.

(C) **Recommendation for Foundation Elevation.** Form must be submitted by the builder, to the Village with signatures of the developer (or an agent therefore designated), the homeowner, and the builder (or an agent therefore designated) prior to a building permit being issued.

(D) Any non-subdivision lots shall be submitted to the Village Board for approval. This form will be signed by the builder, homeowner, and the Zoning Administrator or Village Engineer.

(E) No permit issued shall be transferable.

(F) In the event that any person, firm, business, corporation, association, or other entity of any kind or nature begins or initiates any improvement or builds, constructs, or erects any building or structure or other object of any kind or nature, in whole or in part within the Village of Smithton prior to being issued a permit to do so by the Village of Smithton Zoning Administrator, said person or entity shall be subject to the penalties imposed by Chapter 1 – Administration, Division IV – General Penalty, Sections 1-1-20 et seq.

(G) In the event that the issuance of a permit is ultimately denied, then whatever portion of any object, improvement, building or other structure of any kind or nature that has been erected, begun, or initiated shall in its entirely be dismantled and removed upon notification by the Village.

(Ord. No. 908; 03-06-18)

6-1-2 BUILDING PERMIT FEES. The fee for securing a building permit shall be payable in advance to the Village of Smithton and as follows:

(A)	Residential dwelling	$0.55 per sq. ft. of finished living space
(B)	Deck	$50.00
(C)	Patio cover	$50.00
(D)	Carport, Gazebo	$0.07 per sq. ft. or $20.00 minimum
(E)	One story portable shed	Less than 200 sq. ft. - $20.00
(F)	Pool house, shed, garage, sunroom – no electric	$75.00
(G)	Pool house, shed, garage, sunroom – with electric	$75.00 plus the electrical Inspection fee
(H)	Pool house, shed, garage, sunroom – with electric and plumbing	$75.00 plus the electrical and plumbing inspection fees
(I)	Poured concrete patio	$0.07 per sq. ft. or $20.00 minimum
(J)	Poured concrete and asphalt driveways	$0.07 per sq. ft. or $20.00 minimum
	All other driveways	$20.00 minimum
(K)	Swimming Pools – Above Ground	$0.07 per sq. ft. or $20.00 minimum
	In-Ground Pools	$200.00
(L)	Fences, Retaining Walls	$0.10 per linear ft. or $20.00 minimum
(M)	Signs	$20.00

(N) Mobile Homes $50.00 plus the electrical and Plumbing inspection fees

(O) The fee for a building permit and inspection of Commercial and Industrial construction shall be determined by applying the building permit fee per the most recent St. Clair County guidelines.

(P) Minimum price for any building permit will be **Twenty Dollars ($20.00)**. If construction has begun on a structure before obtaining a building permit, the price will be doubled.

(Q) Construction shall be completed within **one (1) year** after permit is issued pursuant to the terms and provisions of this Code.

(Ord. No. 882; 12-20-16)

ARTICLE II – INTERNATIONAL BUILDING CODE

6-2-1 ADOPTION OF INTERNATIONAL BUILDING CODE. A certain document, **one (1) copy** of which is on file in the office of the Village Clerk, being marked and designated as the *International Building Code*, 2003 edition, including no Appendix Chapters (see *International Building Code* Section 101.2.1, 2003 edition), as published by the International Code Council, be and is hereby adopted as the Building Code of the Village, in the State of Illinois for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Building Code on file in the office of the Village are hereby referred to, adopted, and made a part hereof, as if fully set out in this Chapter, with the additions, insertions, deletions and changes, if any, prescribed in **Section 6-2-2**.

6-2-2 REVISED SECTIONS. The following sections of said Code are hereby revised:

(A) Section 101.1. Insert: Village of Smithton.

(B) Section 1612.3. Insert: Village of Smithton.

(C) Section 1612.3. Insert: the most current edition.

(D) Section 3410.2. Insert: March 20, 2012.

(E) Chapter 11 – Accessibility. Insert the following text: When there is a conflict between this Chapter and the Illinois Accessibility Code the stricter of the two shall apply.

(F) Section 1612.3 – Establishment of flood hazard areas amend to read the following: To establish flood hazard areas, the governing body shall adopt a flood hazard map and supporting data. The flood hazard map shall include, at a minimum, areas of special flood hazard as identified by the Federal Emergency Management Agency in an engineering report entitled "The Flood Insurance Study for County of St. Clair," dated November 5, 2003, as amended or revised with the accompanying Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) and related supporting data along with any revisions thereto. The adopted flood hazard map and supporting data are hereby adopted by reference and declared to be part of this Section.

(G) Section 1805 – Footings and Foundation. All references to wood footings and foundation are deleted. The use of wood footings and foundation is prohibited.

(H) Delete all and any reference to the *ICC Electrical Code* and insert the *National Electric Code* 2005 edition.

(I) Delete all and any reference to the International Plumbing Code and add the following: The Village Building Official shall require that the provisions of the current "Illinois Plumbing Code Law", **225 ILCS 320/1 et seq.**, as presently in force or as the same may be hereafter amended or modified and the same is hereby incorporated herein by reference and adopted as the standard for the purposes of this Chapter. Any conflicts concerning the provisions of these codes shall be determined by the strictest standard contained in the code provisions.

(J) Section 2902 – Plumbing Systems. Delete this Section in its entirety and replace with the Illinois Plumbing Code, Section 890 Appendix A Table B, Minimum Number of Plumbing Fixtures. **(Ord. No. 816; 03-06-12)**

ARTICLE III – INTERNATIONAL RESIDENTIAL CODE

6-3-1 ADOPTION OF INTERNATIONAL RESIDENTIAL CODE BY REFERENCE. A certain document, **one (1) copy** of which is on file in the office of the Village Clerk, being marked and designated as the *International Residential Code*, 2003 edition, including Appendix G Chapters (see *International Residential Code* Section R102.5, 2003 edition), as published by the International Code Council, be and is hereby adopted as the Residential Code of the Village in the State of Illinois for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one and two family dwellings and multiple single family dwellings (townhouses) not more than **three (3) stories** in height with separate means of egress as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Residential Code on file in the office of the Village Clerk are hereby referred to, adopted, and made a part hereof, as if fully set out in this Chapter, with the additions, insertions, deletions and changes, if any, prescribed in **Section 6-3-2**.

6-3-2 REVISED SECTIONS. The following sections of said Code are hereby revised:

(A) Section R101.1. Insert: Village of Smithton.

(B) Delete any reference to the ICC Electrical Code and insert the *National Electric Code* 2005 edition.

(C) Delete all and any reference to the *International Plumbing Code* and add the following: The Village Building Official shall require that the revisions of the current "Illinois Plumbing Code Law", 225 Illinois Compiled Statutes 320/1 et seq., as presently in force or as the same may be hereafter amended or modified and the same is hereby incorporated herein by reference and adopted as the standard for the purposes of this Chapter. Any conflicts concerning the provisions of these codes shall be determined by the strictest standard contained in the code provisions.

(D) Delete all and any reference to wood footings and foundations. The use of wood footings and foundations is prohibited.

(E) **Climatic and Geographic Design Criteria.** Table (IRC 301.2(1)) Insert the following table.

			SUBJECT TO DAMAGE FROM								
GROUND SNOW LOAD	WIND SPEED (MPH)	SEISMIC DESIGN CATEGORY	WEATHERING	FROST LINE DEPTH	TERMITE	DECAY	WINTER DESIGN TEMP	ICE SHIELD UNDER-LAYMENT REQUIRED	FLOOD HAZARDS	AIR FREEZING INDEX	MEAN ANNUAL TEMP
20 lb/SF	90 gust 75 sustain	D1	Severe	30"	Moderate to Heavy	Slight to Moderate	5°F	No	See Smithton Ord 555 Ch 14	880	55°F

(Ord. No. 881; 12-20-16)

ARTICLE IV – RESIDENTIAL RENTAL PROPERTY LICENSE

6-4-1 PURPOSE. The purpose of this Article is to provide for the registration and permitting of residential rental property so as to protect the public health, safety and general welfare of the citizens of the Village, including but not limited to:

(A) To protect the public health and safety by insuring residential rental units comply with minimum housing standards of Village ordinances;

(B) To protect the character and stability of residential areas;

(C) To correct and prevent housing conditions that adversely affect or are likely to adversely affect the life, safety, general welfare and health, including the physical, mental and social wellbeing of persons occupying dwellings;

(D) To prevent the overcrowding of dwellings by requiring compliance with minimum space standards per occupant for each dwelling unit;

(E) To facilitate the enforcement of minimum standards for the maintenance of existing residential building and thus to prevent slums and blight;

(F) To preserve the value of land and building throughout the Village.

6-4-2 DEFINITIONS.

(A) **"Member of the owner's family"** means an individual related by blood, adoption or marriage.

(B) **"Premises"** means a lot, plot, or parcel of land including the interior and exterior of any structures thereon.

(C) **"Property Agent"** means a person, operator, firm, partnership, corporation, or other legal entity designated in writing by the property owner to the Village Clerk to manage a residential rental property including the authority to receive notices or citations.

(D) **"Residential Rental Property"** means any residential structures or individually titled dwelling units let or intended to be let for rent or lease including single-family detached structures, duplex, or multi-family structure.

(E) **"Tenant-Lessee"** means an occupant of any residential rental property.

(F) **"Duplex"** means a building with **two (2) units**.

(G) **"Multi-Family Building"** means a structure that contains **three (3)** or more rental units.

(H) **"Single-Family Dwelling"** means a residential structure as a rental unit.

(I) **"Owner"** means one or more persons, jointly, severally or in common, or any organization, in whom is vested all or part of the legal title to property, or all or part of the beneficial ownership and a right to present use and enjoyment of the premises, including a mortgage in possession. As used herein, an organization shall include a corporation, trust, estate, partnership, association or any other legal or commercial entity. The term shall not include a lessee who previously occupied a rental unit and who is subleasing the unit for the remaining part of his or her lease.

6-4-3 PERMIT REQUIRED.

(A) It is unlawful for any owner person, firm, partnership, corporation, or other legal entity to operate, maintain or offer to rent within the Village of Smithton a residential rental property whether vacant or not without first obtaining a permit as provided in this Article.

(B) It is unlawful for a person to occupy a residential rental property, or for any owner or property agent or management company to allow anyone to occupy a residential rental property which is not permitted as provided in this Article.

(C) This Article shall not apply to the following structures:

(1) Owner-occupied residential dwelling units;

(2) Residential buildings or dwelling units which are vacant and which are not intended to be let for rent;

(3) Hotels, motels, and other structures which rent rooms to occupants which are primarily transient or extended stay in nature;

(4) Dwellings, buildings, structures and uses owned by other governmental agencies and public housing authorities;

(5) Nursing homes and convalescent care facilities.

(D) A permit for a residential rental property cannot be transferred to any other residential rental property or to any succeeding owner.

6-4-4 OWNER/AGENT AND MANAGEMENT COMPANY PERMIT APPLICATION AND REQUIREMENTS. Every applicant for a permit to maintain a residential property for the purposes of renting it to others shall file a written application with the Village Clerk stating:

(A) The full legal name, address, and home and work telephone numbers of each and every owner, agent and/or management company;

(B) "Owners', Agents' or Management Company Representatives' notarized signature;

(C) The address and unit # of the residential rental property;

(D) The square footage of each bedroom within the rental property to be determined by the owner, agent and/or management company;

(E) The name and address, and phone number or numbers of a responsible person who, in emergency situations, will be available on a **twenty-four (24) hour** basis and who has the authority to make repairs as needed. **(Ord. No. 938; 5-5-2020)**

6-4-5 TENANT/LESSEE PERMIT APPLICATION AND REQUIREMENTS. Each applicant for a permit to occupy a rental residential property shall file a written application with the Village Clerk stating:

(A) The address and unit number of the rental residential property;

(B) The tenant/lessees notarized signature;

(C) The lessee and any occupants over the age of **eighteen (18) years** of age shall provide a photo ID that will be kept on record at the Village Hall;

(D) The name, date of birth and relation to the tenant of every person who will or shall be occupying the premises;

(E) Number of allowed occupants based on bedroom square footage formula;

(F) A fee of **Twenty-Five Dollars ($25.00)** received shall be paid to the Village.

(G) Each application for a new permit shall be accompanied by the fee as set forth herein. **(Ord. No. 938; 5-5-2020)(Ord. No. 960; 2-16-2021)**

6-4-6 ENFORCEMENT. It shall be the duty of the Police Department to enforce the provisions of this Article as authorized by the Municipal Code as adopted and amended from time to time by the Village.

6-4-7 VIOLATIONS. The following shall constitute violations of this Article:

(A) Failure of the owner, agent and/or management company of the rental residential property to obtain a permit for such property with the Village;

(B) Failure of the occupants of the rental residential property to vacate such property within **sixty (60) days** after receiving notice from the Police Department that such property is not properly permitted;

(C) Failure of the owner, agent and/or management company of the rental property to vacate all tenants from such property within **sixty (60) days** after the permit has been revoked;

(D) Any person other than one authorized by the Police Department who removes or defaces any notices which have been posted pursuant to this Article shall be liable for the penalties provide for by this Article.

(E) Violations of this Article shall be punishable by fine or not less than **Two Hundred Fifty Dollars ($250.00)** not more than **Seven Hundred Fifty Dollars ($750.00)** for each violation. Each day may constitute a separate and continuing violation. The Village may seek remedies which include corrective action or prohibitions as a part of its relief.

(F) In the event that the Village of Smithton denies or revokes registration of a rental property, the tenants of the subject property shall be informed by the Village of the decision and of their need to obtain other housing.

6-4-8 CHANGES IN OWNERSHIP. Within **thirty (30) days** of any change of ownership of a rental property, the new owner, agent and/or management company shall reregister the property by filing the registration information and form(s) as required by this Article. A change of ownership shall include any change in ownership rights, including execution of a contract for deed, whether recorded or not.

6-4-9 FEES. It being the goal of the Village that the rental registration program be self-supporting, the registration fees are:

(A)	Single-family/mobile home – Per building	$25.00
(B)	Duplexes – Per unit	$25.00
(C)	Multi-family (3+ units) – Per unit	$25.00
(D)	Late Registration	$25.00
(E)	Late Registration applied after moving in after 30 days	$50.00

The registration fees are payable to the Village upon registration of any new tenants wanting to occupy each residential rental property within the boundaries of the Village of Smithton.

6-4-10 PERMIT SUSPENSION AND REVOCATIONS. A permit may be suspended when any violation of applicable Village codes has been identified by the Village and the property owner has been properly notified of the violation and given a reasonable period of time in which to correct the violation, but has failed to do so. A permit may also be suspended when any information provided in the license application is determined by the Police Department to be false.

6-4-11 SAFETY AND SECURITY. To ensure the safety of all residents of rental properties, every owner shall: Cooperate with the Village and its police and fire departments to continually address public safety issues and crime problems at any rental property. This cooperation shall take the form of meeting with Village officials.

6-4-12 NOTICE OF VIOLATION. Whenever the Police Department determines that any rental dwelling or the premises surrounding fails to meet the requirements set forth in this Article or in applicable rules and regulations issued pursuant thereto, the Police Department shall issue a notice setting forth the alleged failures and advising the responsible party that such failures must be corrected. This notice shall:

(A) Be in writing.

(B) Set forth the alleged violations of this Article or of applicable rules and regulations issued pursuant thereto.

(C) Describe the rental dwelling where the violations are alleged to exist or to have been committed. Such written notice shall specify an appropriate or acceptable method of correction.

(D) Specify a specific date for the correction of any violation alleged.

(E) Be served upon the responsible party of the rental dwelling by the Police Department or mailed to the responsible party. If one or more persons to whom such notice is addressed cannot be found after diligent effort to do so, service may be made upon such persons by posting the notice in or about the rental dwelling described in the notice.

6-4-13 ADMINISTRATIVE APPEALS. An owner, agent and/or management company, may appeal a registration denial or revocation to the Board of Trustees within **ten (10) days** of the date of written notice to such owner, agent and/or management company, of the denial or revocation or registration. The appeal must be in writing and state the reasons the owner, agent and/or management company disagrees with the determination to deny registration or the reasons for the revocation. The Board of Trustees shall promptly schedule a hearing at a time and date no later than **twenty-one (21) days** from the date or receipt of the appeal by the POLICE DEPARTMENT, or at a later date at the request of the owner, agent and/or management company. The Board of Trustees shall have the power to administer oaths and require the attendance of any Village employees. The hearing shall be recorded. The Board of Trustees shall make written findings of fact and issue a written decision which shall be promptly mailed to the owner and agent, if any.

6-4-14 VALIDITY AND SEVERABILITY. If any section, subsection, paragraph, sentence, clause, or phrase of this Code shall be declared invalid for any reason whatsoever, this Section shall not affect the remaining portions of this Code, which shall continue in full force and effect, and to this end, the provisions of this Code are hereby declared to be severable.

6-4-15 SAVINGS CLAUSE. This Code shall not affect violations of any other ordinance, code or regulation of the jurisdiction existing prior to the effective date hereof, and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes or regulations in effect, at the time the violation was committed.

(Ord. No. 938; 05-5-20)

CHAPTER 7 – BUSINESS CODE

ARTICLE		*TITLE*	*PAGE*
I	*ADMINISTRATION*		
	Section 7-1-1 -	*License Required and Applications*	*7-1*
	Section 7-1-2 -	*Persons Subject to License*	*7-1*
	Section 7-1-3 -	*Form of License*	*7-2*
	Section 7-1-4 -	*Investigations*	*7-2*
	Section 7-1-5 -	*Fees*	*7-2*
	Section 7-1-6 -	*Termination of Licenses*	*7-2*
	Section 7-1-7 -	*Building and Premises*	*7-3*
	Section 7-1-8 -	*Change of Location*	*7-3*
	Section 7-1-9 -	*Location*	*7-3*
	Section 7-1-10 -	*Nuisances Prohibited*	*7-3*
	Section 7-1-10.1 -	*Generally*	*7-3*
	Section 7-1-10.2 -	*Unsafe or Unhealthful Business*	*7-3*
	Section 7-1-10.3 -	*Refuse Disposal*	*7-3*
	Section 7-1-11 -	*Working Conditions*	*7-4*
	Section 7-1-11.1 -	*Health Requirements*	*7-4*
	Section 7-1-11.2 -	*Sanitation*	*7-4*
	Section 7-1-11.3 -	*Heat Required*	*7-4*
	Section 7-1-11.4 -	*Inspection*	*7-4*
	Section 7-1-12 -	*Inspections*	*7-4*
	Section 7-1-13 -	*Suspension, Revocation of License or Permit*	*7-5*
	Section 7-1-13.1 -	*Nuisance*	*7-5*
	Section 7-1-13.2 -	*Hearing*	*7-5*
	Section 7-1-13.3 -	*Revocation*	*7-5*
	Section 7-1-13.4 -	*Hearing Notice*	*7-5*
	Section 7-1-13.5 -	*Counsel*	*7-6*
	Section 7-1-14 -	*Appeal*	*7-6*
	Section 7-1-15 -	*License to be Posted*	*7-6*
	Section 7-1-16 -	*Business Vehicle Sticker*	*7-6*
	Section 7-1-17 -	*Storage Units*	*7-6*
II	*SOLICITORS*		
	Section 7-2-1 -	*Definitions*	*7-7*
	Section 7-2-2 -	*Certificate of Registration*	*7-7*
	Section 7-2-3 -	*Application for Certificate of Registration*	*7-7*
	Section 7-2-4 -	*Issuance and Revocation of Certificate*	*7-8*
	Section 7-2-5 -	*Policy on Soliciting*	*7-8*
	Section 7-2-6 -	*Notice Regulating Soliciting*	*7-8*
	Section 7-2-7 -	*Compliance by Solicitors*	*7-9*
	Section 7-2-8 -	*Uninvited Soliciting Prohibited*	*7-9*
	Section 7-2-9 -	*Time Limit on Soliciting*	*7-9*
	Section 7-2-10 -	*Solicitations on Public Highways*	*7-9*
	Section 7-2-11 -	*Fees*	*7-10*

ARTICLE		TITLE	PAGE
III	PEDDLERS		
	Section 7-3-1	- License Required	7-11
	Section 7-3-2	- Definition	7-11
	Section 7-3-3	- Applications	7-11
	Section 7-3-4	- Investigation of Applicants	7-11
	Section 7-3-5	- Hours	7-11
	Section 7-3-6	- Fraud	7-11
	Section 7-3-7	- Photographs	7-11
	Section 7-3-8	- Unwanted Peddling	7-12
	Section 7-3-9	- Peddlers as Nuisance	7-12
	Section 7-3-10	- Duty of Police to Abate	7-12
	Section 7-3-11	- Local Businesses and Farmers Excluded	7-12
	Section 7-3-12	- Fees	7-12
IV	COIN-OPERATED MACHINES		
	Section 7-4-1	- Definition	7-13
	Section 7-4-2	- License Required	7-13
	Section 7-4-3	- Application	7-13
	Section 7-4-4	- Prohibited Licensees	7-13
	Section 7-4-5	- Fees	7-14
	Section 7-4-6	- Non-Assignability of License	7-14
	Section 7-4-7	- Gambling Regulations	7-14
	Section 7-4-8	- Display of License	7-14
	Section 7-4-9	- Right of Entry	7-14
	Section 7-4-10	- Closing Hours	7-14
V	RAFFLES AND POKER RUNS		
	Section 7-5-1	- Definitions	7-15
	Section 7-5-2	- Requirement of License	7-16
	Section 7-5-3	- Applications for a License for a Raffle	7-16
	Section 7-5-4	- Application for a License for a Poker Run	7-17
	Section 7-5-5	- Licensee Qualifications	7-17
	Section 7-5-6	- License Issuance	7-18
	Section 7-5-7	- Conduct of Raffles and Poker Runs	7-18
	Section 7-5-8	- Manager – Bond	7-19
	Section 7-5-9	- Records	7-19
	Section 7-5-10	- Limited Construction	7-20
	Section 7-5-11	- Prize Limitations; Term	7-20
VI	ADULT USE BUSINESSES		
	Section 7-6-1	- Purpose	7-21
	Section 7-6-2	- Definitions	7-21
	Section 7-6-3	- License Required	7-23
	Section 7-6-4	- Issuance of License	7-24
	Section 7-6-5	- Liquor	7-24
	Section 7-6-6	- Fees	7-24
	Section 7-6-7	- Inspection	7-24
	Section 7-6-8	- Expiration of License	7-25

ARTICLE		*TITLE*	*PAGE*
VI	*ADULT USE BUSINESSES (CONTINUED)*		
	Section 7-6-9	- *Suspension*	*7-25*
	Section 7-6-10	- *Revocation*	*7-25*
	Section 7-6-11	- *Transfer of License*	*7-26*
	Section 7-6-12	- *Business Records*	*7-26*
	Section 7-6-13	- *Liquor License*	*7-26*
	Section 7-6-14	- *Adult Entertainment Cabarets – Restrictions*	*7-26*
	Section 7-6-15	- *Video Viewing Booths – Restrictions*	*7-26*
	Section 7-6-16	- *Hours of Operation*	*7-26*
	Section 7-6-17	- *Investigation*	*7-26*

CHAPTER 7

BUSINESS CODE

ARTICLE I – ADMINISTRATION

7-1-1 LICENSE REQUIRED AND APPLICATIONS.

(A) No person, as that term is defined in this Code shall engage in, conduct, manage, operate or carry on any business, profession, or occupation of any kind or nature whatsoever within the Village unless and until said person has completed and submitted an application for a license or permit and a license or permit is issued in accordance with the provisions of this Chapter and all other sections of the Code or other ordinances of the Village, in such case made and provided. Any business, profession or occupation operating without a license or permit is in violation of this Code and must immediately cease operation unless and until the business license or permit required by this Code is issued.

(B) No license shall be issued for the conduct of any business if the premises and building to be used do not fully comply with all Village building, zoning, health, fire and safety ordinances, the State Environmental Protection Act, the State Fire Marshall Act and all other applicable state regulations or statutes.

(C) All licenses shall be subject to the ordinances that may be in force at the time of issuance of the license or that may subsequently be passed by the Board of Trustees. A separate license shall be required for each location from which business is conducted.

(D) Application for all licenses and permits required by this Chapter shall be in writing and submitted to the Municipal Clerk.

(E) Each application shall contain the following information:

(1) the name of the applicant;
(2) the license or permit desired;
(3) the location to be used, if any;
(4) Zoning district;
(5) the time covered;
(6) the fee to be paid;
(7) the number of the Certificates of Registration required under the Retailers Occupation Tax Act, Service Occupation Tax Act, and/or the User Tax Act, if applicable.

(F) The licensee shall also provide such additional information or may be requested by the applicable Municipal Officials issuing the license or permit applied for.

(G) Any person convicted of a violation of the terms and provisions of this Article shall be subject to and have imposed the penalty prescribed by Chapter 1, Administration, Article I, General Code Provisions, Division IV General Penalty 1-1-20 Penalties. That every day the violation exists or continues shall constitute a separate offense for which a penalty shall be imposed. **(Ord. No. 748; 09-02-08)**

7-1-2 PERSONS SUBJECT TO LICENSE. Whenever a license or permit is required in this Code or in any municipal ordinance for the maintenance, operation, or conduct of any business or establishment, or for doing business or engaging in any activity or occupation, any person, firm, or corporation shall be subject to the requirement if by himself or itself, or through an agent, employee or partner, he or it is held forth as being engaged in the business, activity or occupation, or if he or it solicits patronage therefor actively or passively; or if he or it performs or attempts to perform any part of such business, activity or occupation in this municipality.

7-1-3 FORM OF LICENSE. Every license shall be signed by the Mayor and attested by the Clerk under the corporate seal, and no license shall be valid until signed and countersigned as aforesaid, nor shall any person be deemed to be licensed until the same shall have been issued to him in due form.

7-1-4 INVESTIGATIONS.

(A) Upon the receipt of an application for a license or permit, where an investigation or inspection is required by ordinance before the issuance of such permit or license, or where an inspection or investigation shall be deemed reasonably necessary or appropriate, the Clerk, within **forty-eight (48) hours** shall refer the application to the appropriate official(s) for the making of such investigation or inspection,

(B) The official(s) to whom the application has been referred shall make a report thereon, favorable or otherwise **within ten (10) days** after receiving such application or a copy thereof.

(C) The Code Enforcement Officer shall make or cause to be made an inspection regarding such permits and licenses as relate to the care and handling of food, the prevention of nuisances and the spread of disease, and the protection of health. **[The Zoning Administrator shall make or cause to be made any inspections which relate to compliance with the Zoning Code and other related regulations.]** All other investigations, except where otherwise provided, shall be made by the Chief of Police or by some other officer designated by the Mayor.

(D) Upon receipt of all related investigative reports, the Clerk shall forward such reports, together with the application, to the Mayor for evaluation and determination.

(E) If it shall appear to the Mayor that the matters and circumstances relating to an application require further information before a proper determination can be made, such application shall be returned to the Clerk for the inclusion of such additional information as may be specified necessary and appropriate.

(F) If, after due consideration of the information contained with the application and the related investigative reports, the Mayor shall determine that the matters concerning the application are unsatisfactory, he may disapprove such application, indicating the reasons therefor. Thereupon, the Clerk shall be directed to promptly notify the applicant that his application is disapproved and that no license or permit will be issued.

(G) If, after due consideration of the information contained within the application and the related investigative reports, the Mayor shall determine that the application is satisfactory, he shall approve the application. Thereupon, the Clerk shall be directed to promptly notify the applicant that his application is approved and the license or permit may be issued.

7-1-5 FEES. In the absence of provision to the contrary, all fees and charges for licenses or permits shall be paid in advance at the time application therefor is made to the Clerk in the amounts prescribed by the corporate authorities. When an applicant has not engaged in the business or activity until after the expiration of the current license year, the license fee shall be prorated by quarters and the fee paid for each quarter or fraction thereof during which the business or activity has been or will be conducted. Except as otherwise provided, all license and permit fees shall become a part of the corporate fund. In no event shall any rebate or refund be made of any license or permit fee, or part thereof, by reason of death or departure of the licensee or permittee; nor shall any rebate or refund be made by reason of non-use of the license or discontinuance of the operation or conduct of the licensed establishment, business or activity. The license fee shall be Twenty Dollars ($20.00) per year for each and every said license and shall be paid in full no later than April 30th of each year. If said fee is not paid on or before said date, the fee shall increase to Forty Dollars ($40.00) and shall then be paid on or before June 1st. If said fee is not paid on or before June 1st the fee shall increase to Eighty Dollars ($80.00) and the license for said business shall be subject to suspension or revocation pursuant to the provisions of 7-1-13 Suspension, Revocation of License or Permit of Article I of the Business Code**. (Ord. No. 900; 02-06-18)(Ord. No. 965; 07-06-21)**

7-1-6 TERMINATION OF LICENSES. All annual licenses shall be operative and the license year for this municipality shall commence on **May 1st of each year** and shall terminate on **April 30th** of the following year, where no provision to the contrary is made.

The Clerk shall notify all licensees of this municipality of the time of expiration of the license held by the licensee (if an annual), **three (3) weeks** prior to the date of such expiration. Provided, however, that a failure to make such notification or the failure of the licensee to receive it shall not excuse the licensee from the obligation to obtain a new licensee or a renewal thereof, nor shall it be a defense in an action based upon operation without a license.

7-1-7 BUILDING AND PREMISES. No license shall be issued for the conduct of any business, and no permit shall be issued for any purpose or activity, if the premises and building to be used for the purpose do not fully comply with all applicable ordinances and regulations of this municipality and the State of Illinois. No such license or permit shall be issued for the conduct of any business or performance of any act which would involve a violation of this Code and/or of the Zoning Code. **(See Chapter 40 - Zoning Code)**

7-1-8 CHANGE OF LOCATION. The location of any licensed business or occupation, or the location of any permitted act may be changed, provided that **ten (10) days** notice thereof is given to the Clerk, in the absence of any provision to the contrary; provided further, however, that all applicable ordinances and regulations of this municipality shall be complied with. **(See Chapter 40 - Zoning Code)**

7-1-9 LOCATION. No license for the operation of a business or establishment in this municipality shall be construed to permit the operation of a licensed business or establishment in more than **one (1) location** in this municipality; a separate license shall be required for each location of a licensed establishment. For the purpose of this Code, the existence of a single location shall be evidenced by the fact that all buildings containing the principal or accessory uses shall be connected or shall be located on the same lot or parcel; shall be operated and managed by the same person or owner; and shall be an establishment with the same classification.

7-1-10 NUISANCES PROHIBITED.

7-1-10.1 GENERALLY. No business or establishment, whether licensed or not, shall be so conducted or operated as to constitute a nuisance in fact, and no building, vehicle or structure, yard, lot, premises or part thereof shall be used, kept, maintained, or operated in connection with any business or establishment so as to occasion any nuisance or so as to be dangerous to life or detrimental to health.

[ED. NOTE: The County Health Department should be consulted.]

7-1-10.2 UNSAFE OR UNHEALTHFUL BUSINESS.

(A) No building or structure utilized, constructed or maintained in connection with any business or occupation shall evidence an unsanitary, unsafe or dangerous condition.

(B) No substance, matter or thing of any kind whatsoever, which would be dangerous or detrimental to health, shall be allowed to exist in connection with any business or occupation, or be used in any work or labor performed in this municipality.

7-1-10.3 REFUSE DISPOSAL.

(A) **Refuse Containers.** The standard refuse container required by this Code shall be a receptacle of not less than **twenty (20),** nor more than **thirty-two (32) gallons capacity,** constructed of impervious material and sturdy construction with a tight-fitting cover, and equipped with handles properly placed to facilitate handling.

(B) **Duty to Provide Refuse Containers.** The occupant of every building, structure or premises used or maintained in connection with any business or occupation shall provide and maintain in good condition and repair a sufficient number of refuse containers for the temporary storage of all refuse accumulating between collections.

All refuse which is placed for collection service outside any building or structure must be kept in standard refuse containers.

(C) **Refuse Removal.** It shall be the duty of the occupant of every building, structure or premises used or maintained in connection with any business or occupation to cause to be removed, at his own cost and expense, at least once each week, all refuse produced therein.

(D) **Removal of Restaurant Garbage.** Every person owning or controlling any hotel, restaurant, cafe, or retail food establishment where more than **thirty-two (32) gallons** of refuse, is normally produced weekly shall cause all garbage to be placed in sanitary refuse containers and shall cause all substances deposited in such containers to be removed daily from his premises and to be disposed of at his own expense.

7-1-11 WORKING CONDITIONS.

7-1-11.1 HEALTH REQUIREMENTS. No owner, lessee, manager, or superintendent of any store, factory, workshop or other place where persons are employed shall cause or permit such place or any room or part thereof to be overcrowded or inadequate or faulty in respect to light, ventilation, heat or cleanliness.

7-1-11.2 SANITATION. All such places of employment shall be kept in a clean condition, free from effluvia of a sewer, drain, privy, stable or other nuisance(s); also as far as practicable, such premises shall be free from all gases, vapors, dust, or other impurities generated by manufacturing processes or otherwise which are injurious to health. Sufficient washroom facilities for male and female employees shall be provided and such facilities shall be properly ventilated.

7-1-11.3 HEAT REQUIRED.

(A) It shall be the duty of every person owning or controlling the heating plant which furnishes heat to any factory or workshop to maintain a temperature within such factory or workshop of not less than **sixty-two degrees Fahrenheit (62° F.)** without such undue restriction of ventilation as to interfere with proper sanitary conditions therein; provided, however, that this requirement shall not apply to any factory or workshop where the business conducted therein is of such a nature that a higher or lower temperature than **sixty-two degrees Fahrenheit (62° F.)** is necessary or expedient for the work or manufacturing processes of such business.

(B) It shall be the duty of every person owning or controlling the heating plant which furnishes heat to any office, store, or other place of employment to maintain a temperature therein of not less than **sixty-two degrees Fahrenheit (62° F.),** without such undue restriction of ventilation as to interfere with proper sanitary conditions therein between the hours of **8:00 A.M. and 6:00 P.M. from October 1st of each year until June 1st of the succeeding year [Sundays and legal holidays excepted].**

7-1-11.4 INSPECTION. The Mayor or the Chief of Police shall visit or cause to be visited all places of employment in this municipality as often as they shall deem necessary to assure compliance

with the provisions of this section, and to have such arrangements made as may be deemed necessary for the health and safety of the employees.

7-1-12 INSPECTIONS.

(A) Whenever inspections of the premises for or in connection with the operation of a licensed business or occupation are provided for or required by ordinance or are reasonably necessary to assure compliance with the provisions of any ordinance or regulation of this municipality, or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to admit thereto, for the purpose of making the inspection, any officer or employee of this municipality who is duly authorized to make such inspection at any reasonable time that such admission or entry is requested.

(B) Whenever an analysis of any commodity or material is reasonably necessary to assure compliance with the provisions of any ordinance or regulation, or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to give to any duly authorized officer or employee of this municipality requesting the same, sufficient samples of such material or commodity for such analysis upon official request.

(C) In addition to any other penalty which may be provided, the Mayor may revoke the license of any owner or operator of a licensed business in this municipality who refuses to permit any duly authorized officer or employee to make such inspection or to take adequate sample(s) of said commodity, or who interferes with such officer or employee while in the performance of his duties; provided, however, that no license shall be subject to revocation for such cause unless such officer or employee has been refused permission to enter upon the premises in the name of this municipality after having first presented a warrant authorizing such entry.

7-1-13 SUSPENSION, REVOCATION OF LICENSE OR PERMIT.

7-1-13.1 NUISANCE. When the conduct or operation of any business or establishment, whether or not licensed, shall constitute a nuisance in fact and a clear and present danger to the public health, safety or general welfare**,** or if any license fee has not been paid on or before June 1st, the Mayor shall be authorized to summarily order the cessation of business, the closing of the premises, and the suspension of any license or permit for a period not to exceed **ten (10) days. (Ord. 965; 07/06/21)**

7-1-13.2 HEARING. Within **eight (8) days** after he has so acted, the Mayor shall call a hearing for the purpose of determining whether or not the license or permit should be revoked.

7-1-13.3 REVOCATION. Licenses and permits issued in this municipality, unless otherwise provided, may be revoked by the Mayor after notice and hearing as provided in **Subsections 7-1-13.4** and **7-1-13.5** of this Section for any of the following causes:

(A) Any fraud, misrepresentation or false statement contained in the application for the license or permit;

(B) Any violation by the licensee or permittee of Code provisions relating to the license or permit, the subject matter of the license or permit, or the premises occupied;

(C) Conviction of the licensee or permittee of any felony or of a misdemeanor involving moral turpitude;

(D) Failure of the licensee or permittee to pay any fine or penalty owed to this municipality;

(E) Refusal to permit an inspection or sampling, or any interference with a duly authorized officer or employee in the performance of his duties in making such inspections, as provided in **Section 7-1-12.**

(F) Refusal or failure to pay the license fee as provided in the Code.

Such revocation, if ordered, shall not preclude prosecution and imposition of any other penalties provided for the violation of other applicable Code regulations of this municipality and any and all citations allowed. Each day for which the fee is not paid shall constitute a separate violation. **(Ord. 965; 07/06/21)**

7-1-13.4 HEARING NOTICE. Notice of the hearing for revocation of a license or permit shall be given in writing setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be sent by certified mail [return receipt requested] to the licensee or permittee at his last known address at least **five (5) days** prior to the date set for the hearing.

7-1-13.5 COUNSEL. At the hearing, the attorney for the municipality shall present the complaint and shall represent the municipality. The licensee or permittee shall be permitted counsel and shall have the right to submit evidence and cross-examine witnesses. The Mayor shall preside and shall render the decision.

7-1-14 APPEAL. Any person aggrieved by the decision of the Mayor regarding the denial of an application for a business license as provided in **Section 7-1-4** or in connection with the revocation of a license or permit as provided in **Section 7-1-13** shall have the right to appeal to the Village Board. Such appeal shall be taken by filing with the Clerk, within **ten (10) days** after notice of a denial of an application or a revocation of a license or permit, a written statement under oath setting forth specifically the grounds for appeal. The Mayor shall thereupon set the time and place for a hearing on such appeal and notice of such hearing shall be given to the applicant or licensee or permittee in the same manner as provided in **Section 7-1-13** hereof. The decision of the Village Board on such appeal shall be final.

7-1-15 LICENSE TO BE POSTED. It shall be the duty of every person conducting a licensed business in this municipality to keep his license posted in a prominent place on the premises used for such business at all times.

7-1-16 BUSINESS VEHICLE STICKER. Whenever the number of vehicles used is the basis in whole or in part for a license fee, the Clerk shall furnish the licensee with a tag or sticker for each vehicle covered by the license and such tag or sticker shall be posted or affixed in a conspicuous place on each business vehicle.

7-1-17 STORAGE UNITS. Storage units shall be utilized for storage only. All sales (i.e. garage sales, etc.) of any kind or nature are hereby prohibited, forbidden and banned from within or anywhere on the premises where said storage facilities are located. **(Ord. No. 506; 11-19-96)**

ARTICLE II - SOLICITORS

7-2-1 DEFINITIONS. For the purpose of this Chapter, the following words as used herein shall be construed to have the meanings herein ascribed thereto, to-wit:

"REGISTERED SOLICITOR" shall mean and include any person who has obtained a valid **Certificate of Registration** as hereinafter provided, and which certificate is in the possession of the solicitor on his or her person while engaged in soliciting.

"RESIDENCE" shall mean and include every separate living unit occupied for residential purposes by **one (1)** or more persons, contained within any type of building or structure.

"SOLICITING" shall mean and include any **one (1)** or more of the following activities:

(A) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services of any kind, character or description whatsoever, for any kind of consideration whatsoever or;

(B) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character or;

(C) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication or;

(D) Seeking to obtain gifts or contributions of money, clothing or any other valuable thing for the support or benefit of any charitable or non-profit association, organization, corporation or project.

7-2-2 CERTIFICATE OF REGISTRATION. Every person desiring to engage in soliciting as herein defined from persons within this Municipality is hereby required to make written application for a Certificate of Registration as hereinafter provided. All resident charitable, non-profit organizations in this Village which have been in existence for **six (6) months or longer** shall be exempt from the provisions of this Article.

7-2-3 APPLICATION FOR CERTIFICATE OF REGISTRATION. Applications for a Certificate of Registration shall be made upon a form provided by the Chief of Police of this Municipality and filed with such Chief. The applicant shall truthfully state in full the information requested on the application, to-wit:

(A) Name and address of present place of residence and length of residence at such address; also, business address if other than residence address; also, Social Security Number.

(B) Address of place of residence during the past **three (3) years** if other than present address.

(C) Age of applicant and marital status; and if married, the name of spouse.

(D) Physical description of the applicant.

(E) Name and address of the person, firm or corporation or association with whom the applicant is employed or represents; and the length of time of such employment or representation.

(F) Name and address of employer during the past **three (3) years** if other than the present employer.

(G) Description sufficient for identification of the subject matter of the soliciting in which the applicant will engage.

(H) Period of time for which the Certificate is applied.

(I) The date or approximate date of the latest previous application for a Certificate under this Chapter, if any.

(J) Has a Certificate of Registration issued to the applicant under this Chapter ever been revoked?

(K) Has the applicant ever been convicted of a violation of any of the provisions of this Code or the regulations of any other Illinois municipality regulating soliciting?

(L) Has the applicant ever been convicted of the commission of a felony under the laws of the State of Illinois or any other State or Federal law of the United States?

(M) The last **three (3) municipalities** where the applicant carried on business immediately preceding the date of application in this Municipality and the address from which such business was conducted in those municipalities.

(N) Also, such additional information as the Chief of Police may deem necessary to process the application.

All statements made by the applicant upon the application or in connection therewith shall be under oath.

The Chief of Police shall cause to be kept in his office an accurate record of every application received and acted upon, together with all other information and data pertaining thereto and all Certificates of Registration issued under the provisions of this Chapter and of the denial of applications.

Applications for Certificates issued shall be numbered in consecutive order as filed, and every Certificate issued and any renewal thereof shall be identified with the duplicate number of the application upon which it was issued.

No Certificate of Registration shall be issued to any person who has been convicted of the commission of a felony under the laws of the State of Illinois or any other State or Federal law of the United States within **five (5) years** of the date of the application; nor to any person who has been convicted of a violation of any of the provisions of this Chapter, nor to any person whose Certificate of Registration issued hereunder has previously been revoked as herein provided.

7-2-4 ISSUANCE AND REVOCATION OF CERTIFICATE. The Chief of Police, after consideration of the application and all information obtained relative thereto, shall deny the application if the applicant does not possess the qualifications for such Certificate as herein required, and that the issuance of a Certificate of Registration to the applicant would not be in accord with the intent and purpose of this Code. Endorsement shall be made by the Chief of Police upon the application of the denial of the application. When the applicant is found to be fully qualified, the Certificate of Registration shall be issued forthwith.

Any Certificate of Registration issued hereunder shall be revoked by the Chief of Police if the holder of the Certificate is convicted of a violation of any provision of this Chapter, or has made a false material statement in the application or otherwise becomes disqualified for the issuance of a Certificate of Registration under the terms of this Chapter. Immediately upon such revocation, written notice thereof shall be given by the Chief of Police to the holder of the Certificate in person or by certified [return receipt requested] U. S. Mail, addressed to his or her residence address set forth in the application. Immediately upon the giving of such notice, the Certificate of Registration shall become null and void.

The Certificate of Registration shall state the expiration date thereof.

7-2-5 POLICY ON SOLICITING. It is declared to be the policy of this Municipality that the occupant or occupants of the residences in this Municipality shall make the determination of whether solicitors shall be or shall not be invited to their respective residences.

7-2-6 NOTICE REGULATING SOLICITING. Every person desiring to secure the protection intended to be provided by the regulations pertaining to soliciting contained in this Article shall comply with the following directions:

(A) Notice of the determination by the occupant of giving invitation to solicitors or the refusal of invitation to solicitors to any residence shall be given in the manner provided in paragraph (B) of this Section.

(B) A weatherproof card, approximately **three inches by four inches (3" x 4")** in size shall be exhibited upon or near the main entrance door to the residence indicating the determination by the occupant and containing the applicable words, as follows:

"ONLY REGISTERED SOLICITORS INVITED"

OR

"NO SOLICITORS INVITED"

(C) The letters shall be at least **one-third (1/3) inch** in height. For the purpose of uniformity, the cards shall be provided by the Chief of Police to persons requesting the same, at the cost thereof.

(D) Such card so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the information contained thereon.

7-2-7 COMPLIANCE BY SOLICITORS. It is the duty of every solicitor upon going onto any premises in this Municipality upon which a residence as herein defined is located to first examine the notice provided for in **Section 7-2-6** if any is attached and be governed by the statement contained on the notice.

If the notice states **"ONLY REGISTERED SOLICITORS INVITED,"** then the solicitor not possessing a valid Certificate of Registration as herein provided for shall immediately and peacefully depart from the premises; and if the notice states, **"NO SOLICITORS INVITED,"** then the solicitor, whether registered or not shall immediately and peacefully depart from the premises.

Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

7-2-8 UNINVITED SOLICITING PROHIBITED. It is declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, in defiance of the notice exhibited at the residence in accordance with the provisions of **Section 7-2-6.**

7-2-9 TIME LIMIT ON SOLICITING. It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether registered under this Chapter or not, to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock upon any door or create any sound in any other manner calculated to attract the attention of the occupant of such residence for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, prior to **10:00 A.M. or after 5:00 P.M.** on any day of the week, including Saturday, or at any time on a Sunday or on a State or National holiday.

7-2-10 SOLICITATIONS ON PUBLIC HIGHWAYS. Charitable organizations shall be allowed to solicit upon public highways under the following terms and conditions:

(A) The charitable organization must be one that is registered with the Attorney General for the State of Illinois as a charitable organization as provided by **"An Act to Regulate Solicitation and Collection of Funds for Charitable Purposes, Providing for Violations Thereof, and Making an Appropriation Therefor," approved July 26, 1963,** as amended**.**

(B) Solicit only at intersections where all traffic from all directions is required to come to a full stop.

(C) Be engaged in a state-wide fund-raising activity.

(D) Be liable for any injury to any person or property during the solicitation which is causally related to an act of ordinary negligence of the soliciting agent.

(E) Any person so engaged in such solicitation shall be at least **sixteen (16) years of age** and shall wear a high visibility vest.

(F) Solicit only during daylight hours.

(G) Any one charitable organization shall be limited to conducting no more than **two (2)** solicitations per calendar year.

(626 ILCS 5/11-1006)

7-2-11 FEES. Upon making an application for a Certificate, the applicant shall pay a license fee, which shall be as follows:

(A) **Two-Week License: $50.00 per solicitor.**

(65 ILCS 5/11-42-5)

ARTICLE III - PEDDLERS

7-3-1 LICENSE REQUIRED. It shall be unlawful for any person, firm or corporation to engage in the business of hawker or peddler of any merchandise, article or thing without having first secured a license therefor.

7-3-2 DEFINITION. "Peddle" shall mean the selling, bartering, or exchanging or the offering for sale, barter or exchange of any tangible personal property upon or along the streets, highways, or public places of this Municipality or from house-to-house, whether at one place thereon or from place-to-place, from any wagon, truck, pushcart, or other vehicle or from movable receptacles of any kind, but shall not include the delivery of any item previously ordered or the sale of items along delivery routes where the purchaser has previously requested the seller to stop and exhibit his items. Nor shall **'peddle'** be taken to include the solicitation of orders by sample where the goods are not delivered at the time the order is taken.

7-3-3 APPLICATIONS. A person desiring a license may obtain the same by making application with the Clerk and providing the following information:

(A) Name and physical description of applicant.

(B) Permanent home and address and local address if operating from such an address.

(C) A brief description of the business and of the goods to be sold.

(D) Name and address of the employer, if any.

(E) The length of time for which the right to do business is desired.

(F) Evidence that the agent is acting on behalf of the corporation he represents.

(G) Statement of the applicant's criminal record other than a traffic record.

(H) The last **three (3) municipalities** where the applicant carried on business immediately preceding the date of application to this Municipality and the address from which such business was conducted in those municipalities.

7-3-4 INVESTIGATION OF APPLICANTS. Upon receipt of each application, it shall be referred to the Chief of Police, who shall investigate the business and moral character of the applicant. If the facts show the applicant unfit to receive the license, then it shall be denied.

7-3-5 HOURS. It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether registered under this Code or not, to engage in peddling as herein defined prior to **10:00 A.M.** or after **5:00 P.M.** on any day of the week, including Saturday, or at any time on a Sunday or on a State or National holiday.

7-3-6 FRAUD. No licensed peddler or hawker shall be guilty of any fraud, cheating or misrepresentation, whether through himself or through an employee while acting as a peddler in this Municipality, or shall barter, sell or peddle any goods or merchandise or wares other than those specified in his application for a license.

7-3-7 PHOTOGRAPHS. Two (2) photographs of the applicant and such of its employees as will be used in the peddling or merchandising, taken within **sixty (60) days** immediately prior to the filing of the application, which pictures shall be **two inches by two inches (2" x 2"),** showing the head and shoulders of the applicant or its agent(s) and/or employee(s) in a clear and distinguishing manner.

7-3-8 UNWANTED PEDDLING. Nothing contained in this Chapter, nor the issuance of any license hereunder shall entitle the licensee to go in or upon any private residence for the purpose of peddling if such licensee, his agents or employees are directed to depart from said private residence by the owner or person in charge thereof.

7-3-9 PEDDLERS AS NUISANCE. The practice of going in and upon private residences, business establishments or offices in the Municipality by peddlers, hawkers, itinerant merchants and transient vendors of merchandise without having been requested or invited to do so by the owner or owners, occupant or occupants of said private residences and business establishments or offices for the purpose of disposing of and/or peddling or hawking of merchandise is hereby declared to be a nuisance and is punishable as a violation of this Code. No person shall peddle in a public square.

7-3-10 DUTY OF POLICE TO ABATE. The Police Department of this Municipality is hereby required and directed to suppress the same and to abate any such nuisance as described in **Section 7-3-9.**

7-3-11 LOCAL BUSINESSES AND FARMERS EXCLUDED. The provisions of this Article shall not apply to persons employed or representing an established merchant, business firm, or corporation located and regularly doing business in the Municipality or to farmers selling any food items raised or produced by themselves and/or to permanently established residents who are voters in the Municipality or anyone duly licensed.

7-3-12 FEES. The license fees per person to be charged for licenses to peddle in this Municipality, each payable in advance, are hereby fixed and established as follows:

(A) **Two-Week License:** **$50.00 for each peddler**

(Ord. No. 812; 11-15-11)

ARTICLE IV - COIN-OPERATED MACHINES

7-4-1 DEFINITIONS. Definitions of terms as used in this Article, unless the context otherwise clearly indicates, are as follows:

"COIN-OPERATED AMUSEMENT DEVICE" means any amusement machine or device operated by means of the insertion of a coin, token, or currency for the purpose of amusement or skill and for the playing of which a fee is charged. The term includes, but is not limited to juke boxes, electronic video games, pinball machines or other similar games. The term does not include vending machines in which there are not incorporated gaming or amusement features.

"OPERATOR" is hereby defined to be any person, firm, corporation, partnership, association or club who sets up for operation by another or leases or distributes for the purpose of operation by another, any device(s) herein defined, whether such setting up for operation, leasing or distributing be for a fixed charge or rental, or on the basis of a division of the income from such device or otherwise.

"PROPRIETOR" is hereby defined to be any person, firm, corporation, partnership, association or a club who, as the owner, lessee or proprietor has under his or its control any establishment, place or premises in or on which such device is placed or kept for use or play or on exhibition for the purpose of use or play.

7-4-2 LICENSE REQUIRED. No person, firm or corporation shall engage in the business of an operator of coin-operated amusement devices within the corporate limits of this Municipality without having first obtained the proper license therefor.

7-4-3 APPLICATION. Application for license shall be verified by oath or affidavit and contain the following information:

(A) The name, age and address of the applicant in the case of an individual and, in the case of a co-partnership, of the persons entitled to share in the profits thereof; and in the case of a corporation, the date of incorporation, the objects for which it was organized, the names and addresses of the officers and directors; and if a majority in interest of the stock of such corporation is owned by one person or his nominee(s), the name and address of such person(s).

(B) The citizenship of the applicant, his place of birth; or if a naturalized citizen, the time and place of his naturalization.

(C) The address of the place where the applicant proposes to operate.

(D) A statement whether the applicant has made a similar application for a similar license on premises other than those described in the application and the disposition of such other application.

(E) A statement that the applicant has never been convicted of a felony and is not disqualified to receive the license under this Section.

7-4-4 PROHIBITED LICENSEES. No license under this section shall be issued to:

(A) Any person who is not of good character and reputation in the community.

(B) Any person who has been convicted of a felony under the laws of Illinois; or of being the keeper of a house of ill-fame; or of pandering or other crime or misdemeanor opposed to decency or morality.

(C) Any person whose license issued under this Article has been revoked for cause.

(D) Any partnership, unless all of the members of the partnership are qualified to obtain such license.

(E) Any corporation if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than **five percent (5%)** of the stock of such corporation,

would not be eligible to receive a license for any reason other than citizenship or residency within this Municipality.

(F) Any person whose place of business is conducted by a manager or agent unless the manager or agent is of legal age and possesses the same qualifications required of the licensee.

(G) Any person who does not own the premises for which a license is sought, or does not have a lease therefor for the full period for which the license is to be issued.

7-4-5 FEES. The annual fee for such license shall be **Twenty-Five Dollars ($25.00) per year** or part thereof for each poker machine, set up for operation, leased or distributed to a proprietor.

(A) All operator's license fees shall be payable annually in advance and in no case shall any portion of said license fee be refunded to the licensee.

(B) The license period shall be for the fiscal year of the Municipality, and all applications for renewal shall be made to the Clerk not more than **thirty (30) days, but no less than fifteen (15) days** prior to the expiration of such license.

7-4-6 NON-ASSIGNABILITY OF LICENSE. The location of a license may be changed only upon the written permission of the Mayor. Any license issued hereunder shall be non-assignable and non-transferable. **(65 ILCS 5/11-42-2)**

7-4-7 GAMBLING REGULATIONS.

(A) All licensed devices shall, at all times, be kept and placed in plain view of any person or persons who may frequent or be in any place of business where such devices are kept or used.

(B) Nothing in this Article shall be construed to authorize, permit or license any gambling device of any nature whatsoever.

(C) **Prizes and Awards Prohibited.** It shall be unlawful for any person receiving a license pursuant to this Article to give or award a cash prize or equivalent to any person playing any of the tables, devices or machines enumerated hereinabove under tournament, league or any other individual or competitive play.

(D) **Permitting Gambling.** The gambling prohibition shall not apply to any game or gaming even for which a license or permit has been by the Illinois Gaming Board pursuant to the *Illinois Video Gaming Act*, **230 ILCS 40/1 et seq.**, provided that such game or gaming event is conducted in full and complete compliance with all requirements of such act and all rules and regulations of the Illinois Gaming Board. **(See Chapter 21 – Liquor Code)**

7-4-8 DISPLAY OF LICENSE. Every licensee shall frame and hang his license in a conspicuous place in the licensed premises.

7-4-9 RIGHT OF ENTRY. The Chief of Police has the power to and shall inspect any place, building or premises in which any licensed device or devices are operated or set up for operation at such times and intervals as he may deem necessary for the proper enforcement of this Article.

7-4-10 CLOSING HOURS. No establishment operating under a license issued under this Article shall be open for use of any such devices between the hours of **12:00 Midnight and 6:00 A.M.** on any day unless the operator has a liquor license.

(65 ILCS 5/11-55-1)

ARTICLE V – RAFFLES AND POKER RUNS

7-5-1 DEFINITIONS. The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

(A) ***"Business":*** A voluntary organization composed of individuals and businesses who have joined together to advance the commercial, financial, industrial and civic interests of a community.

(B) ***"Charitable Organization":*** An organization or institution organized and operated to benefit an indefinite number of the public. The service rendered to those eligible for benefits must also confer some benefit on the public.

(C) ***"Educational Organization":*** An organization or institution organized and operated to provide systematic instruction in useful branches of learning by methods common to schools and institutions of learning which compare favorably in their scope and intensity with the course of study presented in tax-supported schools.

(D) ***"Fraternal Organization":*** An organization of persons having a common interest, the primary interest of which is to both promote the welfare of its members and to provide assistance to the general public in such a way as to lessen the burdens of government by caring for those that otherwise would be cared for by the government.

(E) ***"Hardship":*** A non-profit fundraising organization that has not been in existence continuously for a period of **five (5) years** immediately before making application for a license that the County determines to be organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident, or disaster.

(F) ***"Key Location":*** The location where the poker run concludes and the prize or prizes are awarded.

(G) ***"Labor Organization":*** An organization composed of workers organized with the objective of betterment of the conditions of those engaged in such pursuit and the development of a higher degree of efficiency in their respective occupations.

(H) ***"Licensee":*** An organization which has been issued a license to operate a raffle.

(I) ***"Net Proceeds":*** The gross receipts from the conduct of raffles, less reasonable sums expended for prizes, local license fees and other reasonable operating expenses incurred as a result of operating a raffle or poker run.

(J) ***"Non-Profit":*** An organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to any one as a result of the operation.

(K) ***"Poker Run":*** An event organized by an organization licensed under this Chapter in which participants travel to multiple predetermined locations, including a key location, drawing a playing card or equivalent item at each location, in order to assemble a facsimile of a poker hand or other numeric score. "Poker run" includes dice runs, marble runs, or other events where the objective is to build the best hand or highest score by obtaining an item at each location.

(L) ***"Raffle":*** A form of lottery, as defined in Section 28-2(b) of the Criminal Code of 2012, conducted by an organization licensed under this Act, in which:

(1) the player pays or agrees to pay something of value for a chance, represented and differentiated by a number or by a combination of numbers or by some other medium, one or more of which chances is to be designated the winning chance;

(2) the winning chance is to be determined through a drawing or by some other method based on an element of chance by an act or set of acts on the part of persons conducting or connected with the lottery, except that the winning chance shall not be determined by the outcome of a publicly exhibited sporting contest.

(M) ***"Religious Organization":*** Any church, congregation, society, or organization founded for the purpose of religious worship.

(N) ***"Veterans' Organization":*** An organization or association comprised of members of which substantially all are individuals who are veterans or spouses, widows, or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit.

7-5-2 REQUIREMENT OF LICENSE.

(A) It shall be unlawful for any person, firm, business, corporation, organization or other entity to conduct or operate a raffle, or to sell, offer for sale, convey, issue, or otherwise transfer for value a chance on a raffle without having first obtained a license therefore pursuant to this Article and the "Raffles and Poker Runs Act".

(B) It shall be unlawful for any person, firm, business, corporation, organization or other entity to conduct or operate a poker run without having first obtained a license therefore pursuant to this Article and the "Raffles and Poker Runs Act".

7-5-3 APPLICATION FOR A LICENSE FOR A RAFFLE.

(A) Any person, firm, business, corporation, organization or other entity seeking to conduct or operate a raffle shall file an application therefore with the Village Clerk on the forms provided by the Village Clerk.

(B) Applications for licenses under this Article must contain the following information:

(1) The name and address of the applicant organization;
(2) The type of organization that is conducting the raffle, i.e., religious, charitable, labor, fraternal, educational, veterans or other;
(3) The length of existence of the organization and, if incorporated, the date and state of incorporation;
(4) The name, address, telephone number, and age of the organization's presiding officer, secretary, raffles manager and any other members responsible for the conduct and operation of the raffle;
(5) The aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle;
(6) The maximum retail value of each prize awarded by a licensee in a single raffle;
(7) The maximum price which may be charged for each raffle chance issued or sold;
(8) The maximum number of days during which chances may be issued or sold;
(9) The area in which raffle chances will be sold or issued;
(10) The time period during which raffle chances will be sold or issued;
(11) The date, time, and name and address of the location or locations at which winning chances will be determined;
(12) A sworn statement attesting to the not-for-profit character of the prospective licensee organization signed by the presiding officer and the secretary of that organization; and
(13) A certificate signed by the presiding officer of the applicant organization attesting to the fact that the information contained in the application is true and correct.

(C) An application for a license to conduct or operate a raffle shall be accompanied by a non-refundable filing fee. Such fee shall be paid by cash, credit card or cashier's check. The Village Clerk shall refer the application to the Mayor.

NOTE: The governing statute states that all licensing systems for raffles shall provide for limitations upon (1) the aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle, (2) the maximum retail value of each prize awarded by a licensee in a single raffle, (3) the maximum price which may be charged for each raffle chance issued or sold and (4) the maximum number of days during which chances may be issued or sold.

7-5-4 APPLICATION FOR A LICENSE FOR A POKER RUN.

(A) Any person, firm, business, corporation, organization or other entity seeking to conduct or operate a poker run shall file an application therefore with the Village Clerk on the forms provided by the Village Clerk.

(B) Applications for licenses under this Article must contain the following information:

(1) The name and address of the applicant organization;
(2) The type of organization that is conducting the raffle or poker run, i.e., religious, charitable, labor, fraternal, educational, veterans or other;
(3) The length of existence of the organization and, if incorporated, the date and state of incorporation;
(4) The name, address, telephone number, and date of birth of the organization's presiding officer, secretary, and any other members responsible for the conduct and operation of the raffle or poker run;
(5) The name, address, and telephone number of all locations at which the poker run will be conducted;
(6) The time period during which the poker run will be conducted;
(7) The time of determination of winning chances and the location or locations at which the winning chances will be determined;
(8) A sworn statement attesting to the not-for-profit character of the prospective licensee organization signed by the presiding officer and the secretary of that organization; and
(9) A certificate signed by the presiding officer of the applicant organization attesting to the fact that the information contained in the application is true and correct.

(C) An application for a license to conduct or operate a poker run shall be accompanied by a non-refundable **Five Dollar ($5.00)** filing fee. Such fee shall be paid by cash, cashier's check, or credit card. The Village Clerk shall refer the application to the Mayor. **(Ord. No. 894; 10-03-17)**

7-5-5 LICENSEE QUALIFICATIONS.

(A) Raffle licenses and poker run licenses shall be issued only to bona fide religious, charitable, labor, business, fraternal, educational or veterans' organizations that operate without profit to their members and which have been in existence continuously for a period of **five (5) years** immediately before making application for a license and which have had during that entire **five (5) year** period a bona fide membership engaged in carrying out their objects, or to a non-profit fundraising organization that the Mayor determines is organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident or disaster. The Mayor may waive the **five (5) year** requirement under this Section for a bona fide religious, charitable, labor, business, fraternal, educational, or veterans' organization that applies for a license to conduct a raffle or poker run if the organization is a local organization that is affiliated with and chartered by a national or State organization that meets the **five (5) year** requirement. The following are ineligible for any raffle or poker run license;

(1) Any person who has been convicted of a felony;
(2) Any person who is or has been a professional gambler or gambling promoter;
(3) Any person who is not of good moral character;
(4) Any organization in which a person defined in subsection (1), (2) or (3) of this Section has a proprietary, equitable, or credit interest or in which such person is active or employed;
(5) Any organization in which a person defined in subsection (1), (2) or (3) of this Section is an officer, director, or employee, whether compensated or not; and

(6) Any organization in which a person defined in subsection (1), (2) or (3) of this Section is to participate in the management or operation of a poker run as defined in this Section.

7-5-6 LICENSE ISSUANCE.

(A) The Mayor shall review all raffle license applications and all poker run license applications. The Mayor shall, within **thirty (30) days** from the date of application, accept or reject a raffle or poker run license application. If an application is accepted, the Mayor shall forthwith issue a raffle or poker run license to the applicant.

(B) A raffle license or poker run license shall specify:

(1) The area or areas within the County in which raffle chances will be sold or issued or a poker run will be conducted;

(2) The time period during which raffle chances will be sold or issued or a poker run will be conducted; and

(3) The time of determination of winning chances and the location or locations at which the winning chances will be determined.

(C) Any license issued under this Article shall be non-transferable.

(D) A license shall be valid for one raffle event or one poker run only, unless the Mayor specifically authorized a specified number of raffles or poker runs to be conducted during a specified period not to exceed **one (1) year**.

(E) A raffle license or poker run license may be suspended or revoked for any misrepresentation on the application, any violation of this Article or State law, or when such raffle or poker run or portion thereof is conducted so as to constitute a public nuisance or to disturb the peace, health, safety or welfare.

(F) **Prominent Display of License.**

(1) A raffle license shall be prominently displayed at the time and location of the determination of the winning chances.

(2) A poker run license shall be prominently displayed at each location at which the poker run is conducted or operated.

(G) **Miscellaneous Provision for Poker Run License.** Any poker run license issued shall cover the entire poker run, including locations other than the key location. Each license issued shall include the name and address of each location at which the poker run will be conducted.

7-5-7 CONDUCT OF RAFFLES AND POKER RUNS.

(A) The operation and conduct of raffles and poker runs are subject to the following restrictions:

(1) The entire net proceeds of any raffle or poker run must be exclusively devoted to the lawful purposes of the organization permitted to conduct that game.

(2) No person except a bona fide member of the sponsoring organization may participate in the management or operation of the raffle or poker run.

(3) No person may receive any remuneration or profit for participating in the management or operation of the raffle or poker run.

(4) A licensee may rent a premises on which to determine the winning chance or chances in a raffle only from an organization which is also licensed under this Article. A premises where a poker run is held is not required to obtain a license if the name and location of the premises is listed as a predetermined location on the license issued for the poker run and the premises does not charge for use of the premises.

(5) Raffle chances may be sold or issued only within the area specified on the raffle license and winning chances may be determined only at those

locations specified on the license for a raffle. A playing card or equivalent item may be drawn only within the area specified on the poker run license and winning hands or scores may be determined only at those locations specified on said license.

(6) A person under the age of **eighteen (18) years** may participate in the conducting of raffles or chances or poker runs only with the permission of a parent or guardian. A person under the age of **eighteen (18) years** may be within the area where winning chances in a raffle or winning hands or scores in a poker run are being determined only when accompanied by his parent or guardian.

(B) If a lessor rents premises where a winning chance on a raffle or a winning hand or score in a poker run is determined, the lessor shall not be criminally liable if the person who uses the premises for the determining of winning chances does not hold a license issued by the Village.

7-5-8 MANAGER - BOND.

(A) All operations of and conduct of raffles and poker runs shall be under the supervision of a single poker run manager designated by the organization. The manager or operator of the raffle or poker run must be a bona fide member of the organization holding the license for such a raffle or poker run and may not receive any remuneration or profit for participating in the management or operation of the raffle or poker run.

(B) The manager shall give a fidelity bond in the sum of **One Thousand Dollars ($1,000.00)** conditioned upon his honesty in the performance of his duties. Terms of the bond shall provide that notice shall be given in writing to the Village not less than **thirty (30) days** prior to its cancellation.

(C) The Mayor is authorized to waive this bond requirement by including a waiver provision in the license issued to an organization under this Article provided that a license containing such waiver provision shall be granted only by unanimous vote of the members of the licensed organization.

7-5-9 RECORDS.

(A) Each organization licensed to conduct raffles and chances or poker runs shall keep records of its gross receipts, expenses and net proceeds for each single gathering or occasion at which winning chances in a raffle or winning hands or scores in a poker run are determined. All deductions from the gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction, and the recipient. The distribution of net proceeds shall be itemized as to payee, purpose, amount and date of payment.

(B) Gross receipts from the operation of raffles or poker runs shall be segregated from other revenues of the organization, including bingo gross receipts, if bingo games are also conducted by the same non-profit organization pursuant to license therefor issued by the Department of Revenue of the State of Illinois, and placed in a separate account. Each organization shall have separate records of its raffles or poker runs. The person who accounts for the gross receipts, expenses, and net proceeds from the operation of raffles or poker runs shall not be the same person who accounts for other revenues of the organization.

(C) Each organization licensed to conduct raffles or poker runs shall report monthly to its membership, and to the Village Clerk, its gross receipts, expenses and net proceeds from raffles or poker runs, and the distribution of net proceeds itemized as required by this Section.

(D) Records required by this Section shall be preserved for **three (3) years**, and the organization shall make available their records relating to operation of poker runs for public inspection at reasonable times and places.

(E) The Village shall maintain the records required by this Section in compliance with the "Raffles and Poker Runs Act" and the Local Records Act, **50 ILCS 205/1 et seq.**

7-5-10 LIMITED CONSTRUCTION. Nothing in this Article shall be construed to authorize the conducting or operating of any gambling scheme, enterprise, activity, or device other than raffles or poker runs as provided for herein.

7-5-11 PRIZE LIMITATIONS; TERM.

(A) The aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle or poker run shall not exceed **One Million Dollars ($1,000,000.00)**;

(B) The maximum retail value of each prize awarded by a licensee in a single raffle or single poker run shall not exceed **One Million Dollars ($1,000,000.00)**;

(C) The maximum price which may be charged for each raffle chance issued or sold or each poker hand shall not exceed **Twenty-Five Dollars ($25.00)**;

(D) The maximum number of days during which chances may be issued or sold shall not exceed **three hundred sixty-five (365) days**;

(E) Licenses issued pursuant to this Code shall be valid for **one (1) raffle** and may be suspended or revoked for any violation of this Code;

(F) Raffle chances shall be sold only within the boundaries of the County and the boundaries of any municipality;

(G) Licenses shall be issued to bona fide religious, charitable, labor, fraternal, educational, or veterans' organizations that operate without profit to their members, and which have been in existence continuously for a period of **five (5) years** immediately before making application for a license and which have had during that entire **five (5) year** period a bona fide membership engaged in carrying out their objectives;

(H) The above-mentioned types of organizations shall be defined pursuant to **230 ILCS 15/.01 et seq.**, being the Raffles and Poker Run Act;

(I) No person, or organization shall be issued more than **one (1) license** in a period of **one (1) week**;

(J) The manager of a raffle game or poker run shall give a fidelity bond in the sum of **One Thousand Dollars ($1,000.00)** in favor of the organization conditioned upon his honesty in the performance of his duties. The Mayor or his designated representative is authorized to waive requirement for bond by including a waiver provision in the license issued, provided that the license containing such waiver provision shall be granted only by unanimous vote of the members of the licensed organization. The terms of the bond shall provide that notice shall be given in writing to the licensing authority not less than **thirty (30) days** prior to its cancellation.

(K) A filing fee of **Five Dollars ($5.00)** per raffle shall be paid when applying for a license. **(Ord. No. 894; 10-03-17)**

(230 ILCS 15/2)

ARTICLE VI – ADULT USE BUSINESSES

7-6-1 PURPOSE. The purpose of this Article is to regulate adult uses to protect the community from the many types of criminal activity frequently associated with such uses. The Village recognizes that such regulation cannot effectively prohibit such uses, but can balance the competing interest of the community in reducing criminal activity and protecting property values versus the protected rights of the owners, operators, employees and patrons of adult uses.

7-6-2 DEFINITIONS.

(A) **Adult Bookstore.** An establishment having as a substantial or significant portion of its sales or stock in trade, books, magazines, films for sale or for viewing on premises by use of motion picture devices or by coin operated means, and periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities", or "specified anatomical areas", or an establishment with a segment or section devoted to the sale or display of such materials, or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, presence of video preview or coin operated booths, exclusion of minors from the establishment's premises or any other factors showing the establishment's primary purpose is to purvey such material.

(B) **Adult Entertainment Cabaret.** A public or private establishment which:

(1) features topless dancers, strippers, "go-go" dancers, male or female impersonators, lingerie or bathing suit fashion shows;

(2) not infrequently features entertainers who display "specified anatomical areas"; or

(3) features entertainers who by reason of their appearance or conduct perform in a manner which is designed primarily to appeal to the prurient interest of the patron or features entertainers who engage in, or are engaged in explicit simulation of "specified sexual activities".

(C) **Adult Motion Picture Theater.** A building or area used for presenting materials distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

(D) **Adult Novelty Store.** An establishment having a substantial or significant portion of its sales or stock in trade consisting of toys, devices, clothing "novelties", lotions and other items distinguished or characterized by their emphasis on or use for "specialized sexual activities" or "specified anatomical areas" or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, exclusion of minors from the establishment's premises or any other factors showing the establishment's primary purpose is to purvey such material.

(E) **Nudity.** Nudity means the showing of the human male or female genitals, pubic area, female breasts with less than a full opaque covering below a point immediately above the top of the areola, human male genitals in a discernibly turgid state even if completely and opaquely covered or, that portion of the buttocks which would be covered by a properly worn "thong" type bikini bottom.

(F) **Public Place.** Public place means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not-for-profit and whether open to the public at large or where entrance is limited by a cover charge or membership requirement), hotels, motels, restaurants, nightclubs, country clubs, cabarets and meeting facilities utilized by social, fraternal or similar organizations. Premises used solely as a private residence, whether permanent or temporary in nature, shall not be deemed a public place. Public places shall not include enclosed single sex public restrooms, enclosed single sex functional showers, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctors offices, churches, synagogues or similar places when used for circumcisions, baptisms or similar religious ceremonies, portions of hospitals and similar places in which nudity or exposure is necessarily and

customarily expected outside of the home; nor shall it include a person appearing in a state of nudity in a modeling class operated by (1) a proprietary school licensed by the State; a college, junior college or university supported entirely or partly by taxation; or (2) a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or a university supported entirely or partly by taxation or an accredited private college.

(G) **Adult Use.** Adult bookstores, adult motion picture theaters, adult entertainment cabarets, adult clubs allowing nudity at regular or frequent times, adult novelty stores and other similar uses.

(H) **Employee.** Employees, independent contractors or any other person who is retained by the licensee or subject to dismissal from working at the licensed premises.

(I) **Specified Sexual Activities.** For the purpose of this Article, "specified sexual activities" means:

(1) human genitals in the state of sexual stimulation or arousal;
(2) acts of human masturbation, sexual intercourse or sodomy; and
(3) fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.

(J) **Specified Criminal Activity.** For the purpose of this Article, "specified anatomical areas" means:

(1) less than completely and opaquely covered:
  (a) human genitals;
  (b) pubic region;
  (c) buttocks;
  (d) female breasts below a point immediately above the top of the areola; and
(2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(K) **Specified Criminal Activity.** Specified criminal activity means any of the following offenses:

(1) Prostitution or promotion of prostitution; dissemination of obscenity; sale distribution or display of harmful material to a minor; sexual performance by a minor; possession or distribution of child pornography; public lewdness; public indecency; indecency with a child; engaged in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries;
(2) For which:
  (a) less than **two (2) years** have elapsed since the date of conviction or the date of release from confinement imposed for the conviction which is the later date, if the conviction is of a misdemeanor offense;
  (b) less than **five (5) years** have elapsed since the date of conviction or the date of release from confinement for conviction, whichever is the later date, if the conviction is a felony offense; or
  (c) less than **five (5) years** have elapsed since the date of the last conviction or the date of release from confinement from the last conviction, whichever is the later date, if the convictions are of **two (2)** or more misdemeanor offenses or combination of misdemeanor offenses occurred within any **twenty-four (24) month** period; and
(3) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

7-6-3 LICENSE REQUIRED.

(A) It shall be unlawful for any person to operate an adult use without a valid adult use business license issued by the Village pursuant to this Article.

(B) An application for a license shall be made on a form provided by the Village.

(C) All applicants must be qualified according to the provisions of this Article. The application may request and the applicant shall provide such information (including fingerprints) as is needed to enable the Village to determine whether the applicant meets the qualifications established in this Article.

(D) If a person who wishes to operate an adult use is an individual, the person must sign the application for a license as applicant. If the applicant is a club, consisting of private or public membership, then such entity shall also be licensed under this Article. If a person who wishes to operate an adult use is other than an individual or club, each individual who has a **twenty percent (20%)** or greater interest in the business, including corporations, must sign the application for a license as applicant. Each applicant must be qualified under the following section and each applicant shall be considered a licensee if the license is granted.

(E) The completed application for an adult use business license shall contain the following information:

(1) If the applicant is an individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is **eighteen (18) years** of age;

(2) If the applicant is a club, consisting of private or public membership, a copy of the by-laws of the club must be submitted with the application. In addition, a sworn statement as to the purposes, general activities and requirement for club membership must be submitted.

(3) If the applicant is a partnership, the partnership shall state its complete name and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any; and

(4) If the applicant is a corporation, the corporation shall state its complete name, the date of incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal shareholders, (those with a **twenty percent (20%)** or more stake) and the name and address of the registered corporate agent.

(F) If the applicant intends to operate the adult use business under a name other than that of the application, he/she must state:

(1) the business' fictitious name and

(2) submit any required registration documents.

(G) Whether the applicant has been convicted of any specified criminal activity as defined in this Article, and if so, the specified criminal activity involved, the date, place and jurisdiction of each.

(H) Whether the applicant has had a previous license under this Article or similar ordinances from another jurisdiction denied, suspended or revoked, including the name and location of the business which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation. If the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is or was licensed under this Article or similar ordinance in another jurisdiction and a license has previously been denied, suspended or revoked, include the name and location of the business for which the permit was denied, suspended or revoked, as well as the date of denial, suspension or revocation.

(I) Whether the applicant holds any other licenses under this Article or other similar ordinance from another jurisdiction and if so, the names and locations of such other licensed businesses.

(J) A sketch or diagram showing the configuration of the premises, including a statement of total floor area occupied by the business. This sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises.

7-6-4 ISSUANCE OF LICENSE.

(A) Within **thirty (30) days** after receipt of a completed adult use business license application, the Village shall approve or deny the issuance of a license to an applicant. The Village shall approve the issuance of a license unless it determines, by a preponderance of the evidence, any one or more of the following:

(1) The applicant is under **eighteen (18) years** of age;

(2) The applicant is overdue in payment to the Village of taxes, fees, fines or penalties assessed against or imposed upon him/her in relation to any business;

(3) The applicant has failed to provide information reasonably necessary for the issuance of the license or has falsely answered a question or request for information on the application form;

(4) The applicant has been denied a license by the Village to operate an adult use business within the preceding **twelve (12) months** or whose license to operate an adult use business has been revoked within the preceding **twelve (12) months**;

(5) The applicant has been convicted of a specified criminal activity defined in this Article.

(6) The premises to be used for adult use business has not been inspected and approved by the Fire Department and the Building Department as being in compliance with applicable laws and ordinances.

(7) The license fee required by this Article has not been paid.

(8) The applicant of the proposed establishment is in violation or in not in compliance with all of the provisions of this Article.

(B) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date and the address of the adult use business. All licenses shall be posted in a conspicuous place at or near the entrance to the business so that they may be easily read at any time.

(C) The Fire Department and Code Enforcement Officers shall complete their inspection certification that the premises is in compliance or not in compliance with Village codes within **twenty (20) days** of receipt of the application by the Village.

(D) No adult use business license shall be issued unless it meets all criteria set forth in the Zoning Code. However, an adult use business license may be issued for a premises which is a legal nonconforming use which has not yet been amortized or for a premises where such amortization is being challenged by litigation.

(E) No signs, advertising or other notice to the public may be given for any premises where adult use is conducted, pursuant to this Article.

7-6-5 LIQUOR. No liquor license shall be issued to a licensee or to premises where adult use is conducted, nor shall liquor be sold, given away or allowed to be consumed on the premises where any adult use is conducted.

7-6-6 FEES. Every application for an adult use business license (whether a new license or for renewal of an existing license) shall be accompanied by a **One Thousand Dollar ($1,000.00)** non-refundable application and investigation fee.

7-6-7 INSPECTION.

(A) An applicant or licensee shall permit representatives of the Police Department, Fire Department, Building Department or other Village or Village designated departments or agencies to inspect the premises of the adult use for the purpose of ensuring compliance with the provisions of this Article at any time it is occupied or open for business.

(B) A person who operates an adult use or his agent or employee violates this Article is he/she refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

7-6-8 EXPIRATION OF LICENSE.

(A) Each license shall expire on the **January 1** after it was issued and may be renewed only by making application as provided in **Section 7-6-4**. Application for renewal shall be made at least **thirty (30) days** before the expiration date and when made less than **thirty (30) days** before the expiration date, the expiration of license will not be affected.

(B) If the Village denies renewal of a license, the applicant shall not be issued a license for **one (1) year** from the date of denial. If, subsequent to denial, the Village finds that the basis for denial of the license has been corrected or abated, the applicant may be granted a license.

7-6-9 SUSPENSION. The Village may suspend a license for a period not to exceed **thirty (30) days** if, after a hearing, it determines that a licensee or an employee of a licensee:

(A) violated or is not in compliance with any section of this Article;

(B) refused to allow an inspection of the adult use business premises as authorized by this Article, or

(C) knowingly permitted gambling by any person on the adult use business premises.

If the licensee or an employee of the licensee has been found guilty in a court of law of a violation of this Article, no hearing is necessary prior to suspension of the license.

7-6-10 REVOCATION.

(A) The Village shall revoke a license if a cause of suspension in **Section 7-6-8** above occurs and the license has been suspended within the preceding **twelve (12) months** or if the licensee is convicted of any specified criminal activity.

(B) The Village may revoke a license if it determines, after a hearing, that:

(1) A licensee gave false or misleading information in the material submitted during the application process;

(2) A licensee or management personnel has knowingly allowed possession, use or sale of alcohol or controlled substances on the premises;

(3) A licensee or management personnel has knowingly allowed prostitution on the premises;

(4) A licensee or management personnel knowingly operated the adult use business during a period of time when the licensee's license was suspended;

(5) A licensee or management personnel has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sex act to occur in or on the licensed premises;

(6) A licensee is delinquent in payment to the Village, County or State for any taxes or fees past due;

(7) A licensee or management personnel has knowingly facilitated another's commission of the offense of public indecency; or

(8) The adult use is a public nuisance as defined by statute, ordinance or case law.

(C) If the Village revokes a license, the revocation shall continue for **one (1) year** and the licensee shall not be issued an adult use business license for **one (1) year** from the date the revocation became effective. If subsequent to revocation, the Village finds that the factual basis for the revocation did not occur, the applicant may be granted a license.

(D) After denial of an application, or denial of a renewal of an application, or suspension or a revocation of any license, the applicant or licensee may seek prompt judicial review of such action in any court of competent jurisdiction.

7-6-11 TRANSFER OF LICENSE. A licensee shall not transfer his/her license to another nor shall a license operate an adult use business under the authority of a license at any place other than the address on the license.

7-6-12 BUSINESS RECORDS. All adult uses shall file a verified report with the Village showing the licensee's gross receipts and amounts paid to employees during the preceding calendar year. In addition, all adult uses shall maintain and retain for a period of **two (2) years**, the names, addresses and ages of all persons employed, including independent contractors, by the licensee.

7-6-13 LIQUOR LICENSE. No adult use may be issued a liquor license. Nor shall any establishment with a liquor license operate as an adult use.

7-6-14 ADULT ENTERTAINMENT CABARETS – RESTRICTIONS. All dancing or other performances shall occur on a stage intended for that purpose which is raised at least **two (2) feet** from the level of the floor. No dancing or other performance shall occur closer than **ten (10) feet** to any patron. In addition, no dancer or performer shall fondle, caress or otherwise touch any patron and no patron shall fondle, caress or otherwise touch any dancer or performer. No patron shall directly pay or give any gratuity to any dancer or performer and no dancer shall solicit any pay or gratuity from any patron. Gratuities may be indirectly given to dancers or performers by placing the gratuity on the stage.

7-6-15 VIDEO VIEWING BOOTHS – RESTRICTIONS. No booths, stalls or partitioned portions of a room or individual rooms used for the viewing of motion pictures or other forms of entertainment shall have doors, curtains or portal partitions, but all such booths, stalls or partitioned portions or a room or individual rooms so used shall have at least **one (1) side** open to an adjacent public room so that the area inside is visible to persons in the adjacent public room. All such described areas shall be lighted in such a manner that the persons in the areas used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms, but such lighting shall not be of such intensity as to prevent the view of the motion pictures or other offered entertainment.

7-6-16 HOURS OF OPERATION. No adult use shall be open prior to **10:00 A.M.** or after **2:00 A.M.**

7-6-17 INVESTIGATION. Any licensee hereunder shall permit law enforcement officials, free and unlimited access to the premises during hours of operation, upon reasonable request, for the purposes of investigating compliance with the provisions of this Article.

OFFICIAL BUSINESS LICENSE

STATE OF ILLINOIS)
COUNTY OF ST. CLAIR) ss.
VILLAGE OF SMITHTON)

ILLINOIS SALES TAX NUMBER _____

TO ALL TO WHOM THESE PRESENTS SHALL BECOME GREETINGS:

WHEREAS _____, having complied with all the requirements of the laws of the State of Illinois and the ordinances of the **Village of Smithton, Illinois** in this behalf made and required license is, by authority of the **Village of Smithton, Illinois** given and granted to the _ _____ to _____ at _____ _____ in the **Village of Smithton, County of St. Clair, and State of Illinois**, from the _____ date hereof until the _____ day of _____, 20__, said _____ to be subject to all laws of the State of Illinois and all ordinances of the **Village of Smithton, Illinois**, not in conflict therewith, which are now or hereafter may be in force touching the premises.

(L.S.)

Given under the hand of the Mayor of the **Village of Smithton, County of St. Clair, Illinois** and the seal thereof, this _____ day of _____, ____.

_____
MAYOR
VILLAGE OF SMITHTON

COUNTERSIGNED:

_____
VILLAGE CLERK
VILLAGE OF SMITHTON

(SEAL)

APPLICATION FOR BUSINESS LICENSE

Applicant's Information

Applicant's Name & Home Address: _____

_____

_____

Length of Resident at this address: _____ Years _____ Months

Applicant's Phone Number: _____

Applicant's Date of Birth: _____ Social Security Number: _____

Marital Status: _____ Name of Spouse: _____

All Residences and Addresses for the last three (3) years if different than above:

_____

_____

_____

Name and Address of Employers during the last three (3) years if different than above:

_____

_____

_____

Has the Applicant ever had a License in this Municipality? _____ Yes _____ No

If so, when _____

Has a license issued to this Applicant ever been revoked? _____ Yes _____ No

If yes, explain _____

Has the Applicant ever been convicted of a felony? _____ Yes _____ No

If yes, explain _____

Business Information

Business Name & Address: _____

_____

_____

Business Phone Number: _____

A description of the subject matter that will be used in the Applicant's business:

_____

_____

_____ _____

Applicant's Signature Date

For Office Use Only

Application Approved _____ Application Denied _____

Reviewed by: _____ Date: _____

_____ Date: _____

APPLICATION FOR RAFFLE AND POKER RUN LICENSE

Organization Name: _____
Address: _____
Type of Organization: _____
Length of Existence of Organization: _____

If organization is incorporated, what is the date and state of incorporation?
Date: _____ State: _____

List the organization's presiding officer, secretary, raffle manager, and any other members responsible for the conduct and operation of the raffle.

PRESIDENT:

SECRETARY:_____ Birth Date: _____
Address: _____
Social Security No.: _____ Phone No.: _____

RAFFLE MANAGER:_____ Birth Date: _____
Address: _____
Social Security No.: _____ Phone No.: _____

List any other members responsible for the conduct and operation of the raffle on the back of this page. List name, date of birth, address, social security number, and phone number.

_____ This request is for a single raffle license.
_____ This request is for a multiple raffle license.

The aggregate retail value of all prizes to be awarded: $_____
Maximum retail value of each prize to be awarded in the raffle: $_____
The maximum price charged for each raffle chance issued: _____
The area or areas in which raffle chances will be sold or issued: _____
_____
Time period during which raffle chances will be issued or sold: _____
_____
The date, time and location at which winning chances will be determined: _____
_____

Date: _____ Time: _____
Location: _____

If multiple raffles license is requested, list on a separate sheet, the date, time, and location for each raffle to be held within the one (1) year period of time from the date of the issuance of the license.

THE APPLICATION FEES ARE NONREFUNDABLE EVEN SHOULD THE APPLICATION BE REJECTED BY THE VILLAGE BOARD.

APPLICATION FOR RAFFLE LICENSE

SWORN STATEMENT

The following officers attest to the not-for-profit character of the applicant organization.

_____

(NAME OF ORGANIZATION)

Dated this _____ day of _____, 20__.

_____

PRESIDING OFFICER

_____

SECRETARY

STATE OF ILLINOIS)
) ss.
COUNTY OF ST. CLAIR)

Signed and sworn to before me this _____ day of _____, ____.

_____ _____

PRESIDING OFFICER SECRETARY

_____

NOTARY PUBLIC

SINGLE RAFFLE LICENSE

License No.: _____

Organization Name: _____

Address: _____

Area or areas in which raffle chances may be sold or issued: _____
_____
_____

Period of time during which raffle chances may be sold: _____
_____
_____

Maximum price charged for each raffle chance issued or sold: $_____

Date, time and location at which winning chance will be determined:

Date: _____ Time: _____

Location: _____

THIS LICENSE SHALL BE PROMINENTLY DISPLAYED AT THE TIME AND LOCATION OF THE DETERMINATION OF THE WINNING CHANCES.

WITNESS the hand of the Mayor of the Village of Smithton and the Corporate Seal thereof, this _____ day of _____, ____.

_____
MAYOR
VILLAGE OF SMITHTON

_____
VILLAGE CLERK
VILLAGE OF SMITHTON

(SEAL)

MULTIPLE RAFFLE LICENSE

License No.: _____

Organization Name: _____

Address: _____

Area or areas in which raffle chances may be sold or issued: _____
_____
_____

Period of time during which raffle chances may be sold: _____
_____
_____

Maximum price charged for each raffle chance issued or sold: $_____

This is a license for multiple raffles to be held within the maximum period of one (1) year from date of this license. The date, the and location of each raffle is as set forth on Exhibit 1, attached hereto and hereby incorporated by reference.

THIS LICENSE SHALL BE PROMINENTLY DISPLAYED AT THE TIME AND LOCATION OF THE DETERMINATION OF THE WINNING CHANCES.

WITNESS the hand of the Mayor of the Village of Smithton and the Corporate Seal thereof, this _____ day of _____, ____.

_____
MAYOR
VILLAGE OF SMITHTON

_____
VILLAGE CLERK
VILLAGE OF SMITHTON

(SEAL)

EXHIBIT 1

The following is the date, time and location at which winning chances will be determined for multiple raffles to be held within a maximum period of one (1) year from the date of issuance of this license.

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

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Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

CHAPTER 8 – CABLE TELEVISION

ARTICLE		*TITLE*	*PAGE*
I	*CABLE AND VIDEO CUSTOMER PROTECTION LAW*		
	Section 8-1-1	*- Customer Service and Privacy Protection Law*	*8-1*
	Section 8-1-2	*- Enforcement*	*8-1*
	Section 8-1-3	*- Penalties*	*8-1*
	Section 8-1-4	*- Customer Credits*	*8-1*
II	*CABLE/VIDEO SERVICE PROVIDER FEE*		
	Section 8-2-1	*- Definitions*	*8-2*
	Section 8-2-2	*- Cable/Video Service Provider Fee Imposed*	*8-3*
	Section 8-2-3	*- Applicable Principles*	*8-4*
	Section 8-2-4	*- No Impact on Other Taxes Due From Holder*	*8-4*
	Section 8-2-5	*- Audits of Cable/Video Service Provider*	*8-4*
	Section 8-2-6	*- Late Fees/Payments*	*8-4*
III	*SMALL WIRELESS FACILITIES*		
	Section 8-3-1	*- Purpose and Scope*	*8-5*
	Section 8-3-2	*- Definitions*	*8-5*
	Section 8-3-3	*- Regulation of Small Wireless Facilities*	*8-6*
	Section 8-3-4	*- Dispute Resolution*	*8-13*
	Section 8-3-5	*- Indemnification*	*8-14*
	Section 8-3-6	*- Insurance*	*8-14*
	Section 8-3-7	*- Severability*	*8-14*

CHAPTER 8

CABLE TELEVISION

ARTICLE I – CABLE AND VIDEO CUSTOMER PROTECTION LAW

8-1-1 CUSTOMER SERVICE AND PRIVACY PROTECTION LAW.

(A) **Adoption.** The regulations of **220 ILCS 5/70-501** are hereby adopted by reference and may applicable to the cable or video providers offering services within the Village boundaries.

(B) **Amendments.** Any amendment to the Cable and Video Customer Protection Law that becomes effective after the effective date of this Article shall be incorporated into this Article by reference and shall be applicable to cable or video providers offering services within the municipality's boundaries. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Article by reference without formal action by the corporate authorities of the Village.

8-1-2 ENFORCEMENT. The Village does hereby pursuant to law declare its intent to enforce all of the customer service and privacy protection standards of the Cable and Video Protection Law with respect to complaints received from residents within the Village.

8-1-3 PENALTIES. The Village, pursuant to **220 ILCS 5/70-501(r)(1)**, does hereby provide for a schedule of penalties for any material breach of the Cable and Video Protection Law by cable or video providers in addition to the penalties provided in the law. The monetary penalties shall apply on a competitively neutral basis and shall not exceed **Seven Hundred Fifty Dollars ($750.00)** for each day of the material breach, and shall not exceed **Twenty-Five Thousand Dollars ($25,000.00)** for each occurrence of a material breach per customer.

(A) Material breach means any substantial failure of a cable or video provider to comply with service quality and other standards specified in any provision of the law.

(B) The Village shall give the cable or video provider written notice of any alleged material breaches of the law and allow such provider at least **thirty (30) days** from the receipt of the notice to remedy the specified material breach.

(C) A material breach, for the purposes of assessing penalties, shall be deemed to occur for each day that a material breach has not been remedied by the cable or video service provider after the notice in (B).

8-1-4 CUSTOMER CREDITS. The Village hereby adopts the schedule of customer credits for violations. Those credits shall be as provided for in the provisions of **220 ILCS 5/70-501(s)** and applied on the statement issued to the customer for the next billing cycle following the violation or following the discovery of the violation. The cable or video provider is responsible for providing the credits and the customer is under no obligation to request the credit.

(Ord. No. 740; 06-17-08)

ARTICLE II - CABLE/VIDEO SERVICE PROVIDER FEE

8-2-1 DEFINITIONS. As used in this Article, the following terms shall have the following meanings:

(A) *"Cable Service"* means that term as defined in 47 U.S.C. § 522(6).

(B) *"Commission"* means the Illinois Commerce Commission.

(C) *"Gross Revenues"* means all consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by the holder for the operation of a cable or video system to provide cable service or video service within the holder's cable service or video service area within the Village.

(1) Gross revenues shall include the following:

(a) Recurring charges for cable or video service.

(b) Event-based charges for cable service or video service, including, but not limited to, pay-per-view and video-on-demand charges.

(c) Rental of set top boxes and other cable service or video service equipment.

(d) Service charges related to the provision of cable service or video service, including but not limited to activation, installation, and repair charges.

(e) Administrative charges related to the provision of cable service or video service, including but not limited to service order and service termination charges.

(f) Late payment fees or charges, insufficient funds check charges, and other charges assessed to recover the costs of collecting delinquent payments.

(g) A *pro* rata portion of all revenue derived by the holder or its affiliates pursuant to compensation arrangements for advertising or for promotion or exhibition of any products or services derived from the operation of the holder's network to provide cable service or video service within the Village. The allocation shall be based on the number of subscribers in the Village divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.

(h) Compensation received by the holder that is derived from the operation of the holder's network to provide cable service or video service with respect to commissions that are received by the holder as compensation for promotion or exhibition of any products or services on the holder's network, such as a "home shopping" or similar channel, subject to subsection (i).

(i) In the case of a cable service or video service that is bundled or integrated functionally with other services, capabilities, or applications, the portion of the holder's revenue attributable to the other services, capabilities, or applications shall be included in the gross revenue unless the holder can reasonably identify the division or exclusion of the revenue from its books and records that are kept in the regular course of business.

(j) The service provider fee permitted by **220 ILCS 5/21-801(b)**.

(2) Gross revenues do not include any of the following:

(a) Revenues not actually received, even if billed, such as bad debt, subject to **220 ILCS 5/21-801(c)(1)(vi)**.

(b) Refunds, discounts, or other price adjustments that reduce the amount of gross revenues received by the holder of the State-

issued authorization to the extent the refund, rebate, credit, or discount is attributable to cable service or video service.

(c) Regardless of whether the services are bundled, packaged, or functionally integrated with cable service or video service, any revenues received from services not classified as cable service or video service, including, without limitation, revenue received from telecommunication services, information services, or the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing or any other revenues attributed by the holder to noncable service or non-video service in accordance with the holder's books and records and records kept in the regular course of business and any applicable laws, rules, regulations, standards, or orders.

(d) The sale of cable services or video services for resale in which the purchaser is required to collect the service provider fee from the purchaser's subscribers to the extent the purchaser certifies in writing that it will resell the service within the Village and pay the fee permitted by **220 ILCS 5/21-801(b)** with respect to the service.

(e) Any tax or fee of general applicability imposed upon the subscribers or the transaction by a city, state, federal, or any other governmental entity and collected by the holder of the State-issued authorization and required to be remitted to the taxing entity, including sales and use taxes.

(f) Security deposits collected from subscribers.

(g) Amounts paid by subscribers to "home shopping" or similar vendors for merchandise sold through any home shopping channel offered as part of the cable service or video service.

(3) Revenue of an affiliate of a holder shall be included in the calculation of gross revenues to the extent the treatment of the revenue as revenue of the affiliate rather than the holder has the effect of evading the payment of the fee permitted by **220 ILCS 5/21-801(b)** which would otherwise be paid by the cable service or video service.

(D) ***"Holder"*** means a person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to **220 ILCS 5/21-401**.

(E) ***"Service"*** means the provision of "cable service" or "video service" to subscribers and the interaction of subscribers with the person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to **220 ILCS 5/21-401**.

(F) ***"Service Provider Fee"*** means the amount paid under this Article and **220 ILCS 5/21-801** by the holder to a Village for the service areas within its territorial jurisdiction.

(G) ***"Video Service"*** means video programming and subscriber interaction, if any, that is required for the selection or use of such video programming services, and which is provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including Internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. § 332(d) or any video programming provided solely as part of, and via, service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

8-2-2 CABLE/VIDEO SERVICE PROVIDER FEE IMPOSED.

(A) **Fee Imposed.** A fee is hereby imposed on any holder providing cable service or video service in the Village.

(B) **Amount of Fee.** The amount of the fee imposed hereby shall be **five percent (5%)** of the holder's gross revenues.

(C) **Notice to the Village.** The holder shall notify the Village at least **ten (10) days** prior to the date on which the holder begins to offer cable service or video service in the Village.

(D) **Holder's Liability.** The holder shall be liable for and pay the service provider fee to the Village. The holder's liability for the fee shall commence on the first day of the calendar month following **thirty (30) days** after receipt of the ordinance adopting this Article by the holder. The ordinance adopting this Article shall be sent by mail, postage prepaid, to the address listed on the holder's application notice sent pursuant to **220 ILCS 5/21-401(b)(6)** to the Village.

(E) **Payment Date.** The payment of the service provider fee shall be due on a quarterly basis, **forty-five (45) days** after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.

(F) **Exemption.** The fee hereby imposed does not apply to existing cable service or video service providers that have an existing franchise agreement with the Village in which a fee is paid.

(G) **Credit for Other Payments.** An incumbent cable operator that elects to terminate an existing agreement pursuant to **220 ILCS 5/21-301(c)** with credit to prepaid franchise fees under that agreement may deduct the amount of such credit from the fees that operator owes under Section 116.02(b).

8-2-3 APPLICABLE PRINCIPLES. All determinations and calculations under this Article shall be made pursuant to generally accepted accounting principles.

8-2-4 NO IMPACT ON OTHER TAXES DUE FROM HOLDER. Nothing contained in this Article shall be construed to exempt a holder from any tax that is or may later be imposed by the Village, including any tax that is or may later be required to be paid by or through the holder with respect to cable service or video service. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the Village's simplified municipal telecommunications tax or any other tax as it applies to any telephone service provided by the holder. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the local unit of government's 911 or E911 fees, taxes or charges.

8-2-5 AUDITS OF CABLE/VIDEO SERVICE PROVIDER.

(A) **Audit Requirement.** The Village will notify the holder of the requirements it imposes on other cable service or video service providers to submit to an audit of its books and records. The holder shall comply with the same requirements the Village imposes on other cable service or video service providers in its jurisdiction to audit the holder's books and records and to recomputed any amounts determined to be payable under the requirements of the Village. If all local franchises between the Village and cable operator terminate, the audit requirements shall be those adopted by the Village pursuant to the Local Government Taxpayers' Bill of Rights Act, **50 ILCS 45/1** ***et seq.*** No acceptance of amounts remitted should be construed as an accord that the amounts are correct.

(B) **Additional Payments.** Any additional amount due after an audit shall be paid within **thirty (30) days** after the municipality's submission of an invoice for the sum.

8-2-6 LATE FEES/PAYMENTS. All fees due and payments which are past due shall be governed by ordinances adopted by this municipality pursuant to the Local Government Taxpayers' Bill of Rights Act, **50 ILCS 45/1** ***et seq.***

(220 ILCS 5/21-801)
(Ord. No. 741; 06-17-08)

ARTICLE III – SMALL WIRELESS FACILITIES

8-3-1 PURPOSE AND SCOPE.

(A) **Purpose.** The purpose of this Article is to establish regulations, standards and procedures for the siting and collocation of small wireless facilities on rights-of-way within the Village's jurisdiction, or outside the rights-of-way on property zoned by the Village exclusively for commercial or industrial use, in a manner that is consistent with the Act.

(B) **Conflicts and Other Ordinances.** This Article supersedes all ordinances or parts of ordinances adopted prior to hereto that are in conflict herewith, to the extent of such conflict.

(C) **Conflicts with State and Federal Law.** In the event that applicable federal or state laws or regulations conflict with the requirements of this Article, the wireless provider shall comply with the requirements of this Article to the maximum extent possible without violating federal or state laws or regulations.

8-3-2 DEFINITIONS. For the purposes of this Article, the following terms shall have the following meanings:

Antenna: Communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

Applicable codes: Uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes, including the National Electric Safety Code.

Applicant: Any person who submits an application and is a wireless provider.

Application: A request submitted by an applicant to the Village for a permit to collocate small wireless facilities, and a request that includes the installation of a new utility pole for such collocation, as well as any applicable fee for the review of such application.

Collocate or collocation: To install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole.

Communications service: Cable service, as defined in 47 U.S.C. 522(6), as amended; information service, as defined in 47 U.S.C. 153(24), as amended; telecommunications service, as defined in 47 U.S.C. 153(53), as amended; mobile service, as defined in 47 U.S.C. 153(53) as amended; or wireless service other than mobile service.

Communications service provider: A cable operator, as defined in 47 U.S.C. 522(5), as amended; a provider of information service, as defined in 47 U.S.C. 153(24), as amended; a telecommunications carrier, as defined in 47 U.S.C. 153(51), as amended; or a wireless provider.

FCC: The Federal Communications Commission of the United States.

Fee: A one-time charge.

Historic district or historic landmark: A building, property, or site, or group of buildings, properties, or sites that are either (i) listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the National Register, in accordance with Section VI.D.1.a.i through Section VI.D.1.a.v of the Nationwide Programmatic Agreement codified at 47 CFR Part 1, Appendix C; or (ii) designated as a locally landmarked building, property, site, or historic district by an ordinance adopted by the Village pursuant to a preservation program that meets the requirements of the Certified Local Government Program of the Illinois State Historic Preservation Office or where such certification of the preservation program by the Illinois State Historic Preservation Office is pending.

Law: A federal or state statute, common law, code, rule, regulation, order, or local ordinance or resolution.

Micro wireless facility: A small wireless facility that is not larger in dimension than **twenty-four (24) inches** in length, **fifteen (15) inches** in width, and **twelve (12) inches** in height and that has an exterior antenna, if any, no longer than **eleven (11) inches**.

Municipal utility pole: A utility pole owned or operated by the Village in public rights-of-way.

Permit: A written authorization required by the Village to perform an action or initiate, continue, or complete a project.

Person: An individual, corporation, limited liability company, partnership, association, trust, or other entity or organization.

Public safety agency: The functional division of the federal government, the state, a unit of local government, or a special purpose district located in whole or in part within this State, that provides or has authority to provide firefighting, police, ambulance, medical, or other emergency services to respond to and manage emergency incidents.

Rate: A recurring charge.

Right-of-way: The area on, below, or above a public roadway, highway, street, public sidewalk, alley, or utility easement dedicated for compatible use. Right-of-way does not include Village-owned aerial lines.

Small wireless facility: A wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than **six (6) cubic feet** in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than **six (6) cubic feet**; and (ii) all other wireless equipment attached directly to a utility pole associated with the facility is cumulatively no more than **twenty-five (25) cubic feet** in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

Utility pole: A pole or similar structure that is used in whole or in part by a communications service provider or for electric distribution, lighting, traffic control, or a similar function.

Wireless facility: Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (1) equipment associated with wireless communications; and (ii) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Wireless facility includes small wireless facilities. Wireless facility does not include: (i) the structure or improvements on, under, or within which the equipment is collocated; or (ii) wireline backhaul facilities, coaxial or fiber optic cable that is between wireless support structures or utility poles or coaxial, or fiber optic cable that is otherwise not immediately adjacent to or directly associated with an antenna.

Wireless infrastructure provider: Any person authorized to provide telecommunications service in the State that builds or installs wireless communication transmission equipment, wireless facilities, wireless support structures, or utility poles and that is not a wireless services provider but is acting as an agent or a contractor for a wireless services provider for the application submitted to the Village.

Wireless provider: A wireless infrastructure provider or a wireless services provider.

Wireless services: Any services provided to the general public, including a particular class of customers, and made available on a nondiscriminatory basis using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided using wireless facilities.

Wireless services provider: A person who provides wireless services.

Wireless support structure: A freestanding structure, such as a monopole; tower, either guyed or self-supporting; billboard; or other existing or proposed structure designed to support or capable of supporting wireless facilities. Wireless support structure does not include a utility pole.

8-3-3 REGULATION OF SMALL WIRELESS FACILITIES.

(A) **Permitted Use.** Small wireless facilities shall be classified as permitted uses and subject to administrative review, except as provided in **Section 8-3-3(C)(9)** regarding Height Exceptions or Variances, but not subject to zoning review or approval if they are collocated (i) in rights-of-way in any zoning district, or (ii) outside rights-of-way in property zoned exclusively for commercial or industrial use.

(B) **Permit Required.** An applicant shall obtain one or more permits from the Village to collocate a small wireless facility. An application shall be received and processed, and permits issued shall be subject to the following conditions and requirements:

(1) **Application Requirements.** A wireless provider shall provide the following information to the Village, together with the Village's Small Cell Facilities Permit Application, as a condition of any permit application to collocate small wireless facilities on a utility pole or wireless support structure:

(a) Site specific structural integrity and, for a municipal utility pole, make-ready analysis prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989;

(b) The location where each proposed small wireless facility or utility pole would be installed and photographs of the location and its immediate surroundings depicting the utility poles or structures on which each proposed small wireless facility would be mounted or location where utility poles or structures would be installed. This should include a depiction of the completed facility;

(c) Specifications and drawings prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989, for each proposed small wireless facility covered by the application as it is proposed to be installed;

(d) The equipment type and model numbers for the antennas and all other wireless equipment associated with the small wireless facility;

(e) A proposed schedule for the installation and completion of each small wireless facility covered by the application, if approved; and

(f) Certification that the collocation complies with the Collocation Requirements and Conditions contained herein, to the best of the applicant's knowledge.

(g) In the event that the proposed small wireless facility is to be attached to an existing pole owned by an entity other than the Village, the wireless provider shall provide legally competent evidence of the consent of the owner of such pole to the proposed collocation.

(2) **Application Process.** The Village shall process applications as follows:

(a) The first completed application shall have priority over applications received by different applicants for collocation on the same utility pole or wireless support structure.

(b) An application to collocate a small wireless facility on an existing utility pole or wireless support structure, or replacement of an existing utility pole or wireless support structure shall be processed on a nondiscriminatory basis and shall be deemed approved if the Village fails to approve or deny the application within **ninety (90) days** after the submission of a completed application.

However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify the Village in writing of its intention to invoke the deemed approved remedy no sooner than **seventy-five (75) days** after the submission of a completed application.

The permit shall be deemed approved on the latter of the **ninetieth (90th) day** after submission of the complete application or the **tenth (10th) day** after the receipt of the deemed approved notice by the Village. The receipt of the

deemed approved notice shall not preclude the Village's denial of

the permit request within the time limits as provided under this Article.

(c) An application to collocate a small wireless facility that includes the installation of a new utility pole shall be processed on a nondiscriminatory basis and deemed approved if the Village fails to approve or deny the application within **one hundred twenty (120) days** after the submission of a completed application.

However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify the Village in writing of its intention to invoke the deemed approved remedy no sooner than **one hundred five (105) days** after the submission of a completed application.

The permit shall be deemed approved on the latter of the **one hundred twentieth (120th) day** after submission of the complete application or the **tenth (10th) day** after the receipt of the deemed approved notice by the Village. The receipt of the deemed approved notice shall not preclude the Village's denial of the permit request within the time limits as provided under this Article.

(d) The Village shall deny an application which does not meet the requirements of this Article.

If the Village determines that applicable codes, ordinances or regulations that concern public safety, or the Collocation Requirements and Conditions contained herein require that the utility pole or wireless support structure be replaced before the requested collocation, approval shall be conditioned on the replacement of the utility pole or wireless support structure at the cost of the provider.

The Village shall document the basis for a denial, including the specific code provisions or application conditions on which the denial is based, and send the documentation to the applicant on or before the day the Village denies an application.

The applicant may cure the deficiencies identified by the Village and resubmit the revised application once within **thirty (30) days** after notice of denial is sent to the applicant without paying an additional application fee. The Village shall approve or deny the revised application within **thirty (30) days** after the applicant resubmits the application or it is deemed approved. Failure to resubmit the revised application within **thirty (30) days** of denial shall require the application to submit a new application with applicable fees, and recommencement of the Village's review period.

The applicant must notify the Village in writing of its intention to proceed with the permitted activity on a deemed approved basis, which may be submitted with the revised application.

Any review of a revised application shall be limited to the deficiencies cited in the denial. However, this revised application does not apply if the cure requires the review of a new location, new or different structure to be collocated upon, new antennas, or other wireless equipment associated with the small wireless facility.

(e) **Pole Attachment Agreement.** Within **thirty (30) days** after an approved permit to collocate a small wireless facility on a municipal utility pole, the Village and the applicant shall enter

into a Master Pole Attachment Agreement, provided by the Village for the initial collocation on a municipal utility pole by the application. For subsequent approved permits to collocate on a small wireless facility on a municipal utility pole, the Village and the applicant shall enter into a License Supplement of the Master Pole Attachment Agreement.

(3) **Completeness of Application.** Within **thirty (30) days** after receiving an application, the Village shall determine whether the application is complete and notify the applicant. If an application is incomplete, the Village must specifically identify the missing information. An application shall be deemed complete if the Village fails to provide notification to the applicant within **thirty (30) days** after all documents, information and fees specifically enumerated in the Village's permit application form are submitted by the applicant to the Village.

Processing deadlines are tolled from the time the Village sends the notice of incompleteness to the time the applicant provides the missing information.

(4) **Tolling.** The time period for applications may be further tolled by:

(a) An express written agreement by both the applicant and the Village; or

(b) A local, State or federal disaster declaration or similar emergency that causes the delay.

(5) **Consolidated Applications.** An applicant seeking to collocate small wireless facilities within the jurisdiction of the Village shall be allowed, at the applicant's discretion, to file a consolidated application and receive a single permit for the collocation of up to **twenty-five (25)** small wireless facilities if the collocations each involve substantially the same type of small wireless facility and substantially the same type of structure.

If an application includes multiple small wireless facilities, the Village may remove small wireless facility collocations from the application and treat separately small wireless facility collocations for which incomplete information has been provided or that do not qualify for consolidated treatment or that are denied. The Village may issue separate permits for each collocation that is approved in a consolidated application.

(6) **Duration of Permits.** The duration of a permit shall be for a period of not less than **five (5) years**, and the permit shall be renewed for equivalent durations unless the Village makes a finding that the small wireless facilities or the new or modified utility pole do not comply with the applicable Village codes or any provision, condition or requirement contained in this Article.

If the Act is repealed as provided in Section 90 therein, renewals of permits shall be subject to the applicable Village code provisions or regulations in effect at the time of renewal.

(7) **Means of Submitting Applications.** Applicants shall submit applications, supporting information and notices to the Village by personal delivery at the Village's designated place of business, by regular mail postmarked on the date due or by any other commonly used means, including electronic mail.

(C) **Collocation Requirements and Conditions.**

(1) **Public Safety Space Reservation.** The Village may reserve space on municipal utility poles for future public safety uses, for the Village's electric utility uses, or both, but a reservation of space may not preclude the collocation of a small wireless facility unless the Village reasonably

determines that the municipal utility pole cannot accommodate both uses.

(2) **Installation and Maintenance.** The wireless provider shall install, maintain, repair and modify its small wireless facilities in safe condition and good repair and in compliance with the requirements and conditions of this Article. The wireless provider shall ensure that its employees, agents or contracts that perform work in connection with its small wireless facilities are adequately trained and skilled in accordance with all applicable industry and governmental standards and regulations.

(3) **No Interference with Public Safety Communication Frequencies.**
The wireless provider's operation of the small wireless facilities shall not interfere with the frequencies used by a public safety agency for public safety communications.
A wireless provider shall install small wireless facilities of the type and frequency that will not cause unacceptable interference with a public safety agency's communications equipment.
Unacceptable interference will be determined by and measured in accordance with industry standards and the FCC's regulations addressing unacceptable interference to public safety spectrum or any other spectrum licensed by a public safety agency.
If a small wireless facility causes such interference, and the wireless provider has been given written notice of the interference by the public safety agency, the wireless provider, at its own expense, shall remedy the interference in a manner consistent with the abatement and resolution procedures for interference with public safety spectrum established by the FCC including 47 CFR 22.970 through 47 CFR 22.973 and 47 CFR 90.672 through 47 CFR 90.675.
The Village may terminate a permit for a small wireless facility based on such interference if the wireless provider is not in compliance with the Code of Federal Regulations cited in the previous paragraph. Failure to remedy the interference as required herein shall constitute a public nuisance.

(4) The wireless provider shall not collocate small wireless facilities on Village utility poles that are part of an electric distribution or transmission system within the communication worker safety zone of the pole or the electric supply zone of the pole.
However, the antenna and support equipment of the small wireless facility may be located in the communications space on the Village utility pole and on the top of the pole, if not otherwise unavailable, if the wireless provider complies with applicable codes for work involving the top of the pole.
For purposes of this subparagraph, the terms "communications space", "communication worker safety zone", and "electric supply zone" have the meanings given to those terms in the National Electric Safety Code as published by the Institute of Electrical and Electronics Engineers.

(5) The wireless provider shall comply with all applicable codes and local code provisions or regulations that concern public safety.

(6) The wireless provider shall comply with written design standards that are generally applicable for decorative utility poles, or reasonable stealth, concealment and aesthetic requirements that are set forth in a Village ordinance, written policy adopted by the Village, a comprehensive plan or other written design plan that applies to other occupiers of the rights-of-way, including on a historic landmark or in a historic district.

(7) **Alternate Placements.** Except as provided in this Collocation Requirements and Conditions Section, a wireless provider shall not be required to collocation small wireless facilities on any specific utility pole,

or category of utility poles, or be required to collocate multiple antenna systems on a single utility pole. However, with respect to an application for the collocation of a small wireless facility associated with a new utility pole, the Village may propose that the small wireless facility be collocated on an existing utility pole or existing wireless support structure within **one hundred (100) feet** of the proposed collocation, which the applicant shall accept if it has the right to use the alternate structure on reasonable terms and conditions, and the alternate location and structure does not impose technical limits or additional material costs as determined by the applicant.

If the applicant refuses a collocation proposed by the Village, the applicant shall provide written certification describing the property rights, technical limits or material cost reasons the alternate location does not satisfy the criteria in this paragraph.

(8) **Height Limitations.** The maximum height of a small wireless facility shall be no more than **ten (10) feet** above the utility pole or wireless support structure on which the small wireless facility is collocated.

New or replacement utility poles or wireless support structures on which small wireless facilities are collocated may not exceed the higher of:

(a) **ten (10) feet** in height above the tallest existing utility pole, other than a utility pole supporting only wireless facilities, that is in place on the date the application is submitted to the Village, that is located within **three hundred (300) feet** of the new or replacement utility pole or wireless support structure and that is in the same right-of-way within the jurisdictional boundary of the Village, provided the Village may designate which intersecting right-of-way within **three hundred (300) feet** of the proposed utility pole or wireless support structures shall control the height limitation for such facility; or

(b) **forty-five (45) feet** above ground level.

(9) **Height Exceptions or Variances.** If an applicant proposes a height for a new or replacement pole in excess of the above height limitations on which the small wireless facility is proposed for collocation, the applicant shall apply for a variance in conformance with procedures, terms and conditions as shall be established by the Board of Trustees.

(10) **Contractual Design Requirements.** The wireless provider shall comply with requirements that are imposed by a contract between the Village and a private property owner that concern design or construction standards applicable to utility poles and ground-mounted equipment located in the right-of-way.

(11) **Ground-mounted Equipment Spacing.** The wireless provider shall comply with applicable spacing requirements in applicable codes and ordinances concerning the location of ground-mounted equipment located in the right-of-way if the requirements include a waiver, zoning or other process that addresses wireless provider requests for exception or variance and do not prohibit granting of such exceptions or variances.

(12) **Undergrounding Regulations.** The wireless provider shall comply with local code provisions or regulations concerning undergrounding requirements that prohibit the installation of new or the modification of existing utility poles in a right-of-way without prior approval if the requirements include a waiver, zoning or other process that addresses requests to install such new utility poles or modify such existing utility poles and do not prohibit the replacement of utility poles.

(13) **Collocation Completion Deadline.** Collocation for which a permit is granted shall be completed within **one hundred eighty (180) days** after issuance of the permit, unless the Village and the wireless provider agree to extend this period or a delay is caused by make-ready work for a municipal utility pole or by the lack of commercial power or backhaul availability at the site, provided the wireless provider has made a timely request within **sixty (60) days** after the issuance of the permit for commercial power or backhaul services, and the additional time to complete installation does not exceed **three hundred sixty (360) days** after issuance of the permit. Otherwise, the permit shall be void unless the Village grants an extension in writing to the applicant.

(D) **Application Fees.** Application fees are imposed as follows:

(1) Applicant shall pay an application fee of **Six Hundred Fifty Dollars ($650.00)** for an application to collocate a single small wireless facility on an existing utility pole or wireless support structure, and **Three Hundred Fifty Dollars ($350.00)** for each small wireless facility addressed in a consolidated application to collocate more than one small wireless facility on existing utility poles or wireless support structures.

(2) Applicant shall pay an application fee of **One Thousand Dollars ($1,000.00)** for each small wireless facility addressed in an application that includes the installation of a new utility pole for such collocation.

(3) Notwithstanding any contrary provision of State law or local ordinance, applications pursuant to this Section shall be accompanied by the required application fee. Application fees shall be non-refundable.

(4) The Village shall not require an application, approval or permit, or require any fees or other charges, from a communications service provider authorized to occupy the rights-of-way, any fees or other charges, from a communications service provider authorized to occupy the rights-of-way, for:

(a) routine maintenance;

(b) the replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller if the wireless provider notifies the Village at least **ten (10) days** prior to the planned replacement and includes equipment specifications for the replacement of equipment consistent with (d) under the Section titled Application Requirements; or

(c) the installation, placement, maintenance, operation or replacement of micro wireless facilities suspended on cables that are string between existing utility poles in compliance with applicable safety codes.

(5) Wireless providers shall secure a permit from the Village to work within rights-of-way for activities that affect traffic patterns or require lane closures.

(E) **Exceptions to Applicability.** Nothing in this Article authorizes a person to collocate small wireless facilities on:

(1) property owned by a private party or property owned or controlled by the Village or another unit of local government that is not located within rights-of-way, or a privately owned utility pole or wireless support structure without the consent of the property owner;

(2) property owned, leased, or controlled by a part district, forest preserve district, or conservation district for public park, recreation or conservation purposes without the consent of the affected district, excluding the placement of facilities on rights-of-way located in an

affected district that are under the jurisdiction and control of a different unit of local government as provided by the Illinois Highway Code; or

(3) property owned by a rail carrier registered under Section 18c-7201 of the Illinois Vehicle Code, Metra Commuter Rail or any other public commuter rail service, or an electric utility as defined in Section 16-102 of the Public Utilities Act, without the consent of the rail carrier, public commuter rail service, or electric utility. The provisions of this Article do not apply to an electric or gas public utility or such utility's wireless facilities if the facilities are being used, developed and maintained consistent with the provisions of subsection (i) of Section 16-108.5 of the Public Utilities Act.

For the purposes of this subsection, "public utility" has the meaning given to that term in Section 3-105 of the Public Utilities Act. Nothing in this Article shall be construed to relieve any person from any requirement (a) to obtain a franchise or a State-issued authorization to offer cable service or video service or (b) to obtain any required permission to install, place, maintain, or operate communications facilities, other than small wireless facilities subject to this Article.

(F) **Pre-Existing Agreements.** Existing agreements between the Village and wireless providers that relate to the collection of small wireless facilities in the right-of-way, including the collocation of small wireless facilities on Village utility poles, that are in effect on **June 1, 2018**, remain in effect for all small wireless facilities collocated on the Village's utility poles pursuant to applications submitted to the Village before **June 1, 2018**, subject to applicable termination provisions contained therein. Agreements entered into after **June 1, 2018**, shall comply with this Article.

A wireless provider that has an existing agreement with the village on the effective date of the Act may accept the rates, fees and terms that the Village makes available under this Article for the collocation of small wireless facilities or the installation of new utility poles for the collocation of small wireless facilities that are the subject to an application submitted **two (2) or more years** after the effective date of the Act by notifying the Village that it opts to accept such rates, fees and terms. The existing agreement remains in effect, subject to applicable termination provisions, for the small wireless facilities the wireless provider has collocated on the Village's utility poles pursuant to applications submitted to the Village before the wireless provider provides such notice and exercises its option under this paragraph.

(G) **Annual Recurring Rate.** A wireless provider shall pay to the Village an annual recurring rate to collocate a small wireless facility on a Village utility pole located in a right-of-way that equals (i) **Two Hundred Dollars ($200.00)** per year or (ii) the actual, direct and reasonable costs related to the wireless provider's use of space on the Village utility pole.

If the Village has not billed the wireless provider actual and direct costs, the fee shall be **Two Hundred Dollars ($200.00)** payable on the first day after the first annual anniversary of the issuance of the permit or notice of intent to collocate, and on each annual anniversary date thereafter.

(H) **Abandonment.** A small wireless facility that is not operated for a continuous period of **twelve (12) months** shall be considered abandoned. The owner of the facility shall remove the small wireless facility within **ninety (90) days** after receipt of written notice from the Village notifying the wireless provider of the abandonment.

The notice shall be sent by certified or registered mail, return receipt requested, by the Village to the owner at the last known address of the wireless provider. If the small wireless facility is not removed within **ninety (90) days** of such notice, the Village may remove or cause the removal of such facility pursuant to the terms of its pole attachment agreement for municipal utility poles or through whatever actions are provided for abatement of nuisances or by other law for removal and cost recovery.

A wireless provider shall provide written notice to the Village if it sells or transfers small wireless facilities within the jurisdiction of the Village. Such notice shall include the name and contact information of the new wireless provider.

8-3-4 DISPUTE RESOLUTION. The Circuit Court of Crawford County, Illinois shall have exclusive jurisdiction to resolve all disputes arising under the Small Wireless Facilities Deployment Act. Pending resolution of a dispute concerning rates for collocation of small wireless facilities on municipal utility poles within the right-of-way, the Village shall allow the collocating person to collocate on its poles at annual rates of no more than **Two Hundred Dollars ($200.00)** per year per municipal utility pole, with rates to be determined upon final resolution of the dispute.

8-3-5 INDEMNIFICATION. A wireless provider shall indemnify and hold the Village harmless against any and all liability or loss from personal injury or property damage resulting from or arising out of, in whole or in part, the use or occupancy of the Village improvements or right-of-way associated with such improvements by the wireless provider or its employees, agents, or contractors arising out of the rights and privileges granted under this Article and the Act. A wireless provider has no obligation to indemnify or hold harmless against any liabilities and losses as may be due to or caused by the sole negligence of the Village or its employees or agents. A wireless provider shall further waive any claims that they may have against the Village with respect to consequential, incidental, or special damages, however caused, based on the theory of liability.

8-3-6 INSURANCE. The wireless provider shall carry, at the wireless provider's own cost and expense, the following insurance:

(A) property insurance for its property's replacement cost against all risks;

(B) workers' compensation insurance, as required by law; or

(C) commercial general liability insurance with respect to its activities on the Village improvements or rights-of-way to afford minimum protection limits consistent with its requirements of other users of Village improvements or rights-of-way, including coverage for bodily injury and property damage.

The wireless provider shall include the Village as an additional insured on the commercial general liability policy and provide certification and documentation of inclusion of the Village in a commercial general liability policy prior to the collocation of any wireless facility.

A wireless provider may self-insure all or a portion of the insurance coverage and limit requirement required by the Village. A wireless provider that self-insures is not required, to the extent of the self-insurance, to comply with the requirement for the name of additional insureds under this Section. A wireless provider that elects to self-insure shall provide to the Village evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage limits required by the Village.

8-3-7 SEVERABILITY. If any provision of this Article or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Article that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Article is severable.

(Ord. No. 918)

[This Article was relocated from Chapter 40.]

CHAPTER 9 – CEMETERY

ARTICLE		*TITLE*	*PAGE*
I	*GENERAL REGULATIONS*		
	Section 9-1-1 -	*Generally*	*9-1*
	Section 9-1-2 -	*Monument Permits*	*9-1*
	Section 9-1-3 -	*Monument Regulations*	*9-1*
	Section 9-1-4 -	*Veteran's Markers*	*9-1*
	Section 9-1-5 -	*Multiple Burials in One Lot*	*9-1*
	Section 9-1-6 -	*Transfer of Lots*	*9-2*
	Section 9-1-7 -	*Damaged Monuments*	*9-2*
	Section 9-1-8 -	*Level Gravesites*	*9-2*
	Section 9-1-9 -	*Planting Prohibited*	*9-2*
	Section 9-1-10 -	*Removal of Decorations*	*9-2*
	Section 9-1-11 -	*Vaults Required*	*9-2*
	Section 9-1-12 -	*Grave Fees*	*9-2*
	Section 9-1-13 -	*Grave Openings; Fees*	*9-3*
	Section 9-1-14 -	*Division of Lot After Interment*	*9-3*
	Section 9-1-15 -	*Maintenance*	*9-3*
	Section 9-1-16 -	*Trash and Garbage*	*9-3*

CHAPTER 9

CEMETERY CODE

ARTICLE I – GENERAL REGULATIONS

9-1-1 GENERALLY. The following rules and regulations shall apply in the Village Cemetery:

(A) The Cemetery is divided into **five (5) sections**. The rules and regulations are the same for each section except when otherwise noted.

(B) These rules and regulations are subject to change at the discretion of the Village Board without notice. All burial permits issued are subject to all future rules and regulations hereafter issued.

(C) No burials will be permitted without a "Burial Permit". All "Burial Permits" will be reviewed, executed, and issued by the Village Clerk or other individuals designated and empowered to do so by the Board of Trustees.

(D) No burial will be permitted unless it conforms to all rules, regulations and ordinances promulgated for the use, occupancy and development of said cemetery.

(E) Graves shall be used for the burial of human remains only.

(F) Any grave site containing a burial vault and one or more cremation urns shall have an approved Burial Monument. There shall be no more than **one (1)** monument (headstone) placed per grave site. In the case of multiple burials at any one grave site all burials must be identified with an approved monument. *i.e. Small stones or plaques placed at ground level to identify the burial sites while not impeding the normal care of the Cemetery.* **(Ord. No. 853; 09-16-14)**

9-1-2 MONUMENT PERMITS. All requests for the installation of any monument shall be in writing and submitted to the Village Clerk or other individuals designated or empowered by the Board of Trustees to receive same. No monuments shall be installed without a permit issued by said individual. A permit shall not be issued unless the request for installation is in conformity with all rules and regulations set forth in this Chapter.

9-1-3 MONUMENT REGULATIONS. Only single and double sized monuments shall be permitted in any section of the cemetery. All single and double monuments in **Section 9-1-1** shall be of granite or similar stone only and be set on a concrete foundation to firm or undisturbed soil not less than **two (2)** to **six (6) feet** deep. The total soil being load shall not exceed **one thousand (1,000) pounds** per square foot calculated using the total weight of the monument and foundation. Foundations shall be poured using 1:2:4 or 1:3:5 mix concrete. The concrete border shall be at grade level or natural grade. The finished border shall be flush with the west grave line. Monuments shall not exceed over or beyond the dimensions of its foundation. Monuments shall not extend or be elevated more than **two and one-half (2 1/2) feet** higher than its foundation.

9-1-4 VETERAN'S MARKERS. Bronze markers shall be accepted for Veterans only when approved by the Village Clerk or other individuals designated or empowered to do so by the Board of Trustees. Artificial stones or monuments shall not be permitted.

9-1-5 MULTIPLE BURIALS IN ONE LOT. Multiple burials of adults in a single grave vault shall not be permitted. **Two (2) children** may be buried in a single grave if space permits. **Two (2)** cremations may be buried in a single grave site containing **one (1)** burial vault as long as cremated remains are placed in an approved impervious urn, vault of other approved impervious container. *i.e.*

Ceramic and marble urns must be placed in an impervious vault or container. An amputation shall be buried **fifty (50) inches** deep, the same depth as a vault. The amputee shall be buried with the amputation(s) in a single grave. **(Ord. No. 853; 09-16-14)**

9-1-6 TRANSFER OF LOTS. The transfer of lots or graves from one person to another shall not be permitted without written approval of the Village Clerk or other individuals designated or empowered by the Board of Trustees.

9-1-7 DAMAGED MONUMENTS. Any monument which has been damaged by any means, is in an unsafe condition, in a state of disrepair, or poses a danger to visitors, village employees, or others, may be removed by the Village without written notification to the lot holder or heirs. The Village disclaims any responsibility for loss or damage not caused by any acts from the acts of thieves, vandals, rioters, or mischief-makers, and from all acts of providence, including but not limited to wind, tornadoes, cyclones, hail, snow, frost, or any act of God.

9-1-8 LEVEL GRAVESITES. All graves shall be kept level for ease of maintenance.

9-1-9 PLANTING PROHIBITED. No planting of shrubbery, flowers or trees shall be permitted.

9-1-10 REMOVAL OF DECORATIONS. Decorations shall be removed on the **second (2nd) Monday through Thursday** of **March**, **June** and **October**. Temporary grave markers that are placed on the grave at the time of the funeral will be removed by the caretaker when no longer legible. Glass containers and tin cans are not permitted at any time. Receptacles for cut flowers shall be sunk level with the grounds, thus insuring the safety of such articles and facilitating the cutting of grass from graves. Enclosures of any kind or nature around lots or graves are prohibited. Funeral designs and floral pieces placed upon a grave after burial shall be removed by the Village as soon as they become unsightly.

9-1-11 VAULTS REQUIRED. The use of vaults shall be required for any burial. Vaults shall be Wilbur or equal to. Grave openings shall be **fifty (50) inches** deep. Cremations shall be **twenty-four (24) inches** deep from the top of the urn container. When a grave site contains a burial vault with **two (2)** approved cremation urns, the first urn shall be buried at the head of the grave with the second being a minimum of **thirty-six (36) inches** away towards the foot of the grave site. **(Ord. No. 853; 09-16-14)**

9-1-12 GRAVE FEES. The Village shall charge the sum of **Four Hundred Dollars ($400.00)** per grave for any grave located in the cemetery. **Thirty-Five Dollars ($35.00)** of that fee shall be placed in a Cemetery Improvement Fund, the interest and principal of which contained therein may be utilized for capital improvement, and the remaining **Three Hundred Sixty-Five Dollars ($365.00)** shall be placed in the Cemetery Fund, the interest and principal of which contained therein may be utilized by the Village for the maintenance of the lot, graves, monuments, markers, to cut and trim the lawn, shrubs and trees, keep and repair the drains, water lines, roads, buildings, fences and other structures in keeping with a well maintained cemetery, also for overhead expenses necessary for such purposes, including maintenance of machinery, tools, equipment for such care, compensation of

employees, payment of insurance premiums and cost of maintaining necessary records of lot ownership, and transfers and burials. These fees are effective beginning **January 1, 2011**. **(Ord. No. 788; 10-05-10)**

9-1-13 GRAVE OPENINGS: FEES. Grave openings shall be **Three Hundred Eighty-Five Dollars ($385.00),** except that on holidays, Saturdays and Sundays, it shall be **Four Hundred Twenty-Five Dollars ($425.00).** Grave openings for cremation or amputation(s) and urns shall be **One Hundred Seventy-Five Dollars ($175.00)** except that on Holidays, Saturdays and Sundays, it shall be **Two Hundred Dollars ($200.00)**. **(Ord. No. 788; 10-05-10)**

The grave opener shall be paid **Two Hundred Seventy Dollars ($270.00)** on weekdays and **Three Hundred Dollars ($300.00)** on Holidays, Saturdays and Sundays for graves. The grave opener shall receive **One Hundred Dollars ($100.00)** for cremation, amputation(s) and urns on weekdays. The grave opener will receive **One Hundred Twenty-Five Dollars ($125.00)** for cremation, amputation(s), and urns on Holidays, Saturdays and Sundays. **(Ord. No. 788; 10-05-10)**

9-1-14 DIVISION OF LOT AFTER INTERMENT. After an interment shall have been made in any lot, such lot is not subject to execution or any process of law and owners cannot divide, sell or transfer such lot or any part thereof without consent of the Village Board of Trustees. Any such attempted division, sale, or transfer without the consent of the Village Board of Trustees, is a breach of the rules and regulations governing the operation, maintenance and upkeep of the cemetery and will preclude the use of said lot thereafter for any purpose whatsoever by the owner. After any initial interment no further interment shall be permitted on any lot against which there are unpaid charges of any kind whatsoever.

9-1-15 MAINTENANCE. The Superintendent of Public Works or other individuals, empowered by the Village to manage or maintain the Cemetery. He may prohibit any trucks or hauling which may damage or cause injury to the driveways, lots, or lawn located anywhere in the Cemetery.

9-1-16 TRASH AND GARBAGE. Depositing or leaving rubbish or garbage of any kind or nature upon the lots, graves, walks, or drives is strictly prohibited.

(Unless Otherwise Noted, Ord. No. 464; 08-02-94)

CHAPTER 12 – EMPLOYEES

ARTICLE		*TITLE*	*PAGE*
I	*GENERAL REGULATIONS*		
	Section 12-1-1 -	*Definitions*	*12-1*
	Section 12-1-2 -	*Hire of Employees*	*12-1*
	Section 12-1-3 -	*Discharge or Suspension of Employees*	*12-2*
	Section 12-1-4 -	*Mayor*	*12-5*
	Section 12-1-5 -	*Vacations*	*12-5*
	Section 12-1-6 -	*Paid Time Off (PTO) Days (Formerly Sick Days)*	*12-5*
	Section 12-1-7 -	*Holidays*	*12-5*
	Section 12-1-8 -	*Full and Part-Time Employees*	*12-6*
	Section 12-1-9 -	*Funeral Leave*	*12-6*
	Section 12-1-10 -	*Jury Duty*	*12-7*
	Section 12-1-11 -	*Uniforms Provided*	*12-7*
	Section 12-1-12 -	*Disability Pay*	*12-7*
	Section 12-1-13 -	*On-Call Compensation/Public Works Department*	*12-7*
II	*CATASTROPHIC INJURY*		
	Section 12-2-1 -	*Purpose*	*12-9*
	Section 12-2-2 -	*Definitions*	*12-9*
	Section 12-2-3 -	*Application Procedure*	*12-9*
	Section 12-2-4 -	*Administrative Composition*	*12-10*
	Section 12-2-5 -	*Administrative Hearing*	*12-11*

CHAPTER 12

EMPLOYEES

ARTICLE I – GENERAL REGULATIONS

12-1-1 DEFINITIONS.

(A) **"Employer" or "Village"** means the Village of Smithton, St. Clair County, State of Illinois.

(B) **"Employee"** means any individual employed by the Village, but shall not include any elected officials, appointed members of any board or commission, and officers or other persons who by lawful authority hold their position by appointment as specified by some other provision of this Revised Code of Ordinances by State Law.

(C) **"Superior" or "Supervisor"** means any individual who has authority to assign others and direct work.

(D) **"Part-Time Employee"** means any individual employed by the Village who receives compensation for less than **one thousand (1,000) hours** of work performed in any calendar year. Any and all said part-time employees shall not receive nor are they entitled to, nor are they eligible for any of the benefits, rights or protections granted to full-time employees. Said part-time employees may be discharged by the Board of Trustees at any time without reason or just cause. All part-time employees shall be hired pursuant to the terms and provisions of **Section 12-1-2(A)-(K)**. **(Ord. No. 715; 01-16-07)**

12-1-2 HIRE OF EMPLOYEES.

(A) All individuals seeking to become full or part-time employees of the Village shall first submit an application to the Village Clerk on forms furnished by the Village.

(B) As a condition of employment, each individual submitting an application shall answer any and all questions in full that all said answers shall be truthful, that said individual shall also furnish any and all information requested of him or her by the Village, that said individual shall also execute any and all authorizations for release of any and all information which is requested in the discretion of the Village, that said application for employment and any and all authorizations for release of information shall be executed by the applicant under oath.

(C) The application for employment and reply to all authorizations requested shall be distributed by the Village Clerk to the Mayor and members of the Board of Trustees for their examination and review.

(D) In its discretion, the Board of Trustees may request the applicant to appear at any regular or special meeting for a personal interview, said applicant shall orally answer any and all questions propounded and shall submit any additional documentation requested. If the applicant fails to appear at the appointed time and place, or in the determination of the Board of Trustees, refuses to answer all questions in full, refuses to answer all questions truthfully, or refuses to produce documentation or information requested, then his application shall be rejected.

(E) The Village Board may vote at any regular or special meeting on all applications submitted.

(F) Each individual applying for a full-time position that receives a majority vote shall become a temporary employee of the Village for a period of **one hundred eighty (180) days** on a trial basis. At any time during the **one hundred eighty (180) day** period, said temporary full-time employee may be discharged by the Village without reason or just cause by action of the Board of Trustees, with the exception of an individual hired as a part-time employee, at the end of the **one hundred eighty (180) day** trial period, if the Board of Trustees have taken no further action, said individual shall become a full-time employee of the Village. Part-time employees shall serve for a period of time to be determined at the discretion of the Board of Trustees and may be discharged by the Board of Trustees at any time without reason or just cause.

(G) Nothing herein contained shall prevent the Mayor of the Village, in cases of emergency from selecting individuals for temporary employment for a period not to exceed **thirty (30) days**, provided that said selected individual shall have first submitted an application for employment with the Village. After said **thirty (30) day** period has expired, said temporary employment may continue only with consent of the Board of Trustees. **(Ord. No. 525; 05-27-97)**

(H) All said employees, whether part-time, full-time or hired on a temporary emergency basis only, shall be at least **sixteen (16) years** of age. **(Ord. No. 712; 01-16-07)**

(I) All full-time and part-time employees shall reside within **fifteen (15) miles** of the Smithton Village Hall, that all said full-time and part-time employees shall establish said residency within **six (6) months** from the date that said employee initiated employment, that each said full-time and part-time employee shall provide any and all proof of residency requested by the Mayor, that each said employee shall maintain residency within said distance throughout the entire time he or she are employed by the Village. Any change in residency shall be reported to the Mayor within **fourteen (14) days** after the effective date of said change. Any employee who resides outside the geographic boundaries of the Village is prohibited from and shall not transport, drive or take a Village owned or possessed vehicle to their residence. The Village Engineer is exempt from any residency requirements established herein. **(Ord. No. 871; 03-01-16)**

(J) Any request for extension of time to comply with the residency requirement specified in (I) shall be in writing, served upon the Village Clerk and clearly state the justification or reasons in support thereof. Any request for extension may be denied or granted for a specific period at the sole discretion of the Board of Trustees. All requests for extension shall relate back to the date of his or her initial employment. **(Ord. No. 080; 09-06-11)**

(K) The failure of any person to comply with the residency requirement as herein set forth in (I) or within the time period specified in any extension as granted under (J) shall result in his or her termination from employment. **(Ord. No. 808; 09-06-11)**

12-1-3 DISCHARGE OR SUSPENSION OF EMPLOYEES.

(A) Unless otherwise specified herein, an employee of the Village shall be subject to disciplinary action as specified hereinafter, if one or more of the following grounds has occurred:

(1) When an employee has violated any municipal, state of federal ordinance or law;
(2) When an employee has failed or refused to perform any duty or work to which he has been assigned;
(3) When any employee has failed or refused to obey an order from a superior, department head, supervisor or other person who has authority to assign and direct his work;
(4) When any employee has willfully mistreated any person;
(5) When any employee has knowingly made a false official report concerning any matter to a superior, supervisor, Mayor or any member of the Board of Trustees.
(6) When any employee has been insubordinate to or shown disrespect for a supervisor, superior or other person who has authority to assign and direct his work;
(7) When any employee has engaged in any conduct unbecoming to the Village or tends to reflect discredit upon the Village;
(8) When any employee is absent from work without leave or appropriate permission.
(9) When any employee destroys or damages any property of the Village or fails to report damage promptly to a supervisor or superior.
(10) When any employee uses property of the Village without authority.
(11) When any employee drinks any kind of intoxicating liquor while on duty.
(12) When any employee uses any illegal drug or narcotic.

(13) When any employee disseminates or releases any information concerning Village affairs except when properly authorized to do so.

(14) When any employee uses a Village vehicle without the knowledge or permission of a superior or supervisor or other person who has the authority to assign and direct his work.

(15) When any employee curses or uses obscene language while on duty.

(16) When any employee has engaged in or conducts personal business while on duty.

(17) When any employee has brought discredit or embarrassment upon oneself for the Village.

(18) When in the opinion of the Corporate Authorities that the best interests of the Village requires removal.

(19) Does any other act or omission contrary to the good order and discipline of the Village of Smithton, or any other conduct prejudicial to the Village of Smithton.

(20) When any employee is physically incapable of performing any duty or work to which he has been assigned.

(21) When any employee performs any duty or work to which he has been assigned negligently or incompetently.

(B) The discipline, supervision or discharge of a police officer shall be governed by the terms and provisions of Chapter 30, "Public Safety".

(C) Part time employees, including part-time police officers, may be discharged by the Board of Trustees at any time without reason or just cause.

(D) Charges may be presented by the Mayor of the Village either upon his own initiative or having been directed and authorized to do so by a duly passed motion of the Board of Trustees.

(E) Upon filing of the charges, the employee shall be suspended without pay, pending a final disposition of same.

(F) An employee must be informed in writing of the grounds for discharge or suspension and must be given an opportunity to appear at a hearing for discharge or suspension and shall be entitled to hear the evidence against him.

(G) A copy of all said charges shall be delivered personally to the accused employee so charged or mailed by United States Mail in an envelope properly addressed, with postage prepaid, to the employee at his or her last known address provided by the employee within **four (4) days** of the date said charges are filed. Proof of Service may be made by the certification of any person so mailing said documents or delivering same to the said employee personally, or by filing a return receipt showing the document was mailed. Service upon any member of the employee's household over the age of **fourteen (14)** is the same as service upon said employee.

(H) A public hearing on said charges shall be conducted before the Board of Trustees of the Village of Smithton within **thirty (30) days** after said charges are served upon the employee by any means specified herein. That said hearing may be conducted as part of a regularly scheduled meeting or a special meeting convened specifically for said purpose. That the employee shall receive notice of said hearing by any method provided for service of the charges not less than **seven (7) days** before said hearing is scheduled.

(I) During the course of said hearing, the accused employee shall be afforded the following rights:

(1) An opportunity to attend and hear the presentation of evidence against him.

(2) An opportunity to be represented by counsel of his choosing at his own expense.

(3) A reasonable opportunity to be heard in his own defense and to produce evidence on his own behalf in rebuttal to the evidence presented against him which shall be relevant and material to the charges levied.

(J) **Conduct of Hearings.**

(1) All hearings shall be public.

(2) The formal rules of evidence shall not apply during the course of said hearings.

(3) All proceedings of the hearings before the Board of Trustees shall be recorded by a reporter provided by the Board of Trustees.

(4) The record of the hearings shall not be transcribed unless requested by the Board of Trustees or any party in interest, that the cost of the transcript shall be borne by the person requesting it.

(5) All witnesses shall be sworn by the Village Clerk prior to rendering testimony.

(6) The Mayor of the Board of Trustees, or in the event of his incapacity or inability to serve, a member of the Board of Trustees so designated by majority vote, shall preside at all disciplinary hearings and vote in accordance with the Smithton Revised Code of Ordinances.

(7) The Board of Trustees shall first hear the witnesses substantiating the charges which have been made against the accused employee. Thereafter, said accused employee against whom charges have been filed, may present the witnesses that he or she desires to the Board of Trustees to hear. All parties shall have the right to cross examine witnesses presented by the opposite party. Any member of the Board of Trustees or the Village Attorney, shall have the right to examine and to recall witnesses.

(8) Both the Village and the accused employee shall have the right to subpoena specific persons requiring their appearance at the hearing and if necessary, requiring them to produce at the hearing, any books, papers, records, or other documents.

(K) **Decision of the Board of Trustees.**

(1) After the hearing has been concluded, the Mayor and Board of Trustees shall deliberate its decision in executive session.

(2) The Board of Trustees may deliver its decision immediately after its deliberations in open session or within **five (5) days** after conclusion of the hearing, mail its decision to the accused employee by registered or certified mail, return receipt requested.

(3) A vote of a majority of the Corporate Authorities shall be necessary to render a decision finding that the accused employee has violated one or more of the charges.

(4) If the Board of Trustees renders a decision finding that the accused employee has not violated one or more of the written charges, said employee shall be forthwith reinstated and receive his full back pay for the suspension period previously served.

(5) If the Board of Trustees renders a decision finding that the accused employee has violated one or more of the written charges, it may in its discretion, order one or more of the following disciplinary measures for each violation:

(a) Reprimand the accused employee orally.

(b) Reprimand the accused employee in writing.

(c) Order partial or full loss of back pay for the period of suspension.

(d) Suspend the accused employee without pay for a period not to exceed **sixty (60) days** for each charge found to have been violated in addition to that already served by the employee.

(e) Discharge the employee and immediately terminate all benefits previously provided by the Village.

(Ord. No. 719; 05-01-07)

12-1-4 MAYOR. The Mayor or member of the Board of Trustees as hereinbefore provided shall preside at all meetings on the appointment of employees and shall preside at all hearings on discharge or suspension of employees.

12-1-5 VACATIONS.

(A) Full-time employees who have completed **one (1) full year** of service shall receive **forty (40) hours** vacation with pay per year. Full-time employees who have completed **two (2) full years** of service shall receive **eighty (80) hours** of vacation with pay per year. Full-time employees who have completed **seven (7) full years** of service shall receive **one hundred twenty (120) hours** of vacation with pay per year. Full-time employee, who have completed **fifteen (15) full years** of service shall receive **one hundred sixty (160) hours** of vacation with pay per year. Full-time employees who have completed **twenty (20) full years** of service shall receive **two hundred (200) hours** vacation with pay per year.

(B) All vacations shall be approved by the department head or in absence of same by the Mayor by **May 1** of each year beginning **May 1, 2018**. **(Ord. No. 889; 05-02-17)**

(C) Vacation time shall not accumulate and be carried over from one year to another.

(D) Any vacation days not used at the end of the fiscal year will be forfeited. **(Ord. No. 847; 04-15-14)**

12-1-6 PAID TIME OFF (PTO) DAYS (FORMERLY SICK DAYS).

(A) Full-time employees shall receive no more than **forty (40) hours** with pay per year.

(B) PTO hours shall not accumulate and be carried over from one year to another. Any unused PTO hours will not be reimbursed at the end of the fiscal year.

(C) A full-time employee shall not draw PTO pay while receiving Workman's Compensation benefits.

(D) A full-time employee shall notify his respective department head of his inability to work at least **one (1) hour** prior to his scheduled shift. Daily notification of inability to work shall be required.

(E) Any PTO hours not used at the end of the fiscal year will be forfeited. **(Ord. No. 847; 04-15-14)**

12-1-7 HOLIDAYS.

(A) Full-time employees shall receive and be entitled to the following holidays with pay:

(1) New Year's Day
(2) Good Friday
(3) Memorial Day
(4) Independence Day
(5) Labor Day
(6) Veteran's Day
(7) Thanksgiving Day
(8) Friday after Thanksgiving Day
(9) Christmas Eve
(10) Christmas Day

Additional days off with compensation:

(11) Employee's Birthday (must be taken on your actual birthday)
(12) One Floating Holiday (can be used any time during the fiscal year)

(Ord. No. 889; 05-02-17, Ord. No. 936; 4-21-2020)

(B) If any of the above specified holidays/days off occurs on a Saturday, then said holiday/day off shall be observed on the immediate preceding Friday. If any of the above specified holidays/days off occurs on a Sunday, then said holiday/day off shall be observed on the next succeeding Monday.

(C) In the event a full-time employee is required to work on any one of the above specified holidays, said employee shall receive his holiday pay plus **time and one-half (1 1/2)** for each hour worked.

(D) In the event a part-time police officer elects to work on any one of the recognized and observed holidays listed in the current Fraternal Order of Police contract, said employee shall receive **time and one-half (1 ½)** for each hour worked. **(Ord. No. 879; 10-18-16)**

(E) In the event any one of the herein above specified holidays occurs during the period selected for the full-time employee's vacation, then said employee shall be granted an additional day's vacation pay for each said holiday/day off.

12-1-8 FULL AND PART-TIME EMPLOYEES.

(A) Full and part-time employees shall be paid the approved compensation to perform the duties, functions and responsibilities assigned to them by the Mayor and Board of Trustees for the period of times so designated. All full-time street workers will be paid overtime for any hours worked from **3:30 P.M.** to **7:00 A.M.** and any hours worked on weekends. **(Ord. 735; 5-6-08) (Ord. No. 782; 6-1-10) (Ord. No. 798; 4-5-11) (Ord. No. 814; 2-7-12) (Ord. No. 825; 9-4-12) (Ord. No. 829; 9-18-12) (Ord. No. 847; 4-15-14) (Ord. No. 854; 10-21-14) (Ord. No. 856; 11-4-14) (Ord. No. 875; 6-21-16) (Ord. No. 889; 5-2-17) (Ord. No. 891; 9-5-17)(Ord No. 915; 5-15-18))(Ord No. 920; 9/19/18) (Ord. No. 923; 12-18-18) (Ord. No. 924; 7/16/19)(Ord. No. 924-A; 8/6/19)(Ord. No. 936; 4/21/20) (Ord. No. 944; 7-21-2020) (Ord. No. 949; 9-15-2020)**

The Village shall acquire, obtain and purchase a policy of health insurance providing health insurance coverage for each full-time employee. The specific health insurance plan and the scope of coverage provided therein shall be selected at the sole discretion of the Village. If the employee chooses to add a spouse and/or child to the Village Health Insurance Plan, the Village will pay **fifty percent (50%)** of the cost for each insured dependent plus **one-half percent (1/2%)** for every full year of service (as of May 1 of each year) for each dependent, with total cost to the Village not to exceed **One Thousand Five Hundred Dollars ($1,500.00)** per month for employee and dependent coverage. The balance of the premium will be the responsibility of the employee to pay each month by payroll deduction. This coverage is effective beginning May 1, 2014.

EXAMPLE: An employee with 10 full years of service as of May 1 wants to add his/her spouse. The insurance rates as of May 1, 2014 are $869.00 for employee only and $1,668 for employee plus 1 dependent. The Village would pay the employee amount of $869 per month plus 50% of the spouses coverage ($1668-$869 (for employee) = $799 x 50% = $399.50). In addition, the Village would pay ½% for each full year of service which is 5%. 5% of $799 which is $39.95. The employee would be responsible for $399.50-$39.95 for a total of $359.55.

(Ord. 725; 8-7-07, Ord.) (No. 847; 04-15-14)

(B) **Graduated Rate Pay – Street Department.** The top pay for all newly hired fulltime "Journeyman" street employees will be calculated by taking the street department Foreman's pay minus one dollar.

All newly hired full time street employees will be required to work as an apprentice for two and one half years before achieving Journeyman status.

During the apprentice period the starting pay will be calculated by taking the prevailing top Journeyman scale minus five dollars.

All newly hired full time employees serving their apprentice will receive a one dollar increase in pay every 6 months worked until their apprenticeship period of two and one half years is over and they are at top Journeyman scale and are now considered a Journeyman on the Street Department crew.

The Village Board may accelerate new street employees at a higher graduated rate based on prior experience. **(Ord. No. 808; 09-06-11) (Ord. No. 955; 10-20-20)**

(C) **Probationary Pay – Police Department.** Newly hired full-time police officers will be paid **One Dollar ($1.00)** less per hour, than the other patrol officers for a period of **six (6) months**. The Village Board may accelerate new police department employees at a higher rate of pay based on prior experience. **(Ord. No. 808; 09-06-11)**

12-1-9 FUNERAL LEAVE. In the event of a death in the immediate family, employees shall receive **two (2) consecutive shifts** funeral leave to attend the funeral and then will be granted an additional shift if needed to attend to matters associated with the death to be used within **thirty (30) days** of the death. Funeral leave is for immediate family, which is understood to be mother, father, brother, sister, spouse, daughter, son, stepchildren, mother-in-law, father-in-law, grandparents, and grandchildren. **(Ord. No. 799; 04-05-11)**

12-1-10 JURY DUTY. Any full-time permanent employee for the Village called to serve on Jury Duty shall be paid **eight (8) hours** at his regular rate of pay minus any amount paid to them by the Court System.

Employees must notify their Supervisor within **ten (10) working days** of receiving Jury Duty Notification so that their work schedule can be adjusted. Employees not notifying their Supervisor within **ten (10) days** of receipt of a Jury Duty Summons will not be paid for Jury Duty.

Part-time employees will be allowed excused absences and time off without pay for Jury Duty.

12-1-11 UNIFORMS PROVIDED. Uniforms shall be provided for the full-time street employees with the cost being borne by the Village. The Village will also supply a boots/OSHA approved reflective jackets allowance for the full-time street employees to purchase protective boots/jackets to be worn on the job. Each employee will be allowed up to **One Hundred Fifty Dollars ($150.00)** per year to purchase these boots/jackets, with the receipt being turned in to the Village Hall for reimbursement. All employees are required to wear the uniforms and the boots while performing duties for the Village. They will also be given an identification badge to be carried on their person and one for their vehicle. Any uniforms that are lost or damaged due to negligence that the Village has to pay for will be reimbursed by the employee of the damaged or misplaced item(s), unless approved by the department head and/or Mayor. They will be notified of the charges. The amount will be withheld from their wages. Any employee leaving the Village's employment will not receive their final check until uniform costs have been settled. **(Ord. No. 847; 04-15-14)**

12-1-12 DISABILITY PAY. Disability Pay will be available for any full-time Village employee to use after they have missed **five (5) consecutive working days**. This Disability Pay will be for **sixty percent (60%)** of their pay. The period for the Disability Pay from the Village is not to exceed **twenty-five (25) calendar days** until IMRF Disability begins at **thirty (30) days**. This is al contingent upon the approval of the Board of Trustees. **(Ord. No. 799; 04-05-11)**

12-1-13 ON-CALL COMPENSATION/PUBLIC WORKS DEPARTMENT.

(A) All members of the Public Works Department, including the Department Head, shall be available to work a specified week on call on a rotating basis.

(B) The on-call person for the week shall receive **Fifty Dollars ($50.00)** extra pay per week plus **time and one-half (1 ½)** for each hour if called out.

(C) The on-call rotation shall start at **7:00 A.M. Tuesday** of that week and runs to **6:59 A.M.** the following Tuesday.

(Ord. No. 847; 04-15-14)(Ord. No. 961; 02-16-21)

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ARTICLE II – CATASTROPHIC INJURY

12-2-1 PURPOSE. The purpose of this Article is to provide a fair and efficient method for determining the eligibility of a full-time employee for the benefits enumerated under PSEBA through an administrative process, including if necessary, an administrative hearing.

12-2-2 DEFINITIONS. For the purpose of this Article, the following terms will have the following meanings. These definitions are derived from the federal Public Health and Welfare Act, which was enacted in 1944 and amended in 1984 to define, by inclusion or reference, the following terms.

For use in this Article, provisions containing the words "mayor," "commissioner," "alderman," or "Village Board" also apply to the president, trustee, board member and boards of trustees so far as the provisions are applicable to them.

(A) **Catastrophic Injury.** An injury, the direct and proximate consequences of which permanently prevent an individual from performing any gainful work.

(B) **Gainful Work.** Full- or part-time activity that actually is compensated or commonly is compensated.

(C) **Injury.** A traumatic physical wound (or a traumatized physical condition of the body) directly and proximately caused by external force (such as bullets, explosives, sharp instruments, blunt objects, or physical blows), chemicals, electricity, climatic conditions, infectious disease, radiation, virii, or bacteria, but does not include (1) any occupational disease; or (2) any condition of the body caused or occasioned by stress or strain.

12-2-3 APPLICATION PROCEDURE. As noted by the Court in *Englum*, "while the [Act] contained *substantive* requirements for section 10 eligibility, the [Act] contained no *procedural* requirements for determining whether a former employee met the substantive criteria." ¶ 55. This Article and the application procedure of this Article establishes guidance on the proper procedural requirements for Public Safety Officers seeking PSEBA benefits in the Village.

(A) Public Safety Officers, or family member(s) of an injured or deceased Public Safety Officer, ("Applicant") must file a full and complete PSEBA application in writing within **thirty (30) days** of filing a pension claim with the Village or within **thirty (30) days** of the date of the adoption of this Article in the event that an Applicant has filed for a PSEBA claim prior to the date of adoption of this Article, whichever is later, if the Applicant is seeking benefits under PSEBA. The Village shall notify Applicant if the PSEBA application is incomplete and Applicant shall have **five (5) days** to remedy their application. Failure to timely file the full and complete application shall result in a forfeiture of the benefits under PSEBA by failure to properly submit a complete application.

(B) A complete PSEBA application includes the following:

(1) The name of the Applicant, date of hire, detailed information regarding the incident, including information relating to how the injury was sustained in the line of duty (date, time, place, nature of injury, and other factual circumstances surrounding the incident giving rise to said claim);

(2) The Applicant's firsthand knowledge explaining, to the Village's satisfaction, how the injury/death directly resulted from:

(a) Response to fresh pursuit;

(b) Response to what is reasonably believed to be an emergency;

(c) An unlawful act perpetrated by another; or

(d) Participation during the investigation of a criminal act.

(3) A signed PSEBA medical authorization release which authorizes the collection of information related to the incident including, but not limited to, disability pension proceedings, worker's compensation records, and

medical records and specifies the name and address for pertinent health care provider(s);

(4) A signed PSEBA general information release specifying the name and signature of the Applicant or his/her authorized representative along with legal proof of said representation and name and signature of witness authorizing the collection of information pertinent to the incident review process;

(5) The name(s) of witnesses to the incident;

(6) The name(s) of witnesses the Applicant intends to call at the PSEBA hearing;

(7) Information and supporting pension documentation filed with the appropriate pension board;

(8) Information supporting the PSEBA eligibility requirements; and

(9) Other sources of health insurance benefits currently enrolled in or received by the Applicant and/or family members if the Applicant is deceased.

(C) The PSEBA application must be submitted to Clerk of the Village in its entirety.

(D) The PSEBA application must be sworn and notarized to certify the truthfulness of the content of the information. A review of the application shall not occur until the application is complete.

(E) On the date that the PSEBA application is deemed complete by the Village, the completed application shall then be submitted to the Village as the Preliminary Record, and a copy of the same shall be date stamped and provided to the Applicant.

(F) Upon receipt of a complete application for PSEBA benefits, the Village shall set the matter for an administrative hearing before a hearing officer to make a determination on whether to grant the Applicant PSEBA benefits based on the result of the administrative hearing.

(G) The Applicant will be given written notice of the date for the scheduled administrative hearing to be served not less than **ten (10) days** prior to the commencement of the hearing. If the Applicant, upon receiving written notice of the administrative hearing, cannot attend said date, the Applicant must contact the hearing officer in writing within **seven (7) days** after being served. The hearing officer shall establish an alternative hearing date which is within **thirty (30) days** of the original hearing date. Failure to appear at the administrative hearing shall result in denial of PSEBA benefits.

12-2-4 ADMINISTRATIVE COMPOSITION. The administrative hearing shall be scheduled and conducted by a hearing officer whose authority and limitations are as follows:

(A) **Authority of the Hearing Officer.** The hearing officer shall have all of the authorities granted to her/him under common law relative to the conduct of an administrative hearing, including the authority to:

(1) Preside over Village hearings involving PSEBA;

(2) Administer oaths;

(3) Hear testimony and accept evidence that is relevant to the issue of eligibility under PSEBA;

(4) Issue subpoenas to secure attendance of witnesses and the production of relevant papers or documents upon the request of the parties or their representatives;

(5) Rule upon objections in the admissibility of evidence;

(6) Preserve and authenticate the record of the hearing and all exhibits in evidence introduced at the hearing; and

(7) Issue a determination based on the evidence presented at the hearing, the determination of which shall be in writing and shall include a written finding of fact, decision and order.

(B) **Hearing Officer.** The Mayor, with the advice and consent of the Village Board, is hereby authorized to appoint a person to hold the position of hearing officer for each hearing on PSEBA benefits that shall come before this Village. In making said selection, the following information should be considered, at a minimum:

(1) The individual's ability to comply with the job description as set forth herein; and

(2) The individual must be an attorney licensed to practice law in the State of Illinois and have knowledge of and experience in employment and labor law, general civil procedure, the rules of evidence, and administrative practice.

12-2-5 ADMINISTRATIVE HEARING. The system of administrative hearings for the determination of eligibility for benefits under PSEBA shall be initiated either by the Village or by the Applicant after the submission of a full and complete PSEBA application. An administrative hearing shall be held to adjudicate and determine whether the Applicant is eligible for benefits under PSEBA. If the Applicant is found eligible, the benefits shall be consistent with the Act.

(A) **Record.** The Village shall ensure that all hearings are attended by a certified court reporter and a transcript of all proceedings shall be made by said certified court reporter and a copy be provided to the Applicant within **twenty-eight (28) days** of the date of the administrative hearing.

(B) **Procedures.** The Village and the Applicant shall be entitled to representation by counsel at said administrative hearing and present witnesses, testimony and documents, may cross-examine opposing witnesses, and may request the issuance f subpoenas to compel the appearance of relevant witnesses or the production of relevant documents.

(C) **Evidence.** The Illinois Rules of Evidence shall apply to the extent practicable unless, by such application, the Hearing Officer determines that application of the rule would be an injustice or preclude the introduction of evidence of the type commonly relied upon by a reasonably prudent person in the conduct of her or his affairs. Such determination shall be in the sole discretion of the Hearing Officer. The Hearing Officer must state on the record her or his reason for that determination.

(D) **Final Determination.** A written determination by the hearing officer of whether the petitioning Applicant is eligible for the benefits under PSEBA shall constitute a final administrative determination for the purpose of judicial review under the common law writ of certiorari.

(E) **Burden of Proof.** At any administrative hearing, the Applicant shall have the obligation and burden of proof to establish that the Applicant is eligible and qualified to receive PSEBA benefits. The standard of proof in all hearings conducted under this Article shall be by the preponderance of the evidence.

(F) **Administrative Records.** All records pertaining to the administrative process shall be held in a separate file under the Applicant's name with the Village.

(Ord. No. 909; 03-20-18)

CHAPTER 14 – FLOOD PLAIN CODE

ARTICLE			*TITLE*	*PAGE*
I	*GENERALLY*			
	Section 14-1-1	-	*Purpose*	*14-1*
	Section 14-1-2	-	*Definitions*	*14-1*
	Section 14-1-3	-	*Base Flood Elevation*	*14-3*
	Section 14-1-4	-	*Duties of the Building Official*	*14-3*
	Section 14-1-5	-	*Development Permit*	*14-4*
	Section 14-1-6	-	*Preventing Increased Flood Heights and Resulting Damages*	*14-4*
	Section 14-1-7	-	*Protecting Buildings*	*14-5*
	Section 14-1-8	-	*Subdivision and Other Development Requirements*	*14-7*
	Section 14-1-9	-	*Variances*	*14-7*
	Section 14-1-10	-	*Disclaimer of Liability*	*14-8*
	Section 14-1-11	-	*Penalty*	*14-8*
	Section 14-1-12	-	*Abrogation and Greater Restrictions*	*14-9*

CHAPTER 14

FLOOD PLAIN CODE

ARTICLE I – GENERALLY

14-1-1 PURPOSE. This Code is enacted pursuant to the police powers granted to this Village by the **Illinois Compiled Statutes, Chapter 65, Sections 5/1-2-1, 5/11-12-12, 5/11-30-2, 5/11-30-8, and 5/11-31-2** in order to accomplish the following purposes:

(A) To prevent unwise developments from increasing flood or drainage hazards to others;

(B) To protect new buildings and major improvements to buildings from flood damage;

(C) To promote and protect health, safety and general welfare of the citizens from the hazards of flooding;

(D) To lessen the burden on the taxpayer for flood control, repairs to public facilities and utilities, and flood rescue and relief operations;

(E) To maintain property values and a stable tax base by minimizing the potential for creating blight areas;

(F) To make federally subsidized flood insurance available; and

(G) To recognize the environmental sensitivity of floodplains and to encourage their protection from inappropriate growth and development.

14-1-2 DEFINITIONS. For the purposes of this Code, the following definitions are adopted:

ADMINISTRATOR: The Mayor or some person appointed by him to execute this Code.

BASE FLOOD: The flood having a **one percent (1%)** probability of being equaled or exceeded in any given year. The base flood is also known as the 100-year flood. The base flood elevation at any location is as defined in **Section 14-1-3** of this Code.

BASE FLOOD ELEVATION (BFE): The elevation in relation to mean sea level of the crest of the base flood.

BUILDING: A structure that is principally above ground and is enclosed by walls and a roof including manufactured homes and prefabricated buildings. The term also includes recreational vehicles and travel trailers to be installed on a site for more than **one hundred eighty (180) days.**

[NOTE: The NFIP requires that references be made to "manufactured homes" rather than "mobile homes".]

DEVELOPMENT: Any man-made change to real estate including:

(A) Construction, reconstruction, or placement of a building, or any addition to a building, exceeding **seventy (70) square feet** in floor area;

(B) Substantial improvement of an existing building;

(C) Installation of a manufactured home on a site, preparing a site for a manufactured home, or installing a travel trailer on a site for more than **one hundred eighty (180) days;**

(D) Installation of utilities, construction of roads, bridges, culverts or similar projects;

(E) Construction or erection of levees, dams, walls, or fences;

(F) Drilling, mining, filling, dredging, grading, excavating, paving, or other alterations of the ground surface;

(G) Storage of materials including the placement of gas and liquid storage tanks; and

(H) Channel modifications or any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" does not include maintenance of existing buildings and facilities; resurfacing roads; or gardening, plowing, and similar practices that do not involve filling, grading, or construction of levees.

FEMA: Federal Emergency Management Agency.

[NOTE: FEMA regulations can be found at 44 CFR 59-79 effective October 1, 1986 (revised 10/01/90).]

FLOOD: A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

FLOOD FRINGE: That portion of the floodplain outside of the regulatory floodway.

FLOOD INSURANCE RATE MAP: A map prepared by the Federal Emergency Management Agency that depicts the floodplain or special flood hazard area (SFHA) within a community.

FLOODPLAIN AND SPECIAL FLOOD HAZARD AREA (SFHA): They are synonymous. Those lands within the jurisdiction of the Village that are subject to inundation by the base flood. The floodplains of the Village are generally identified as such on the Flood Insurance Rate Map of the Village prepared by the Federal Emergency Management Agency and dated **June 25, 1976**. The floodplains of those parts of unincorporated **St. Clair County** that are within the extraterritorial jurisdiction of the Village or that may be annexed into the Village are generally identified as such on the Flood Insurance Rate Map prepared for **St. Clair County** by the Federal Emergency Management Agency and dated **June 25, 1976**.

FLOODPROOFING: Any combination of structural or nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate, property and their contents.

FLOODPROOFING CERTIFICATE: A form published by the Federal Emergency Management Agency that is used to certify that a building has been designed and constructed to be structurally dry floodproofed to the flood protection elevation.

FLOOD PROTECTION ELEVATION OR FPE: The elevation of the base flood plus **one (1) foot** of freeboard at any given location in the floodplain.

[ED. NOTE: NFIP Regulations require protection to or above the base flood elevation. One (1) foot of freeboard is recommended by IDOT/DWR. A municipality may use higher freeboard requirements if it desires.]

FLOODWAY: That portion of the floodplain required to store and convey the base flood. The floodway for each of the floodplains of the Village shall be according to the best data available from Federal, State, or other sources.

IDOT/DWR: Illinois Department of Transportation/Division of Water Resources.

MANUFACTURED HOME: A structure transportable in **one (1)** or more sections, that is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities.

NFIP: National Flood Insurance Program.

SFHA: See definition of floodplain.

SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds **fifty percent (50%)** of the market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred.

SUBSTANTIAL IMPROVEMENT: is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a structure listed on the National Register of Historic Places or the Illinois Register of Historic Places.

14-1-3 BASE FLOOD ELEVATION. This Code's protection standard is the base flood. The best available base flood elevation data are listed below. **Whenever a party disagrees with the best available data, the party may finance the detailed engineering study needed to replace the existing data with better data and submit it to the Federal Emergency Management Agency for approval.**

[See: NFIP Requirement: 44 CFR 60.3(b).]

(A) The base flood elevation for each of the floodplains delineated as an "A Zone" on the Flood Insurance Rate Map of the Village shall be according to the best data available from Federal, State or other sources. Should no other data exist, an engineering study must be financed to determine base flood elevations.

(B) The base flood elevation for the floodplains of those parts of unincorporated **St. Clair County** that are within the extraterritorial jurisdiction of the Village, or that may be annexed into the Village, shall be as delineated on the 100-year flood profiles of the Flood Insurance Study of **St. Clair County** prepared by the Federal Emergency Management Agency.

14-1-4 DUTIES OF THE BUILDING OFFICIAL. The Zoning Administrator shall be responsible for the general administration of this Code and ensure that all development activities within the floodplains under the jurisdiction of the Village meet the requirements of this Code. Specifically, the Zoning Administrator shall:

(A) Process development permits in accordance with **Section 14-1-5**;

(B) Ensure that all development in a floodway (or a floodplain with no delineated floodway) meets the damage prevention requirements of **Section 14-1-6**.

(C) Ensure that the building protection requirements for all buildings subject to **Section 14-1-7** are met and maintain a record of the "as-built" elevation of the lowest floor (including basement) or floodproof certificate;

[See: NFIP Requirements: 44 CFR 60.3(b)(5)(iii) and 59.22(a)(9)(iii).]

(D) Assure that all subdivisions and annexations meet the requirements of **Section 14-1-8**;

(E) If a variance is requested, ensure that the requirements of **Section 14-1-9** are met and maintain documentation of any variances granted;

(F) Inspect all development projects and take any and all actions outlined in **Section 14-1-11** as necessary to ensure compliance with this Code;

(G) Assure that applicants are aware of and obtain any and all other required local, state and federal permits;

(H) Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques;

(I) Cooperate with State and Federal floodplain management agencies to coordinate base flood data and to improve the administration of this Code; and

(J) Maintain for public inspection base flood data, floodplain maps, copies of state and federal permits, and documentation of compliance for development activities subject to this Code.

14-1-5 DEVELOPMENT PERMIT. No person, firm, corporation, or governmental body, not exempted by state law, shall commence any development in the floodplain without first obtaining a development permit from the Zoning Administrator. The Administrator shall not issue a development permit if the proposed development does not meet the requirements of this Code.

(A) **Application Documents.** The application for development permit shall be accompanied by:

(1) drawings of the site, drawn to scale showing property line dimensions;
(2) existing grade elevations and all changes in grade resulting from excavation or filling;
(3) the location and dimensions of all buildings and additions to buildings, and
(4) the elevation of the lowest floor (including basements) of all proposed buildings subject to the requirements of **Section 14-1-7** of this Code.

(B) **Elevation Comparisons.** Upon receipt of an application for development permit, the Zoning Administrator shall compare the elevation of the site to the base flood elevation. Any development located on land that can be shown by survey data to have been higher than the base flood elevation as of the date of the site's first Flood Insurance Rate Map identification is not in the floodplain and therefore not subject to the requirements of this Code.

The documentation of the existing ground elevation at the development site and certification that this ground elevation existed prior to the date of the site's first Flood Insurance Rate Map identification.

[ED. NOTE: Although survey data may show the development site to be entirely above the base flood elevation, a Letter of Map Amendment (LOMA) will still be required to remove the site from the mapped floodplain for insurance requirements.]

14-1-6 PREVENTING INCREASED FLOOD HEIGHTS AND RESULTING DAMAGES. Within the Village's floodplains, the following standards shall apply:

[NFIP Requirements: 44 CFR 60.3(a)(4)(1), 60.3(c)(10), and 60.3(d)(3).]

(A) Except as provided in **Section 14-1-6(B)**, no development shall be allowed which, acting in combination with existing and anticipated development, will cause any increase in flood heights or velocities or threat to public health and safety. The following specific development activities shall be considered as meeting this requirement:

(1) Barge fleeting facilities meeting the conditions of IDOT/DWR Statewide Permit No. 3;
(2) Aerial utility crossings meeting the conditions of IDOT/DWR Statewide Permit No., 4;
(3) Minor boat docks meeting the conditions of IDOT/DWR Statewide Permit No. 5;
(4) Minor, non-obstructive activities meeting the conditions of IDOT/DWR Statewide Permit No. 6;
(5) Outfall structures and drainage ditch outlets meeting the conditions of IDOT/DWR Statewide Permit No. 7;
(6) Underground pipeline and utility crossings meeting the conditions of IDOT/DWR Statewide Permit No. 8;
(7) Bank stabilization projects meeting the conditions of IDOT/DWR Statewide Permit No. 9;
(8) Accessory structures and additions to existing residential buildings meeting the conditions of IDOT/DWR Statewide Permit No. 10;
(9) Minor maintenance dredging activities meeting the conditions of IDOT/DWR Statewide Permit No. 11; and
(10) Any development determined by IDOT/DWR to be located entirely in a flood fringe area.

(B) Other development activities not listed in (A) may be permitted only if:

(1) A permit has been issued for the work by IDOT/DWR (or written documentation is provided that an IDOT/DWR permit is not required); and

(2) Sufficient data has been provided to FEMA when necessary to approve a revision of the regulatory map and base flood elevation.

(See 615 ILCS Sec. 5/5 through 29A)

14-1-7 PROTECTING BUILDINGS.

(A) **Requirements.** It addition to the damage prevention requirements of **Section 14-1-6**, all buildings to be located in the floodplain shall be protected from flood damage below the flood protection elevation. This building protection requirement applies to the following situations:

(1) Construction or placement of a new building valued at more than **One Thousand Dollars ($1,000.00);**

(2) Substantial improvements made to an existing building;

(3) Structural alterations made to an existing building that increase the floor area by more than **twenty percent (20%)**;

(4) Installing a manufactured home on a new site or a new manufactured home on an existing site (the building protection requirements do not apply to returning a manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage); and

(5) Installing a travel trailer on a site for more than **one hundred eighty (180) days.**

(B) **Alternative Methods.** Residential or non-residential buildings can meet the building protection requirements by one of the following methods:

[See NFIP Requirements: 44 CFR 60.3(c)(2).]

(1) The building may be constructed on permanent landfill in accordance with the following:

(a) The lowest floor (including basement) shall be at or above the flood protection elevation;

(b) The fill shall be placed in layers no greater than **one (1) foot** before compaction and should extend at least **ten (10) feet** beyond the foundation before sloping below the flood protection elevation;

(c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or other structural measure;

(d) The fill shall be composed of rock or soil and not incorporated debris or refuse materials; and

(e) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties; or

(2) The building may be elevated in accordance with the following:

[See: NFIP Requirements: 44 CFR 60.3(a)(3) and 60.3(c)(5).]

(a) The building or improvements shall be elevated on stilts, piles, walls, or other foundation that is permanently open to flood waters;

(b) The lowest floor and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the flood protection elevation;

(c) If walls are used, all fully enclosed areas below the base flood elevation shall address hydrostatic pressures by having a minimum of **two (2)** permanent openings no more than **one (1) foot** above grade and providing a total net area of not less than **one (1) square inch** for every **one (1) square foot** of enclosed area subject to flooding below the base flood elevation;

(d) The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to hydrodynamic forces such as current, waves, ice and floating debris;

(e) All structural components below the flood protection elevation shall be constructed of materials resistant to flood damage;

(f) Water and sewer pipes, electrical and telephone lines, submersible pumps, and other service facilities may be located below the flood protection elevation provided they are waterproofed; and

(g) No area below the flood protection elevation shall be used for storage of items or materials.

(C) Manufactured homes and travel trailers to be installed on site for more than **one hundred eighty (180)** days shall be:

(1) elevated to or above the flood protection elevation; and

(2) anchored to resist flotation, collapse, or lateral movement by being tied down in accordance with the Rules and Regulations for the Illinois Mobile Home Tie-Down Act issued pursuant to 77 IL Adm. Code 870.

(D) **Non-Residential** buildings may be structurally floodproofed (in lieu of elevation) provided a registered professional engineer certifies that:

(1) below the flood protection elevation, the structure and attendant utility facilities are watertight and capable of resisting the effects of the base flood;

(2) the building design accounts for flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, the effects of buoyancy, and impact from debris and ice; and

(3) floodproofing measures will be operable without human intervention and without an outside source of electricity.

(E) For the purposes of this Section, in the case of garages or sheds constructed ancillary to a residential use, wet floodproofing meeting the following conditions shall be sufficient:

(1) The garage or shed must be non-habitable; and

(2) The garage or shed must be used only for the storage of vehicles and tools and cannot be modified later into workshops, greenhouses, living areas, etc.; and

(3) The garage or shed must be located outside of the floodway; and

(4) The garage or shed must be on a single-family loot and be accessory to an existing principal structure on the same lot; and

(5) Below the base flood elevation, the garage or shed must be built of materials not susceptible to flood damage as provided in FEMA Technical Bulletin 2-93; and

(6) All utilities, plumbing, heating, air conditioning, electrical, etc. must be elevated above the flood protection elevation; and

(7) The garage or shed must have at least **one (1)** permanent opening on each wall no more than **one (1) foot** above grade with **one (1) square inch** of opening for every square foot of floor area as provided in FEMA Technical Bulletin 1-93; and

(8) The garage or shed must be less than **Seven Thousand Dollars ($7,000.00)** in market value or replacement cost, whichever is greater, or less than **six hundred (600) square feet**; and

(9) The structure shall be anchored to resist flotation and overturning; and

(10) All flammable or toxic materials (gasoline, paint, insecticides, fertilizers, etc.) shall be stored above the flood protection elevation; and

(11) The lowest floor elevation should be documented and the owner advised of the flood insurance requirements.

(F) Levees, berms, floodwalls and similar works are not considered floodproofing for the purpose of this Section.

[See NFIP Requirements: 44 CFR 60.3(c)(4).]

14-1-8 SUBDIVISION AND OTHER DEVELOPMENT REQUIREMENTS. The Village Board shall take into account flood hazards, to the extent that they are known, in all official actions related to land management use and development.

(A) **Data Required.** New subdivisions, manufactured home parks, annexation agreements, planned unit developments, and additions to manufactured home parks and subdivisions shall meet the damage prevention and building protection standards of **Sections 14-1-6** and **14-1-7** of this Code. Any proposal for such development shall include the following data:

(1) The base flood elevation and the boundary of the floodplain (where the base flood elevation is not available from an existing study, the applicant shall be responsible for calculating the base flood elevation);

(2) The boundary of the floodway when available; and

(3) A signed statement by a Registered Professional Engineer that the proposed plat or plan accounts for changes in the drainage of surface waters in accordance with the Plat Act **(765 ILCS 205/2).**

(B) **Health Standards.** Public health standards must be met for all floodplain development. In addition to the requirements of **Sections 14-1-6** and **14-1-7**, the following standards apply:

(1) No development in the floodplain shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the flood protection elevation unless such materials are stored in a storage tank or floodproofed building constructed according to the requirements of **Section 14-1-7** of this Code.

(2) New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted providing all manholes or other above ground openings located below the flood protection elevation are watertight.

(C) All other activities defined as development shall be designed so as not to alter flood flows or increase potential flood damages.

[ED. NOTE: This Section sets minimum subdivision design review and recording standards when subdivisions are located within a floodplain. It also provides guidance for other activities defined as "development" which may occur in a floodplain. NFIP Requirement: 44 CFR 60.2(c)

NFIP Requirement: 44 CFR 60.3(b)(3) only applies to subdivisions greater than five (5) acres or fifty (50) lots.

All new plats recorded must show the location of any floodplains and must be signed, sealed, and certified by a Professional Land Surveyor as per the requirements of Public Act 85-267.]

14-1-9 VARIANCES. Whenever the standards of this Code place undue hardship on a specific development proposal, the applicant may apply to the Zoning Board for a variance. The Zoning Board shall review the applicant's request for a variance and shall submit its recommendation to the Village Board. The Village Board may attach such conditions to granting of a variance as it deems necessary to further the intent of this Code.

(A) **Requirements for Variance.** No variance shall be granted unless the applicant demonstrates that:

(1) The development activity cannot be located outside the floodplain;

(2) An exceptional hardship would result if the variance were not granted;

(3) The relief requested is the minimum necessary;

(4) There will be no additional threat to public health or safety, or creation of a nuisance;

(5) There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities;

(6) The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP; and

(7) All other required local, state and federal permits have been obtained.

[65 ILCS 5/11-13-4 and 5/11-13-5 establishes specific municipal zoning variance criteria.]

(B) **Notification of Applicant.** The Zoning Administrator shall notify an applicant in writing that a variance from the requirements of the building protection standards of **Section 14-1-7** would lessen the degree of protection to a building will:

(1) Result in increased premium rates for flood insurance up to **Twenty-Five Dollars ($25.00)** for **One Hundred Dollars ($100.00)** of insurance coverage;

(2) Increase the risks to life and property; and

(3) Require that the applicant proceed with knowledge of these risks and that the applicant acknowledge in writing the assumption of the risk and liability.

[NOTE: The Standard Flood Insurance Policy permits an insurance adjustor to not pay for damage that was caused by something the owner did which increased the hazard to the property. Section 1316 of the National Flood Insurance Act authorizes local officials to request denial of flood insurance for buildings in violation of local floodplain codes.]

(C) Variances to the building protection requirements of **Section 14-1-7** of this Code requested in connection with the reconstruction, repair or alteration of a site or building included on the National Register of Historic Places or the Illinois Register of Historic Places may be granted using criteria more permissive than the requirements of **Section 14-1-19 (A)(1-5)**.

[NOTE: Communities in the NFIP are required to maintain a record of all variance actions, including justification for their issuance, and report them to FEMA. FEMA may review variances and suspend a community from the NFIP if the review "indicates a pattern inconsistent with the objectives of sound floodplain management…"]

14-1-10 DISCLAIMER OF LIABILITY. The degree of protection required by this Code is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes. This Code does not imply that development either inside or outside of the floodplain will be free from flooding or damage. This Code does not create liability on the part of the City or any officer or employee thereof for any flood damage that results from reliance on this Code or any administrative decision made lawfully thereunder.

14-1-11 PENALTY. Failure to obtain a permit for development in the floodplain or failure to comply with the conditions of a permit or a variance shall be deemed to be a violation of this Code. Upon due investigation, the Zoning Administrator may determine that a violation of the minimum standards of this Code exist. The Zoning Administrator shall notify the owner in writing of such violation.

(A) If such owner fails, after **ten (10) days'** notice, to correct the violation:

(1) The Village may make application to the Circuit Court for an injunction requiring conformance with this Code or make such other order as the court deems necessary to secure compliance with this Code.

(2) Any person who violates this Code shall, upon conviction thereof, be fined not less than **Seventy-Five Dollars ($75.00)** nor more than **Seven Hundred Fifty Dollars ($750.00).**

(3) A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

(B) The Village Attorney shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

(C) Nothing herein shall prevent the Village from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

14-1-12 ABROGATION AND GREATER RESTRICTIONS. This Code repeals and replaces other ordinances adopted by the Village Board to fulfill the requirements of the National Flood Insurance Program including the 1978 Code. However, this Code does not repeal the original ordinance adopted to achieve eligibility in the Program. Nor does this Code repeal, abrogate, or impair any existing easements, covenants or deed restrictions. Where this Code and other ordinance easements, covenants or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail. **[See: NFIP Requirement: 44 CFR 60.2(B).]**

(65 ILCS 5/1-2-1; 5/11-12-12; 5/11-30-2; 5/11-30-8 and 5/11-31-2)

CHAPTER 15 – FRANCHISES

ARTICLE			*TITLE*	*PAGE*
I	*GAS UTILITY FRANCHISE*			
	Section 15-1-1	-	*Ameren Gas Franchise*	*15-1*
II	*ELECTRIC FRANCHISE*			
	Section 15-2-1	-	*Ameren Electric Franchise*	*15-1*
III	*MONROE COUNTY ELECTRIC FRANCHISE*			
	Section 15-3-1	-	*Monroe County Electric Cooperative Franchise*	*15-1*
	Addendum "A"	-	*Gas Franchise*	*15-2*
	Addendum "B"	-	*Electric Franchise*	*15-5*
	Addendum "C"	-	*Monroe County Electric Cooperative Franchise*	*15-7*

CHAPTER 15

FRANCHISES

ARTICLE I – GAS UTILITY FRANCHISE

15-1-1 AMEREN GAS FRANCHISE. The natural gas franchise agreement between Ameren Illinois and the Village of Smithton is hereby included as **Addendum "A"**. **(Ord. No. 792; 01-18-11)**

ARTICLE II – ELECTRIC FRANCHISE

15-2-1 AMEREN ELECTRIC FRANCHISE. The electric franchise agreement between Ameren Illinois and the Village of Smithton is hereby included as **Addendum "B"**. **(Ord. No. 422; 12-17-91)**

ARTICLE III – MONROE COUNTY ELECTRIC FRANCHISE

15-3-1 MONROE COUNTY ELECTRIC COOPERATIVE FRANCHISE. The electric franchise agreement between Monroe County Electric Cooperative and the Village of Smithton is hereby included as **Addendum "C"**. **(Ord. No. 532; 10-07-97)**

ADDENDUM "A"

AN ORDINANCE RENEWING AN EXISTING FRANCHISE AND GRANTING FOR A PERIOD OF 20 YEARS TO AMEREN ILLINOIS, A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE, RIGHT, PERMISSION AND AUTHORITY TO CONSTRUCT, RECONSTRUCT, EXCAVATE FOR, PLACE, REMOVE, EXTEND, MAINTAIN, AND OPERATE A GAS UTILITY SYSTEM IN THE VILLAGE OF SMITHTON, COUNTY OF ST. CLAIR AND STATE OF ILLINOIS.

BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF SMITHTON, COUNTY OF ST. CLAIR, AND THE STATE OF ILLINOIS, AS FOLLOWS:

SECTION 1. It is the intent of the parties by this Ordinance to extend for an additional term, subject to the terms and conditions here stated, the authorization to Ameren Illinois, its successors and assigns, to construct, operate and maintain a gas utility system within the Village as originally authorized by Ordinance No. 181 approved on October 4, 1960. The parties acknowledge that by so doing they are continuing an existing relationship authorizing the services of a utility for the provision of gas energy and other purposes within the Village for the benefit of its citizens and residents as well as other consumers of gas energy located within its corporate limits.

SECTION 2. There is hereby given and granted to Ameren Illinois, its successors and assigns (hereinafter referred to as the "Company"), the right, privilege and authority to construct, operate, maintain and/or extend within the corporate limits, as the same now exists or may hereafter be extended, of the Village of Smithton (hereinafter referred to as "Municipality"), a gas utility system for the transmission, distribution and/or sale of gas energy and other purposes (the "System"), together with the right, privilege and authority to lay, erect, construct, install, operate and/or maintain all necessary mains, pipes, valves, equipment and/or other apparatus as may be necessary or convenient for the System, in, upon, along, over, under, through and/or across each and all of the streets, avenues, alleys, bridges, easements, rights of way and/or other public places.

SECTION 3. All mains, pipes, valves and apparatus shall, so far as practicable, be placed underground and shall be so located and laid as not to interfere with any pipes, conduits, sewers, drains, pavements, or other public improvements existing at the time of such location, and said Company shall forthwith repair any damage caused to such improvements to the satisfaction of the official or officials of said Municipality having charge of the supervision thereof. There shall be no unnecessary obstruction to the streets, avenues, alleys, public places of said Municipality in the laying, installation, operation or maintenance of any of said mains, pipes, valves or apparatus. All facilities of Company in said Municipality shall be installed and maintained in accordance with the applicable rules and regulations of the Illinois Commerce Commission.

When any street, avenue, or other public place shall be graded, curbed, paved or otherwise changed so as to make the resetting or relocation of any pipes or other equipment placed or installed under this Ordinance necessary, the Company shall make such resetting or relocation, at the Company's cost and expense. Municipality shall provide the Company with a suitable location for the resetting or relocation of such pipes or other equipment, and the Company's obligation shall be limited to resetting or relocating pipes or other equipment of the same type and configuration as the displaced pipes or other equipment. Company shall make such resetting or relocation within a reasonable time after receiving written notice of the need for the same from the authorized representative of the Municipality, and the establishment by the Municipality of the permanent grade at the new location.

SECTION 4. The rates to be charged by the Company for gas service rendered under this Ordinance shall be such as are approved from time to time by the Illinois Commerce Commission of the State of Illinois and/or such other duly constituted governmental authority as shall have jurisdiction

thereof. All Rules and Regulations of the Illinois Commerce Commission of the State of Illinois applicable to the rights, privileges and authority granted by this Ordinance, in the event of conflict herewith, shall govern.

SECTION 5. As a further consideration for the rights, privileges and authorities granted by this Ordinance, the Company shall, throughout the period in which Company shall exercise the rights, privileges and authority granted by this Ordinance furnish to the said Municipality, compensation in the amount of $6,000, payable annually, within 30 days of the anniversary date. Municipality may request a revision to the compensation amount after five years from the date of passage of this Ordinance if Municipality has a reasonable belief that its population has increased or decreased by 3% or more. Municipality must request the revision at least 60 days prior to the next anniversary date. If Company confirms that the number of customers served by the System within Municipality's corporate limits has increased or decreased by 3% or more, the compensation amount will be revised by that percentage for the next and succeeding payments. Municipality may request similar revisions to compensation amounts under these criteria in additional five year periods throughout the term of this Ordinance.

SECTION 6. The rights, privileges and authority hereby granted shall inure to and be vested in Company, its successors and assigns, successively, subject to all of the terms, provisions and conditions herein contained, and each of the obligations hereby imposed upon Company shall devolve and be binding upon its successors and assigns, successively, in the same manner.

SECTION 7. This Ordinance shall confer no right, privilege or authority on Company, its successors or assigns, unless Company shall within ninety (90) days after due notice to the Company of the enactment of this Ordinance, file with the Village Clerk an acceptance of the terms and provisions hereof; provided, however, that if such acceptance be not so filed within said period of ninety (90) days, all rights, privileges, and authority herein granted shall become null and void.

SECTION 8. All rights, privileges and authority given and granted by this Ordinance are granted for a term of 20 years from and after the passage and acceptance of this Ordinance by the Municipality, as hereinafter provided (the "Initial Term"), and thereafter on a year-to-year basis (each a "Subsequent Term") unless either the Company or Municipality notifies the other in writing of its desire to terminate this Ordinance at least six (6) months prior to the expiration of the Initial Term or any Subsequent Term.

SECTION 9. The Municipality acknowledges that Company is vested in rights, permissions and authority independent of this Ordinance. Neither acceptance of this Ordinance nor compliance with its provisions shall impair in any way or waive any right, permission or authority which Company may have independent of this Ordinance. In addition, neither use by Company of public property or places as authorized by this Ordinance nor service rendered by Company in said Municipality shall be treated as use solely of the rights, permission and authority provided for by this Ordinance and in no way shall indicate non-use of any right, permission or authority vested in the Company independent of this Ordinance. In the event the Municipality vacates any streets, avenues, alleys, easements, rights of way, bridges or other public places during the term of this Ordinance, Municipality agrees to reserve unto Company the rights, privileges and authority herein given and granted to the Company in upon, under, along, over and across each and all of such vacated premises which are at that time in use by the Company.

SECTION 10. All ordinances and parts of ordinances in conflict with this Ordinance or with any of its provisions are, to the extent of such conflict, hereby repealed.

SECTION 11. This Ordinance shall not relieve Company of the obligation to comply with any ordinance now existing in the Municipality or enacted in the future requiring Company to obtain written permits or other approval from the Municipality prior to commencement of construction of facilities within the streets thereof, except Company shall not be required to obtain permits or other approval from the Municipality for the maintenance, upgrading and repair of its facilities. Except in cases of emergency, prior to engaging in any excavation activity that is expected to create an obstruction or other hazardous

condition in any street avenue, alley or public place, the Company shall notify Municipality of the location and extent of the planned excavation. In cases of emergency, Company shall notify Municipality of the location and extent of any such activity as soon as practicable after the emergency has been abated.

SECTION 12. If any provision of this Ordinance, or the application of such provision to particular circumstances, shall be held invalid, the remainder of this Ordinance, or the application of such provision to circumstances other than those as to which it is held invalid, shall not be affected thereby.

SECTION 13. If, at any time, during the term of this contract, Municipality permits another entity or person to provide gas distribution or similar services, and Company reasonably believes the other entity or person is granted more favorable treatment, terms, or conditions, then Company shall notify Municipality of such treatment, terms, or conditions. Alternatively, if Municipality reasonably believes the other entity or person grants Municipality more favorable treatment, terms, or conditions, then Municipality shall notify Company of such treatment, terms, or conditions. Upon receipt of such notice, Municipality and Company shall negotiate in good faith to amend this Ordinance to provide Company or Municipality such more favorable treatment, terms or conditions on an equivalent basis. Such amendment shall take into consideration all circumstances that distinguish between Company and the entity or person receiving the more favorable or less favorable treatment, terms, or conditions.

SECTION 14. The Company shall be exempt from any special tax, assessment, license, rental or other charge during the term of this Ordinance, on all mains, pipes, valves, equipment and other apparatus placed under the streets, alleys, avenues, bridges, easements, rights of way or other public places within the corporate limits of Municipality.

SECTION 15. This Ordinance shall take effect and the rights, privileges and authority hereby granted and renewed shall vest in Company upon its filing of an acceptance with the Village Clerk according to the terms prescribed herein. This Ordinance shall be in full force from and after its passage, approval and **ten (10) day** period of publication in the manner provided by law.

(Ord. No. 792; 01-18-11)

ADDENDUM "B"

AN ORDINANCE AUTHORIZING ILLINOIS POWER COMPANY, ITS SUCCESSORS AND ASSIGNS, TO CONSTRUCT, OPERATE AND MAINTAIN AN ELECTRIC UTILITY SYSTEM IN THE VILLAGE OF SMITHTON, COUNTY OF ST. CLAIR AND STATE OF ILLINOIS.

BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF SMITHTON, COUNTY OF ST. CLAIR, AND THE STATE OF ILLINOIS, THAT:

SECTION 1. There is hereby given and granted to Illinois Power Company, its successors and assigns (hereinafter referred to as the "Company"), the right, privilege and authority to construct, operate, maintain and/or extend within the corporate limits, as the same now exists or may hereafter be extended, of the Village of Smithton (hereinafter referred to as "Municipality"), an electric utility system for the manufacture, transmission, distribution and/or sale of electric energy, together with the right, privilege and authority to erect, construct, install, operate and/or maintain all poles, conductors, wires, cables, conduits, equipment and/or other apparatus as may be necessary or convenient for such system, in, upon, along, over, under, through and/or across each and all of the streets, avenues, alleys, bridges, easements, rights of way and/or other public places. Municipality further gives and grants to the Company the right, privilege and authority, at all times deemed necessary by the Company, to trim trees, or any portion of said trees, upon, along, over and/or across each and all of such streets, avenues, alleys, bridges, easements, rights of way and/or other public places in such a manner that there shall be proper clearance, in the determination of the Company.

SECTION 2. All poles, conductors, wires, cables, conduits, equipment and other apparatus erected, placed or installed under this Ordinance shall be located in streets, alleys or avenues wherever practicable so to do, and shall be located, whether on streets, alleys, avenues, bridges, easements, rights of way or other public places as not to interfere unreasonably with travel on such streets, alleys, avenues, bridges, easements, rights of way or other public places.

SECTION 3. All poles and conduits erected, placed or installed under this Ordinance shall be located as not to unreasonably injure any pavements, drains, sewers, catch basins, water pipes or other like improvements, but should any pavement, drain, sewer, catch-basin, water pipe, or other like improvement be unreasonably injured by such location, the Company shall forthwith repair the damage caused by said injury, at its own expense, to the reasonable satisfaction of Municipality. All overhead conductors, wires and cables shall be installed with sufficient height that will allow the Company to maintain all clearance requirements prescribed by the applicable Rules and Regulations of the Illinois Commerce Commission of the State of Illinois.

SECTION 4. When any street, avenue, alley, bridge, easement, right of way or other public place, upon which or in which any poles of the Company are located, shall be graded, curbed, paved or otherwise changed so as to make the resetting of such poles necessary, the Company shall make such necessary change. Should the Company desire to use conduits, or other similar equipment, the Company shall make application to Municipality for the establishment of permanent grades. Such conduits or other similar equipment shall not be installed until such permanent grades have been established. Municipality agrees to establish promptly such permanent grades upon such application.

SECTION 5. The rates to be charged by the Company for electric service rendered under this Ordinance shall be such as are approved from time to time by the Illinois Commerce Commission of the State of Illinois and/or such other duly constituted governmental authority as shall have jurisdiction thereof. All Rules and Regulations of the Illinois Commerce Commission of the State of Illinois applicable to the rights, privileges and authority granted by this Ordinance, in the event of conflict herewith, shall govern.

SECTION 6. As consideration for the rights, privileges and authorities given and granted by this Ordinance, so long as Company during the term hereof shall exercise such right, privilege and authority, the Company shall furnish, free of charge, sixty percent (60%) of Municipality's street lighting requirements, utilizing the Company's standard street lighting system, in the Company's service area within Municipality's corporate limits.

SECTION 7. The Company shall be exempt from any special tax, assessment, license, rental or other charge during the term of this Ordinance, on all poles, conductors, wires, cables, conduits, equipment and other apparatus placed in the streets, alleys, avenues, bridges, easements, rights of way or other public places within the corporate limits of Municipality.

SECTION 8. The Company shall defend, indemnify and hold harmless the Municipality from and against any and all claims, damages, liabilities, judgments, costs and expenses of any kind, whether suffered or incurred by the Company or Municipality or some other person, arising out of this Ordinance and by reason of any negligent act or omission of the Company, its officials, employees or agents; provided notice, in writing, is given to the Company together with all information, documents and/or evidence in possession of Municipality, its officials, employees or agents, relating to any such claim and Municipality, its officials, employees or agents, fully cooperates with the Company in defense of such claim.

SECTION 9. Municipality warrants that it has the authority to grant the rights, privileges and authority herein given and granted to the Company and that it has good and sufficient title to the streets, avenues, alleys, easements, rights of way, bridges and other public places where any poles, conductors, wires, cables, conduits, equipment and/or other apparatus is placed or erected under this Ordinance.

SECTION 10. All rights, privileges and authority given and granted by this Ordinance are granted for a term of fifty (50) years from and after the acceptance of this Ordinance as hereinafter provided (the "Initial Term"), and thereafter on a year-to-year basis (each a "Subsequent Term") unless either the Company or Municipality notifies the other in writing of its desire to terminate this Ordinance at least six (6) months prior to the expiration of the Initial Term or any Subsequent Term.

SECTION 11. No right, privilege or authority given or granted by this Ordinance shall become effective until there shall have been filed with the Village Clerk of said Municipality the written acceptance of this Ordinance by the Company. Such acceptance shall so be filed within ninety (90) days from the passage of this Ordinance and when so filed, shall, together, with operation by the Company under the terms of this Ordinance, constitute full consideration for the rights, privileges and authority hereby given and granted.

SECTION 12. All Ordinances, or parts of Ordinances, in conflict herewith are hereby repealed effective upon the effective date of this Ordinance.

SECTION 13. This Ordinance shall be in force and effect from and after its passage, acceptance and, if necessary, its recordation.

(Ord. No. 422; 12-17-91)

ADDENDUM "C"

AN ORDINANCE AUTHORIZING MONROE COUNTY ELECTRIC CO-OPERATIVE, INC., AN ILLINOIS NOT-FOR-PROFIT CORPORATION, HEREINAFTER REFERRED TO AS "MONROE COUNTY ELECTRIC CO-OPERATIVE", (MCEC) ITS SUCCESSORS AND ASSIGNS, TO CONSTRUCT, OPERATE AND MAINTAIN AN ELECTRIC UTILITY SYSTEM IN THE VILLAGE OF SMITHTON, COUNTY OF ST. CLAIR AND STATE OF ILLINOIS.

IT IS ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF SMITHTON, COUNTY OF ST. CLAIR, AND THE STATE OF ILLINOIS, THAT:

SECTION 1. Whereas, Monroe County Electric Co-Operative, Inc., (MCEC) entered into a joint agreement with Illinois Power Company, known as a "service area agreement" which said service area agreement set forth respective geographical areas in the Monroe, St. Clair and Randolph Counties, Illinois, which would be served either by Illinois Power Company or Monroe County Electric Co-Operative, Inc., exclusively; and

Whereas, said service area agreement dated September 7, 1979, was approved by the Illinois Commerce Commission in cause No. ESA 193 on the 30th day of January, 1980; and

Whereas, certain territory around the Village of Smithton which may be hereinafter annexed is within territory within the jurisdiction of the Monroe County Electric Co-Operative, Inc., which has the sole and exclusive right to serve electrical energy to said territory all as per said service area agreement between Illinois Power Company and MCEC; and

Whereas, said MCEC requires an electric franchise from the Village of Smithton to operate within the limits of the Village of Smithton, Illinois, only in said territory which said MCEC is entitled to serve, pursuant to its service area agreement with Illinois Power.

SECTION 2. There is hereby given and granted to Monroe County Electric Co-Operative, Inc., its successors and assigns (hereinafter referred to as "MCEC"), the right, privilege and authority to construct, operate, maintain and/or extend within the corporate limits, as the same now exists or may hereafter be extended, of the Village of Smithton (hereinafter referred to as "Municipality"), an electric utility system for the manufacture, transmission, distribution and/or sale of electric energy, together with the right, privilege and authority to erect, construct, install, operate and/or maintain all poles, conductors, wires, cables, conduits, equipment and/or other apparatus as may be necessary or convenient for such system, in, upon, along, over, under, through and/or across each and all of the streets, avenues, alleys, bridges, easements, rights of way and/or other public places. Municipality further gives and grants to MCEC the right, privilege and authority, at all times deemed necessary by MCEC, to trim trees, or any portion of said trees, upon, along, over and/or across each and all of such streets, avenues, alleys, bridges, easements, rights of way and/or other public places in such a manner that there shall be proper clearance, in the determination of MCEC.

SECTION 3. All poles, conductors, wires, cables, conduits, equipment and other apparatus erected, placed or installed under this Ordinance shall be located in streets, alleys or avenues wherever practicable so to do, and shall be located, whether on streets, alleys, avenues, bridges, easements, rights of way or other places as not to interfere unreasonably with travel on such streets, alleys, avenues, bridges, easements, rights of way or other public places.

SECTION 4. All poles and conduits erected, placed or installed under this Ordinance shall be located as not to unreasonably injure any pavements, drains, sewers, catch basins, water pipes or other like improvements, but should any pavement, drain, sewer, catch-basin, water pipe, or other like improvement be unreasonably injured by such location, MCEC shall forthwith repair the damage caused

by said injury, at its own expense, to the reasonable satisfaction of Municipality. All overhead conductors, wires and cables shall be installed with sufficient height that will allow MCEC to maintain all clearance requirements prescribed by the applicable Rules and Regulations of the National Electric Safety Code. Furthermore, that if the Village of Smithton has any Rules and Regulations pursuant to any recognized code more restrictive than the National Electric Safety Code then MCEC will follow said more restrictive code(s), if required by the Village of Smithton.

SECTION 5. When any street, avenue, alley, bridge, easement, right of way or other public place, upon which or in which any poles of MCEC are located, shall be graded, curbed, paved or otherwise changed so as to make the resetting of such poles necessary, MCEC shall make such necessary change. Should MCEC desire to use conduits, or other similar equipment, MCEC shall make application to Municipality for the establishment of permanent grades. Such conduits or other similar equipment shall not be installed until such permanent grades have been established. Municipality agrees to establish promptly such permanent grades upon such application.

SECTION 6. The rates to be charged by MCEC shall be those established from time to time by the Board of Directors of MCEC which rates apply to all members of the Monroe County Electric Co-Operative, Inc. (MCEC), pursuant to their By-Laws.

SECTION 7. As consideration for the rights, privileges and authority given and granted by this Ordinance, so long as MCEC during the term hereof shall exercise such right, privilege and authority, MCEC shall furnish, free of charge, sixty percent (60%) of Municipality's street lighting requirements, utilizing the MCEC's standard street lighting system, in MCEC's service area within Municipality's corporate limits.

SECTION 8. MCEC shall be exempt from any special tax, assessment, license, rental or other charge during the term of this Ordinance, on all poles, conductors, wires, cables, conduits, equipment and other apparatus placed in the streets, alleys, avenues, bridges, easements, rights of way or other public places within the corporate limits of Municipality, that said program shall not apply to any Utility Tax.

SECTION 9. MCEC shall defend, indemnify and hold harmless the Municipality from and against any and all claims, damages, liabilities, judgments, costs and expenses of any kind, whether suffered or incurred by MCEC or Municipality or some other person, arising out of this Ordinance and by reason of any negligent act or omission of MCEC, its officials, employees or agents.

SECTION 10. Municipality warrants that it has the authority to grant the rights, privileges and authority herein given and granted to MCEC and that it has good and sufficient title to the streets, avenues, alleys, easements, rights of way, bridges and other public places where any poles, conductors, wires, cables, conduits, equipment and/or other apparatus is placed or erected under this Ordinance.

SECTION 11. All rights, privileges and authority given and granted by this Ordinance are granted for a term of fifty (50) years from and after the acceptance of this Ordinance as hereinafter provided (the "Initial Term"), and thereafter on a year-to-year basis (each a "Subsequent Term") unless either MCEC or Municipality notifies the other in writing of its desire to terminate this Ordinance at least six (6) months prior to the expiration of the Initial Term or any Subsequent Term.

SECTION 12. No right, privilege or authority given or granted by this Ordinance shall become effective until there shall have been filed with the Village Clerk of said Municipality the written acceptance of this Ordinance by MCEC. Such acceptance shall so be filed within ninety (90) days from the passage of this Ordinance and when so filed, shall, together, with operation by MCEC under the terms of this Ordinance, constitute full consideration for the rights, privileges and authority hereby given and granted.

SECTION 13. All Ordinances, or parts of Ordinances, in conflict herewith are hereby repealed effective upon the effective date of this Ordinance.

(Ord. No. 532; 10-07-97)

CHAPTER 16 – GARBAGE

ARTICLE			*TITLE*	*PAGE*
I	*GENERALLY*			
	Section 16-1-1	-	*Definitions*	*16-1*
	Section 16-1-2	-	*License Required*	*16-1*
	Section 16-1-3	-	*Application for License*	*16-1*
	Section 16-1-4	-	*Truck Requirement - Cleanliness*	*16-1*
	Section 16-1-5	-	*Parked Garbage Trucks*	*16-1*
	Section 16-1-6	-	*Truck Wastewaters*	*16-2*
	Section 16-1-7	-	*Windblown Garbage Unlawful*	*16-2*
	Section 16-1-8	-	*Garbage Falling From Truck*	*16-2*
	Section 16-1-9	-	*Accumulation of Garbage Unlawful*	*16-2*
	Section 16-1-10	-	*Location of Yards for Equipment*	*16-2*
	Section 16-1-11	-	*Industry, Construction, Etc.*	*16-2*
	Section 16-1-12	-	*Revocation of Permit*	*16-2*
II	*FRANCHISE*			
	Section 16-2-1	-	*Agreement*	*16-3*

CHAPTER 16

GARBAGE

ARTICLE I – GENERALLY

16-1-1 DEFINITIONS. As used in this Chapter, the words "garbage" and "rubbish" have the following meanings:

(A) ***"Garbage".*** Wastes resulting from the handling, preparation, cooking and consumption of food; wastes from the handling, storage, and sale of produce.

(B) ***"Rubbish".*** Combustible trash, including, but not limited to paper, cartons, boxes, barrels, wood, excelsior, wood furniture, bedding; non-combustible trash, including, but not limited to, metals, tin cans, metal furniture, dirt, small quantities of rock and pieces of concrete, glass, crockery, other mineral waste; street rubbish, including, but not limited to street sweepings, dirt, catch-basin dirt, contents of litter receptacles, provided, however, that refuse shall not include earth and wastes from building operations, nor shall it include solid wastes resulting from industrial processes and manufacturing operations such as food processing wastes, boiler house cinders, lumber, scraps and shavings.

16-1-2 LICENSE REQUIRED. No person shall engage in the business as a residential or commercial collector of garbage and rubbish unless having first made application and secured a license from the Village. The fee shall be **Ten Dollars ($10.00) per year.**

The license shall be for the fiscal year of the Village, commencing on **May 1st** and expiring on **April 30th**.

16-1-3 APPLICATION FOR LICENSE. Upon application for a license, the person applying for same shall furnish the Village Clerk, along with the application, proof of insurance for liability and property damage, and at that time, they shall file with the Clerk a rate schedule for services to be performed for a residential application. The rate schedule shall set forth the type of service to be offered and the price for same, including the size and number of cans per pickup for the charge, the charge for any extra cans, the charge for the bags, the size of the bags, and the charge for bundles and size of the bundles; also a rate schedule shall include an unlimited service charge; the schedule shall set forth whether this is once-a-week or twice-a-week pickup.

The rate schedule shall also set forth the day or days of each week that the collector shall schedule his pickup within the Village. The rate schedule as filed shall be valid for **one (1) year** and the licensee shall not be permitted to increase the price on the schedule for a period of **one (1) year** from the date of filing of the rate schedule. The rate schedule shall be effective upon approval by the Village Board.

16-1-4 TRUCK REQUIREMENT - CLEANLINESS. The firm that handles the collection of trash shall be of good character and give evidence that the equipment used by him is adequate for the purposes intended. The successful firm shall have a truck or trucks which shall be so designed that garbage and rubbish that is collected will be covered at all times except in the loading of garbage or rubbish, so that offensive odors are not permitted to permeate the air and cause a nuisance within the Village. The trucks and all containers in which garbage is collected and transported shall be cleaned daily and the collector shall not collect any garbage on any day without having a clean truck and hand containers if containers are used.

16-1-5 PARKED GARBAGE TRUCKS. No truck carrying garbage or rubbish, or both, shall be parked or be permitted to stand anywhere in the Village except as provided for in **Section 16-1-**

10 any longer than is necessary to pick up containers; however, providing that the standing of such vehicle was made necessary by mechanical trouble, traffic conditions, accident or obedience to the direction of policemen or traffic signals, shall not be considered a violation of this Code.

16-1-6 TRUCK WASTEWATERS. A garbage truck or other equipment shall not be washed on Village streets or public property and will not be washed where the wastewaters will cause any offensive odors to adjoining property owners.

16-1-7 WINDBLOWN GARBAGE UNLAWFUL. It shall be unlawful to place garbage or rubbish in such a manner as to allow the same to be blown by the wind onto the property of other residents.

16-1-8 GARBAGE FALLING FROM TRUCK. It shall be unlawful to deposit or permit to fall from any vehicle any garbage, refuse or ashes on any public street or alley in the Village, provided that this Code shall not be construed to prohibit placing garbage, refuse, or ashes in a container complying with the provisions of this Code, preparatory to having such material collected and disposed of in the manner provided herein.

16-1-9 ACCUMULATION OF GARBAGE UNLAWFUL. The fact that garbage or rubbish remains on an occupant's premises in the Village in violation of this Chapter shall be prima facie evidence that the occupant of such premises is responsible for the violations of the Chapter occurring.

16-1-10 LOCATION OF YARDS FOR EQUIPMENT. A licensee shall designate the location of the yards on which his equipment will be parked while not in use and the equipment shall not be parked within the Village limits unless the designated location shall not, in the opinion of the Code Enforcement Officer, create any nuisance for adjoining property owners.

The licensee shall have as additional equipment a truck for the disposal of large or unusual items of rubbish which cannot be placed in the designated containers and shall have available for such pickups such equipment at least **one (1) day** each week or on such additional days as may be necessary to satisfy the needs of the public.

16-1-11 INDUSTRY, CONSTRUCTION, ETC. Nothing in this Code shall be deemed to prevent or regulate the hauling of rubbish or refuse from industrial processes, from construction projects or other matter not normally collected on a regular schedule and haulers of rubbish not normally collected in regular collections shall be excused from the requirements of obtaining a collector's license as provided in this Chapter.

16-1-12 REVOCATION OF PERMIT. If the licensee fails to perform any services according to his application and rate schedule, the Mayor may revoke his permit.

(65 ILCS 5/11-19-1, et seq.)

(Ord. No. 917; 07-03-18)

ARTICLE II - FRANCHISE

16-2-1 AGREEMENT. Pursuant to the State Statutes, the Village has entered into an agreement to provide for the mandatory collection and disposal of refuse and garbage for Village residents as provided in Appendix "A". **(Ord. No. 917; 07-03-18)**

CONTRACT

THIS CONTRACT, made and entered into this **first (1st) day of January, 2019** by and between Waste Management and the Village of Smithton.

WHEREAS, the Village of Smithton and Waste Management currently have a contract that allows amendments and/or changes; and

WHEREAS, the Village of Smithton desires to arrange, for the good of their citizens, for the collection and disposal of refuse and garbage; and

WHEREAS, Waste Management is desirous of furnishing all services for the collection and disposal of refuse in the Village of Smithton; and

WHEREAS, the Village of Smithton is able to contract with Waste Management for said services;

1. It is understood and agreed that Waste Management shall provide the refuse and garbage collection and disposal within the Village of Smithton in accordance with the requirements of the Board of Health and the Environmental Protection Agency of the State of Illinois. The Village of Smithton and/or Waste Management shall have the right to request and receive a formal or informal meeting with the other for the purpose of discussing any amendments or changes to the Contract.

2. Waste Management will make collection of refuse and garbage from all single-family and multi-family residences within the Village limits of the Village of Smithton on regularly scheduled days of not less than **one (1) time** each calendar week.

3. It is understood and agreed that each individual residence shall make available for collection all refuse and garbage to be collected beginning at **6:00 o'clock A.M.** of the day designated for said collection and ending no later than **8:00 o'clock P.M.** on the same day. Exceptions to collection hours shall be effected only upon mutual agreement of the Village of Smithton and Waste Management, or when Waste Management reasonably determines that an exception is necessary in order to complete collection route due to unusual circumstances. Any additional collections required by the user identified above will be separately negotiated between them and Waste Management.

4. Waste Management shall provide the Village of Smithton with once per week curbside collection of residential refuse from each residential unit located within the corporate limits of the Village of Smithton. Containers, bags, and bundles shall be placed at curbside by **6:00 A.M.** on the designated collection day. Residential refuse shall be defined as all household garbage and trash and bulky waste exclusive of contractor generated construction/remodeling debris. Contractor generated tree trimmings and hazardous waste as defined by the United States Environmental Protection Agency shall not be picked up. All household garbage and trash shall be placed in suitable plastic, fiber or steel container not to exceed **thirty (30) gallons**. Bulky waste is defined as furniture, and all other waste that is generated from within a normal household exclusive of motor vehicle parts and white goods only **one (1) large item** of bulky waste, such as furniture shall be picked up per collection day.

5. The term "Garbage" shall be construed as meaning animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food. The term "garbage" shall also be construed as meaning the perishable offal from the growing of fruit or vegetables and shall not be construed to mean plants, vines, trees or bushes.

6. Waste Management accepts the obligation to collect said refuse and garbage within the Village of Smithton limits in completely enclosed, leak-proof compaction vehicles, and to cause all such refuse and garbage collected to be disposed of in accordance with the rules of the State of Illinois Department of Public Health and Environmental Protection Agency, or subsequent revision thereto. Waste Management agrees to keep its vehicles in good repair, clean and odor free as possible.

7. Each container, bag and bundle shall be placed at curbside for collection. Curbside refers to that portion of the right-of-way adjacent to paved or traveled Village roadways (excluding alleys). Containers, bags and bundles shall be placed as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians. When construction work is being performed in the right-of-way, containers, bags and bundles shall be placed as close as practicable to an access point for collections vehicle.

8. Waste Management may from time to time propose to the Village of Smithton approval of changes in route days of collection, which approval shall not be unreasonably withheld. Upon the Village's approval of the proposed changes, Waste Management shall promptly give written or published notice to affected residential units.

9. The following shall be holidays for the purposes of this Contract:
New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

   Waste Management may decide to observe any or all of the above mentioned holidays by suspension of collection service on the said holidays, but such decision in no manner relieves Waste Management of its obligation to provide collection service for at least once per week.

10. All complaints shall be made directly to Waste Management and shall be given prompt and courteous attention. In the case of alleged missed scheduled collection, Waste Management shall investigate and, if such allegations are verified, shall arrange for the collection of the not collected refuse within **twenty-four (24) hours** after the complaint is received.

11. Waste Management shall maintain an office or similar facility through which it can be contacted. It shall be equipped with sufficient telephones, provide toll-free inbound telephone access for residents or the Village personnel, and shall have a responsible person in charge from **8:00 A.M.** to **4:30 P.M.** on regular work days. This office telephone number is 1-800-989-2783.

12. All refuse hauled by Waste Management shall be so contained, tied or enclosed that leaking, spilling or blowing are prevented.

13. All refuse collected for disposal by Waste Management shall be hauled to an approved sanitary landfill. The charge for disposal shall be included in the rate for each residential unit.

14. The Village of Smithton shall notify all residents about complaint procedures, rates and day(s) for scheduled refuse collection.

15. All dealings, contracts, etc. between Waste Management and the Village shall be directed to a designated Company representative whose name is Dan Hannah.

16. Waste Management shall conduct operations under this contract in compliance with all applicable laws; provided, however, that the general terms and conditions of the contract shall govern the obligations of Waste Management where there exist conflicting ordinances of the Village of Smithton on the subject.

17. This Contract shall be effective upon the execution of the contract and performance of such contract shall begin on the **January 1, 2019**.

18. Waste Management shall not discriminate against any person because of race, sex, age, creed, color, religion or national origin.

19. Waste Management will indemnify, save harmless and exempt the Village of Smithton, its officers, agents, servants and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses and attorney's fees incident to any work done in the performance of the contract or arising out of a willful or negligent act or omission of Waste Management, its officers, agents, servants and employees; provided, however, that Waste Management shall not be liable for any suits, action, legal proceedings, claims, demands, damages, costs, expenses and attorney's fees arising out of willful or negligent act or omission of the Village of Smithton, its officers, agents, servants and employees.

20. Waste Management shall obtain all licenses and permits (other than the license and permit granted by the Contract) and promptly pay all taxes required by the Village of Smithton.

21. The term of this Contract shall be for **five (5) years** beginning on the **January 1, 2019** and ending on **December 31, 2023**. This contract shall be extended automatically for successive one-year terms unless either party notifies the other party in writing not less than **sixty (60) days** prior to the expiration of the initial **three (3) year** term of its intention to terminate this contract. Any such written notice shall be served by certified mail or registered mail, return receipt requested at the addresses listed below. Extended annual contracts shall be done at a rate mutually agreeable between the Village of Smithton and Waste Management.

COMPANY:	Waste Management 7320 Hall St. St. Louis, MO 63147
VILLAGE:	Village of Smithton 101 S. Main St. P.O. Box 330 Smithton, IL 62285

22. Waste Management shall at all times during the contract maintain in full force and effect employers' liability, worker's compensation, public liability and property damage insurance. All insurance shall be by insurers and for policy limits acceptable to the Village of Smithton and before commencement of work hereafter Waste Management agrees to furnish the Village of Smithton Certificates of Insurance or other evidence satisfactory to the Village of Smithton of the effect that such insurance has been procured and is in force. The Certificates shall contain the following express obligation:

"This is to certify that the policies of insurance described herein have been issued to the insured for whom this Certificate is executed and are in force at this time. In event of any material change in a policy affecting the Certificate holder, **ten (10) days** prior written notice will be given the Certificate Holder."

For the purpose of this contract, Waste Management shall carry the following types of insurance in at least the limits specified below:

Workers Compensation	Statutory
Employer's Liability	$500,000.00
Bodily Injury Liability	$500,000.00/Occurrence
Except Automobile	$500,000.00/Aggregate

Automobile Bodily Injury	$500,000.00
Liability	$1,000,000.00/Aggregate
Automobile Property Damage	$500,000.00/Occurrence
Excess Umbrella Liability	$500,000.00/Occurrence

As an alternative to the above, Waste Management may insure any of the above coverage under a plan of self-insurance which shall be subject to acceptance by the Village of Smithton.

23. The price per month for once per week trash services of the Village of Smithton for the collection of refuse and garbage shall be:

Year 1, January 1, 2019	$9.90 per month	Seniors over 65	$7.90 per month
Year 2, January 1, 2020	$9.90 per month	Seniors over 65	$8.10 per month
Year 3, January 1, 2021	$10.10 per month	Seniors over 65	$8.10 per month
Year 4, January 1, 2022	$10.30 per month	Seniors over 65	$8.30 per month
Year 5, January 1, 2023	$10.30 per month	Seniors over 65	$8.30 per month

For a senior resident to receive the discounted rate, they musts provide proof of identity. Included in the 2019 rate is an administrative fee of **Seventy-Five Cents ($0.75)**. This will be reviewed the following year and may be removed.

Effective January 1, 2019, the Village of Smithton will be responsible for preparing, mailing and collecting of all charges with the exception of billing for yard waste, carts and white goods picked up through Waste Management. The Village of Smithton shall have the right and privilege to charge the operators of any business establishment, residents, or other establishments a fair and just monthly rate for any and all services beyond those specified herein.

Optional Yard Waste service collection will be provided once per week. There is a **three (3) month** minimum and **ten (10)** item limit per week. Waste Management will handle billing for Yard Waste. The fees are as follows:

Year 1, January 1, 2019	$8.85 per month	Seniors over 65	$7.10 per month
Year 2, January 1, 2020	$8.85 per month	Seniors over 65	$7.10 per month
Year 3, January 1, 2021	$8.85 per month	Seniors over 65	$7.10 per month
Year 4, January 1, 2022	$8.85 per month	Seniors over 65	$7.10 per month
Year 5, January 1, 2023	$8.85 per month	Seniors over 65	$7.10 per month

The yard waste service is optional and based on **three (3) continuous months** pricing.

24. For special collection provided by Waste Management exceeding the terms and conditions of this contract, the charges are to be negotiated between Waste Management and resident prior to collection. If agreement cannot be reached the matter may be submitted to the Village of Smithton for determination for a reasonable fee.

The refuse collection charges/prices provided in this contract shall include all disposal and related cost.

A weekly waste collection service shall be provided to Smithton Village Hall, Smithton Police Department, the Village of Smithton Maintenance Building, Smithton Fire Department, the Village of Smithton Park, and Smithton Senior Center at no charge.

Four - **thirty (30) yard** containers for Spring or Fall clean-up will be provided at no charge.

25. No assignment of the contract or of any right occurring under this contract shall be made in whole or in part by Waste Management without the express written consent of the Village of Smithton.

26. Title to refuse shall pass to Waste Management when placed in Waste Management's collection vehicle, removed by Waste Management from a container, or removed by Waste Management from the customer's premises, whichever comes first.

27. All Village of Smithton residents are required to have trash service. Any resident who fails to pay any portion of their water/sewer/trash bill may be subject to disconnection of utility services.

IN WITNESS WHEREOF, the parties hereto have set their hands on the day and year first above written.

Waste Management

BY: /s/ Dan Hannah
Municipal Manager

Village of Smithton

BY: /s/ Raymond F. Klein
Mayor

(Ord. No. 917; 07-03-18)

CONTRACT

WASTE HAULING AGREEMENT BETWEEN THE VILLAGE OF SMITHTON AND WASTE MANAGEMENT. Effective date is January 1, 2019 and expiration date is December 31, 2023. Agreement can be extended by mutual agreement.

April 2, 2018

Mayor Ray Klein
Village of Smithton
101 South Main Street
Smithton, IL 62285

Dear Mayor Klein,

Thank you for your business and the opportunity to provide an extension to our current agreement, which expires December 31, 2018.

A. One per week trash service. Current rate is $9.90 per month. Seniors $7.90.

Year 1, January 1, 2019	$9.90 per month	Seniors over 65	$7.90 per month
Year 2, January 1, 2020	$9.90 per month	Seniors over 65	$8.10 per month
Year 3, January 1, 2021	$10.10 per month	Seniors over 65	$8.10 per month
Year 4, January 1, 2022	$10.30 per month	Seniors over 65	$8.30 per month
Year 5, January 1, 2023	$10.30 per month	Seniors over 65	$8.30 per month

For a senior resident to receive the discounted rate, they must provide proof of age to Village office personnel.
Carts remain at $3.00 per month throughout the 5-year Agreement. Waste Management will handle billing for carts.

B. White goods can be scheduled for pickup and remain at $30.00 per item. The customer schedules pickup and payment through Waste Management.

C. Optional Yard Waste service once per week. Rate is $8.85 currently and Senior rate is $7.10 per month. 3 month minimum and 10 item limit per week.

2019-2023 Years 1-5	$8.85 per month	Seniors over 65	$7.10 per month

D. Spring or Fall clean-up with four 30 yard containers. No charge.
E. Waste Management will continue to provide service to the Village facilities at no additional charge. Those include Smithton Village Hall, Smithton Police Department, the Village of Smithton Maintenance Building, Smithton Fire Department, the Village of Smithton Park, and Smithton Senior Center.
F. You will continue to be exempt from fuel, RCR, environmental and administrative fees for the entire agreement.
G. A resident can place one bulky item at the curb at no additional cost once per month on the last trash pickup.
H. If the weather prevents Waste Management from servicing the Village on the regular day of the week, it is our intention to have everything cleaned up the very next day if weather permits us to safely operate our vehicles.

Thank you again for this opportunity. Please call me at 314-506-4743 if I can be of assistance. Our Customer Service representatives are available from 8:00 a.m. to 5:00 p.m. at 1-800-989-2783.

Waste Management

BY: /s/ Dan Hannah
Municipal Manager

Village of Smithton

BY: /s/ Raymond F. Klein
Mayor

(Ord. No. 917; 07-03-18)

CHAPTER 21 - LIQUOR

ARTICLE			*TITLE*	*PAGE*
I	*GENERALLY*			
	Section 21-1-1	-	*Definitions*	*21-1*
II	*LICENSES*			
	Section 21-2-1	-	*License Required*	*21-4*
	Section 21-2-2	-	*Applications*	*21-4*
	Section 21-2-3	-	*Examination of Applicant*	*21-5*
	Section 21-2-4	-	*Prohibited Licensees*	*21-5*
	Section 21-2-5	-	*Requisites for Manager*	*21-6*
	Section 21-2-6	-	*Term; Fee Submitted in Advance*	*21-6*
	Section 21-2-7	-	*Classification – Fee - Limitation*	*21-7*
	Section 21-2-8	-	*Number of Licenses*	*21-7*
	Section 21-2-9	-	*Nature of License*	*21-8*
	Section 21-2-10	-	*Limitation of Licenses*	*21-8*
	Section 21-2-11	-	*Dramshop Insurance*	*21-8*
	Section 21-2-12	-	*Display of License*	*21-8*
	Section 21-2-13	-	*Record of Licenses*	*21-8*
III	*REGULATIONS*			
	Section 21-3-1	-	*Closing Hours for All Licenses*	*21-9*
	Section 21-3-2	-	*Happy Hour Restrictions*	*21-9*
	Section 21-3-3	-	*Prohibited Locations*	*21-11*
	Section 21-3-4	-	*Change of Location*	*21-11*
	Section 21-3-5	-	*Stores Selling School Supplies, Lunches, Etc.*	*21-11*
	Section 21-3-6	-	*Transporting, Etc. in Motor Vehicles*	*21-11*
	Section 21-3-7	-	*Open Liquor – Cup-to-Go Prohibited*	*21-11*
	Section 21-3-8	-	*Liquor in Vehicles; Underage*	*21-11*
	Section 21-3-9	-	*Restricted Residential Areas*	*21-12*
	Section 21-3-10	-	*Election Days*	*21-12*
	Section 21-3-11	-	*Unlawful Acts*	*21-12*
	Section 21-3-12	-	*Unlawful Entertainment*	*21-12*
	Section 21-3-13	-	*Sanitary Conditions*	*21-13*
	Section 21-3-14	-	*Diseased Employees*	*21-13*
	Section 21-3-15	-	*Health Permit*	*21-13*
	Section 21-3-16	-	*Peddling*	*21-13*
	Section 21-3-17	-	*Gambling*	*21-13*
	Section 21-3-18	-	*Disorderly House*	*21-13*
	Section 21-3-19	-	*Prohibited Sales - Generally*	*21-13*
	Section 21-3-20	-	*Persons Selling Liquor*	*21-13*
	Section 21-3-21	-	*Underaged; Entry on Licensed Premises*	*21-14*
	Section 21-3-22	-	*Unlawful Purchase of Liquor*	*21-14*
	Section 21-3-23	-	*Identification Required*	*21-14*
	Section 21-3-24	-	*Transfer of Identification Card*	*21-14*
	Section 21-3-25	-	*Posting Warning*	*21-14*
	Section 21-3-26	-	*Exclusionary Provision*	*21-15*
	Section 21-3-27	-	*Inspections*	*21-15*

ARTICLE		TITLE	PAGE
III		REGULATIONS (CONTINUED)	
	Section 21-3-28	- Books and Records--Available Upon Reasonable Notice and Maintained in State Records	21-15
	Section 21-3-29	- Restrictions on Licensee	21-15
	Section 21-3-30	- Selling False Identification	21-15
	Section 21-3-31	- False Identification	21-15
	Section 21-3-32	- Underaged Drinking on Streets	21-16
	Section 21-3-33	- Residential Drinking	21-16
	Section 21-3-34	- Renting Hotel Rooms for Drinking	21-16
	Section 21-3-35	- BASSET Training Required	21-16
IV		VIOLATIONS AND PENALTIES	
	Section 21-4-1	- Owner of Premises Permitting Violation	21-18
	Section 21-4-2	- Acts of Agent or Employee - Liability; Knowledge	21-18
	Section 21-4-3	- Revocation of License After Conviction	21-18
	Section 21-4-4	- Revocation of License When Employee Convicted	21-18
	Section 21-4-5	- Misbranding	21-18
	Section 21-4-6	- Abatement of Place Used in Violation	21-18
	Section 21-4-7	- Use of Premises for One Year After Revocation	21-18
	Section 21-4-8	- Revocation of Licenses	21-19
	Section 21-4-9	- Complaints by Residents	21-19
	Section 21-4-10	- Revocation or Suspension of Local License; - Notice and Hearing	21-19
	Section 21-4-11	- Appeals from Order of Liquor Commissioner	21-20
	Section 21-4-12	- Subsequent Violations in a Year	21-20
	Section 21-4-13	- Appeal Limitations for Subsequent Violation	21-20

CHAPTER 21

LIQUOR

ARTICLE I – GENERALLY

21-1-1 DEFINITIONS. Unless the context otherwise requires, the words and phrases herein defined are used in this Chapter in the sense given them in the following definitions:

"ALCOHOL" means the product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, and includes synthetic ethyl alcohol. It does not include denatured alcohol or wood alcohol.

"ALCOHOLIC LIQUOR" includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and capable of being consumed as a beverage by human beings. The provisions of this Chapter shall not apply to alcohol used in the manufacture of denatured alcohol produced in accordance with **Acts of Congress** and regulations promulgated thereunder, nor to any liquid or solid containing **one-half of one percent** or less of alcohol by volume. **(235 ILCS 5/1-3.05)**

"BEER" means a beverage obtained by the alcoholic fermentation of an infusion or concoction of barley or other grain, malt and hops in water, and includes, among other things, beer, ale, stout, lager beer, porter and the like. **(235 ILCS 1-3.04)**

"CATERER RETAILER" means a person who serves alcoholic liquors for consumption, either on-site or off-site, whether the location is licensed or unlicensed, as an incidental part of food service. Prepared meals and alcoholic liquors are sold at a package price agreed upon under contract. **(235 ILCS 5/1-3.34)**

"CLOSE" means to shut up so as to prevent entrance or access by any person; and the entire suspension of business.

"CLUB" means a corporation organized under the laws of this State and not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquors, kept, used and maintained by its members, through the payment of annual dues, and owning, hiring or leasing a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and provided with suitable and adequate kitchen and dining space and equipment and maintaining a sufficient number of servants and employees for cooking, preparing and serving food and meals for its members and their guests; provided that such club files with the Local Liquor Control Commissioner, at the time of its application for a license under this Chapter, **two (2) copies** of a list of names and residences of its members, and similarly files within **ten (10) days** of the election of any additional member, his name and address; and provided further, that its affairs and management are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting and that no member or officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation any profits from the distribution or sale of alcoholic liquor to the club or its members or guests introduced by members, beyond the amount of such salary as may be fixed and voted at the annual meeting by the members or by the board of directors or other governing body out of the general revenue of the club. **(235 ILCS 5/1-3.24)**

"CORPORATION" means any corporation, domestic or foreign, qualified to do business in the State of Illinois under the "Business Corporation Act" of Illinois. **(Rule 100.10(b))**

"DISTILLED SPIRITS". See "Spirits".

"EVENT" means a single theme. **(Rules and Regulations 100.10(o))**

"HOTEL" means every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which **twenty-five (25)** or more rooms are used for the sleeping accommodations of such guests and having **one (1)** or more public dining rooms where meals are served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or buildings in connection therewith, and such building or buildings, structure or structures being provided with adequate and sanitary kitchen or dining room equipment and capacity. **(235 ILCS 5/1-3.25)**

"LOCAL LIQUOR CONTROL COMMISSIONER" means the Mayor and other members of the Village Board appointed by the Mayor to administer, and exercise the powers and the performance of the duties provided by law and by ordinance or resolution relating to alcoholic liquor as may be enacted by the Village Board or duly enacted as provided in the **Illinois Compiled Statutes, Chapter 235, entitled "Dramshop"** and all references to Local Liquor Control Commissioner shall refer to the Mayor and other members of the Village Board appointed by the Mayor to the Commission unless otherwise provided.

"MANAGER" OR "AGENT" means any individual employed by any licensed place of business, provided said individual possess the same qualifications required of the licensee. Satisfactory evidence of such employment will be furnished the Commission in the form and manner as such Commission shall from time to time prescribe. **(Rule 100.10(f))**

"MAYOR" means the Local Liquor Control Commissioner as provided in the **Illinois Compiled Statutes, Chapter 235, entitled "Dramshop"** and all references to Liquor commissioner shall refer to the Mayor unless otherwise provided. **(65 ILCS 5/1-1-2.1)**

"MEAL" means food that is prepared and served on the licensed premises and excludes the serving of snacks. **(Rules and Regulations 100.10(n))**

"ORIGINAL PACKAGE" means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container, whatsoever, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor. **(235 ILCS 5/1-3.06)**

"PACKAGE LIQUOR STORE" means any public place where packaged liquors are offered for sale in the original, unopened container for consumption away from the premises.

"PARTNER" is any individual who is a member of a co-partnership. "Co-partnership" means an association of **two (2)** or more persons to carry on as co-owners of a business for profit. **(Rules and Regulations 100.10(d)(e))**

"PREMISES/PLACE OF BUSINESS" means the place or location where alcoholic beverages are manufactured, stored, displayed, offered for sale or where drinks containing alcoholic beverages are mixed, concocted and served for consumption. Not included are sidewalks, street, parking areas and grounds adjacent to any such place or location. **(Rules and Regulations 100.10(g))**

"PRIVATE FUNCTION" means a prearranged private party, function, or event for a specific social or business occasion, either by invitation or reservation and not open to the general public, where the guests in attendance are served in a room or rooms designated and used exclusively for the private party, function or event.

"PUBLIC PLACE" means any premises enclosed or unenclosed or partly enclosed and partly unenclosed wherein any service or goods, chattels or merchandise are offered for sale to the public or any such premises used as a clubhouse, club room or meeting place. The terms **"public place"** and **"public premises"** shall be interchangeable for the purposes of this Chapter.

"RESIDENT" means any person (other than a corporation) who has resided and maintained a bona fide residence in the State of Illinois for at least **one (1) year** and in the city, village and county in which the premises covered by the license are located for at least **ninety (90) days** prior to making application for such license. **(Rule 100.10(a))**

"RESTAURANT" means any public place kept, used, maintained, advertised, and held out to the public as a place where meals are served, and where meals actually are served and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. **(235 ILCS 5/1-3.23)**

"RETAILER" means a person who sells or offers for sale alcoholic liquor for use or consumption and not for resale in any form. **(235 ILCS 5/1-3.17)**

"SALE" means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration, and includes and means all sales made by any person, whether principal, proprietor, agent, servant or employee. **(235 ILCS 5/1-3.21)**

"SELL AT RETAIL" and "SALE OF RETAIL" refer to any mean sales for use or consumption and not for resale in any form. **(235 ILCS 5/1-3.18)**

"SPECIAL EVENT" means an event conducted by an educational, fraternal, political, civic, religious or non-profit organization. **(235 ILCS 5/1-3.30)**

"SPECIAL EVENTS RETAILER" means an educational, fraternal, political, civic, religious, or non-profit organization which sells or offers for sale beer or wine, or both, only for consumption at the location and on the dates designated by a special event retail license. **(235 ILCS 5/1-3.17.1)**

"SPIRITS" means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors and such liquors when rectified, blended or otherwise mixed with alcohol or other substances. **(235 ILCS 5/1-3.02)**

"TO SELL" includes to keep or expose for sale and to keep with intent to sell. **(235 ILCS 5/1-3.22)**

"WINE" means any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables containing sugar, including such beverages when fortified by the addition of alcohol or spirits as above defined. **(235 ILCS 5/1-3.03)**

[All references to "Rules" refer to Illinois Liquor Control Commission Rules located in Title 11; Subtitle A; Chapter 1; Part 1; Section 100.5 et seq. of the Illinois Administration Code.]

ARTICLE II - LICENSES

21-2-1 LICENSE REQUIRED. No person shall sell, keep or offer for sale at retail, or conduct any place for the sale at retail of alcoholic liquor within the limits and territory of this Village without having a license to do so, issued by the Local Liquor Control Commissioner of this Village in the manner hereinafter provided, and a valid license for such purpose issued by the **Illinois Liquor Control Commissioner of the State of Illinois.**

A similar valid license issued by the Local Liquor Control Commissioner of this Village is hereby required for and with respect to each building, location and premises, within the aforesaid territory of this Village, at or upon which alcoholic liquor is to be sold or kept or offered for sale at retail. **(235 ILCS 5/4-1)**

21-2-2 APPLICATIONS. The Local Liquor Control Commissioner is authorized to grant and issue licenses to individuals, firms, and corporations to sell at retail and to keep and offer for sale at retail alcoholic liquors within the limits and territory of this Village upon the conditions and in the manner provided by this Chapter and by the **Act of the General Assembly of Illinois,** and not otherwise. Such license shall be in writing, signed by the Mayor and attested by the Village Clerk, with the seal of his office affixed thereto.

Prior to issuance of a license, the applicant must submit to the Local Liquor Control Commissioner an application in triplicate, in writing and under oath, stating the following:

(A) The name, age, and address of the applicant in the case of an individual; in the case of a co-partnership, the persons entitled to share in the profits thereof, and in the case of a corporation for profit or a club, the date of incorporation, the object for which it was organized, the names and addresses of the officers, directors and the name of the person who will be managing the establishment for which the license is sought, and if a majority in interest of the stock of such corporation is owned by one person or his nominee, the address and name of such person.

(B) The citizenship of the applicant, his place of birth and if a naturalized citizen, the time and place of his naturalization.

(C) The character of business of the applicant, and in the case of a corporation, the objects for which it was formed.

(D) The length of time that the applicant has been engaged in the business of that character or in the case of a corporation, the date on which its charter was issued.

(E) The location and description of the premises or place of business which is to be operated under such license.

(F) Whether applicant has made similar application for a similar other license on premises other than described in the application and the disposition of such application.

(G) That applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in the aforesaid **Act of the General Assembly** or in this Chapter or resolution and amendments thereto.

(H) Whether a previous license issued to the applicant by any state, or subdivision thereof, or by the federal government has been revoked and the reasons therefor.

(I) That he will not violate any of the laws of the State of Illinois or of the United States, or any of the provisions of this Chapter or resolution and amendments thereto in the conduct of his place of business.

In the case of a partnership or corporation, the information and statements required by this Section shall be furnished as to each partner, and with respect to a corporation, the information and statements required by this Section shall be furnished as to the president of the corporation, the secretary of the corporation, the directors of the corporation, and with respect to the person who is to manage the establishment for which a license is sought.

If the application is made on behalf of a partnership, firm, association, club or corporation, then the same shall be signed and sworn to by at least **one (1) member** of such partnership, firm, association or club, or by the president and secretary of such corporation.

One (1) copy of the application shall be retained by the Local Liquor Control Commissioner, **one (1) copy** given to the Chief of Police; the Chief of Police shall endorse on the copies his approval or disapproval of

the application and may make further comments regarding that application. The copies shall be returned to the Local Liquor Control Commissioner and the endorsement and comment of the Chief of Police shall be considered by him as an aid in deciding whether the license should be issued or refused. **(235 ILCS 5/7-1)**

21-2-3 EXAMINATION OF APPLICANT. The Local Liquor Control Commissioner shall have the right to examine or cause to be examined, under oath, any applicant for a local license or for renewal thereof, or any licensee upon whom notice of revocation or suspension has been served in the manner hereinafter provided, and to examine or cause to be examined, the books and records of any such applicant or licensee; to hear testimony and take proof for his information in the performance of its duties, and for such purpose to issue subpoenas which shall be effective in any part of this State. For the purpose of obtaining any of the information desired by the Local Liquor Control Commissioner under this Section, it may authorize his agent to act on his behalf. **(235 ILCS 5/4-5)**

21-2-4 PROHIBITED LICENSEES. No retail license shall be issued by the Local Liquor Control Commissioner to the following:

(A) A person who **is not** a resident of this Village;

(B) A person who **is not twenty-one (21) years** of age;

(C) A person who has been convicted of a felony under any federal or state law if the Local Liquor Control Commissioner determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust;

(D) A person who has been convicted of being the keeper of or is keeping a house of ill-fame;

(E) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency or morality;

(F) A person whose license has previously been revoked for cause;

(G) A person who, at the time of the application for renewal for any license issued hereunder, would not be eligible for such license upon first application;

(H) A co-partnership, if any general partnership thereof or any limited partnership thereof, owning more than **five percent (5%)** of the aggregate limited partner interest in such co-partnership would not be eligible to receive a license hereunder for any reason;

(I) A corporation, if any officer, manager or director thereof or any stockholder owning in the aggregate more than **five percent (5%)** of such corporation, would not be eligible to receive a license hereunder for any reason other than the requirement for citizenship and residence;

(J) A corporation unless it is incorporated in the State of Illinois, or unless it is a foreign corporation which is qualified under the **"Business Corporation Act of 1983"** to transact business in Illinois;

(K) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses the same qualifications required by the licensee;

(L) Any person, association, or corporation not eligible for a state retail liquor license;

(M) A person who is not of good character and reputation in the community in which he resides;

(N) A person who has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor, subsequent to the passage of this Code or has forfeited his bond to appear in court to answer charges for any such violation;

(O) A person who does not own the premises for which a license is sought, or does not rent nor have a lease thereon for the full period for which the license is to be issued;

(P) Any law enforcing public official, including members of local liquor control commissions, any president of a village board of trustees, any member of a village board of trustees; and no such official shall be interested directly in the manufacture, sale or distribution of alcoholic liquor, except that license may be granted to such official in relation to premises which are not located within the

territory subject to the jurisdiction of that official if the issuance of such license is approved by the State Liquor Control Commission and the Local Liquor Control Commissioner.

(Q) A person who is not a beneficial owner of the business to be operated by the licensee;

(R) A person who has been convicted of a gambling offense as prescribed by any of **subsections (a)(3) through (a)(11) of Section 28-1.1 of, or as proscribed by Section 28-3 of the "Criminal Code of 1961", approved July 28, 1961,** as heretofore or hereafter amended, or as proscribed by a statute replaced by any of the aforesaid statutory provisions;

(S) A person to whom a federal wagering stamp has been issued by the federal government for the current tax period; except those persons who are eligible to receive a license under the Raffles Act or the Illinois Pull Tabs and Jar Games Act;

(T) A co-partnership to which a federal wagering stamp has been issued by the federal government for the current tax period, or if any of the partners have been issued a federal gaming device stamp or federal wagering stamp by the federal government for the current tax period;

(U) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than **twenty percent (20%)** of the stock of such corporation has been issued a federal wagering stamp for the current tax period;

(V) Any premises for which a federal wagering stamp has been issued by the federal government for the current tax period. **(235 ILCS 5/6-2)**

21-2-5 REQUISITES FOR MANAGER. No licensee shall employ any person to manage his licensed liquor establishment, unless such person possesses the same qualifications required of a licensee in **Section 21-2-4**, except for residency and citizenship. No licensee shall permit any person to act as a manager of his liquor establishment, unless such manager has been approved by the Local Liquor Control Commissioner.

21-2-6 TERM; FEE SUBMITTED IN ADVANCE. Retail liquor licenses issued under this Chapter shall be valid for a **twelve (12) month period** upon the payment of the license fee as hereinafter set forth unless sooner revoked or suspended. The **twelve (12) month period** shall be from **January 1st to December 31st** of the same year. This may be paid quarterly.

The license fee shall be payable in advance by the applicant for a license at the time the application for a license is submitted to the Local Liquor Control Commissioner as hereinbefore provided. In the event the license is denied, the license fee shall be returned to the applicant. The fees shall be deposited in the Municipal General Fund. The application for a license shall be filed with the Village Clerk.

Licenses shall state thereon the names of the licensees and the address and description of the premises for which they are granted and the dates of their issuance and expiration.

With respect to a corporation operating an establishment for which a liquor license has been issued, should the manager of said establishment change after the issuance of said liquor license, the corporation **must submit** the new manager's name and shall be submitted within **thirty (30) days.** Continuation of the license will be contingent upon a background check of the new manager as set out in this Chapter, and all fees shall be waived should the license be changed only as a result of a change of managers. If, for some reason, the manager is not acceptable, the licensee shall have **thirty (30) days** to submit a new name before revocation. Failure to provide new information shall be grounds for suspension or revocation of said license. **(235 ILCS 5/4-1)**

21-2-7 CLASSIFICATION - FEE - LIMITATION. Every person engaged in the retail sale of alcoholic liquor in the Village shall pay an annual license fee. Such licenses shall be divided into the following **four (4) classes**:

(A) **Class "A" License: Taverns.** There is hereby created a Class "A" liquor license, which shall authorize retail sale of alcoholic liquor for consumption on or off the premises specified. The annual fee shall be **Two Hundred Dollars ($200.00).** There shall be a limit of **seven (7) licenses**.

(B) **Class "B" Licenses: Convenience Stores.** There is hereby created a Class "B" license, which shall permit the sale of alcoholic liquor for consumption off the premises. Specified liquor in said places of business shall be inaccessible to customers during all times other than those hours of operation specified in **Section 21-3-1**. The annual license fee shall be **Two Hundred Dollars ($200.00).** There shall be a limit of **three (3) licenses**.

(C) **Class "C" Licenses: Restaurants.** There is hereby created a Class "C" license which shall permit the retail sale of alcoholic liquor for consumption on the premises where the licensee operates a restaurant which meets the definition of the same in **Section 21-1-1** of this Code. The restaurant shall be open and operational at all times when the retail consumption of alcoholic liquor occurs on the premises. The annual fee shall be **Two Hundred Dollars ($200.00)** per year. There shall be a limit of **two (2) licenses** issued.

(D) **Class "D" Licenses: Civic Organizations, Etc.** Upon application, the Liquor Commissioner is authorized to issue a Class "D" license for a period of **twelve (12)** or **twenty-four (24) hours** to any civic or religious organization which keeps or desires to keep any place selling or offering for sale, or in any manner dealing in any alcoholic liquors. The fee for such license shall be for the sale of alcoholic liquors, the sum of **One Dollar ($1.00)** for each **twelve (12) hours**; for more than **twelve (12) hours** and not more than **twenty-four (24) hours** within any **one (1) day**, the fee shall be **Two Dollars ($2.00)**, subject to the provisions of this Chapter. **(235 ILCS 5/4-1)**
(Ord. No. 901; 02-06-18)

21-2-8 NATURE OF LICENSE. A license issued under this Chapter shall be purely a personal privilege, good for not to exceed **one (1) year** after issued unless sooner revoked as in this Chapter authorized and provided, and shall not constitute property nor shall it be subject to attachment, garnishment or execution; nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such license shall not descend by the laws of testate or intestate devolution, but it shall cease upon the death of the licensee, provided that executors and administrators of any estate of the deceased licensee and the trustees of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale of alcoholic liquor under the order of the court having jurisdiction of such estate and may exercise the privileges of such deceased, insolvent, or bankrupt licensee after the death of such decedent or such insolvency or bankruptcy until the expiration of such license, but not longer than **six (6) months** after the death, bankruptcy or insolvency of such licensee. **(235 ILCS 5/6-1) (See Attorney General's Report No. 703; 01-08-48)**

Any licensee may renew his license at the expiration thereof, provided he is then qualified to receive a license and the premises for which such renewal license is sought are suitable for such purpose; and provided further that the renewal privilege herein provided for shall not be construed as a vested right which shall in any case prevent the city council or village president and board of trustees or county board, as the case may be, from decreasing the number of licenses to be issued within its jurisdiction. No retailer's license shall be renewed if the Department of Revenue has reported to the Illinois Liquor Control Commission that such retailer is delinquent in filing any required tax returns or paying any amounts owed to the State of Illinois until the applicant is issued a certificate by the Department of Revenue stating that all delinquent returns or amounts owed have been paid by guaranteed remittance or the payment agreement to pay all amounts owed has been accepted by the Department. No retailer's license issued by a local liquor control commissioner shall be renewed unless the applicant provides documentation that any tax owed to (i) the municipality in which the applicant is located (in the case of a license issued by the mayor or president of the board of trustees of a city, village or incorporated town acting as local liquor control commissioner) or (ii) the county in which the applicant is located (in the case of a license issued by the president or chairman of a county board acting as local liquor control commissioner) by the applicant has been satisfied by payment in the form of a cashier's check, certified check, money order, or cash.

21-2-9 LIMITATION OF LICENSES.

(A) **Annexing License Holders.** The restrictions contained in this Chapter shall in no way affect taverns and other business(es) holding retail liquor licenses, duly licensed by the County, which are located in the territory annexed to the Village. Licenses may be issued to them or renewed by the duly constituted authorities upon annexation; provided that thereafter, all of the restrictions and contingencies contained herein shall apply.

(B) **Destroyed or Damaged Business.** No license shall be held in existence by the mere payment of fees by any person, firm or corporation for a period longer than **ninety (90) days** without a tavern or liquor business for the same being in complete and full operation. However, if a tavern or liquor business has been destroyed or damaged by fire or act of God and cannot be rebuilt or repaired within the **ninety (90) day period,** then, in that event, the Local Liquor Control Commissioner shall extend the period of time for which a liquor license may be held by the mere payment of fees without the tavern or liquor business being in full and complete operation for an additional **ninety (90) days.**

If either of the above stated periods of time passes without the particular tavern or liquor business returning to complete and full operation, the license for that particular business shall expire and not be subject to renewal, unless all other requirements of this Chapter shall have been met. **(235 ILCS 5/4-1)**

21-2-10 DRAMSHOP INSURANCE. No license shall be issued hereunder unless the applicant shall file with the application a certificate by an insurance company authorized to do business in the State of Illinois, certifying that the applicant has the following coverages up to the full amount of potential liability as established by the Illinois Compiled Statutes from time to time. **(235 ILCS 5/6-21)**

21-2-11 DISPLAY OF LICENSE. Every licensee under this Chapter shall cause his license to be framed and hung in plain view in a conspicuous place on the licensed premises. **(235 ILCS 5/6-24)**

21-2-12 RECORD OF LICENSES. The Local Liquor Control Commissioner shall keep a complete record of all licenses issued by it and shall supply the Clerk, Treasurer and Chief of Police a copy of the same. Upon issuance or revocation of a license, the Local Liquor Control Commissioner shall give written notice to these same officers within **forty-eight (48) hours**. **(235 ILCS 5/4-1)**

ARTICLE III - REGULATIONS

21-3-1 HOURS. The hours for retail liquor licenses shall be as follows:

(A) **Closing Hours for All Licenses.** It shall be unlawful for any licensee to give or sell or offer for sale or gift or in any way provide any alcoholic liquors, spirits, beer, or wine in the Village during the following hours:

Hours of Closing:

Monday	From	1:00 A.M.	to	6:00 A.M.
Tuesday	From	1:00 A.M.	to	6:00 A.M.
Wednesday	From	1:00 A.M.	to	6:00 A.M.
Thursday	From	1:00 A.M.	to	6:00 A.M.
Friday	From	1:00 A.M.	to	6:00 A.M.
Saturday	From	2:00 A.M.	to	6:00 A.M.
Sunday	From	2:00 A.M.	to	6:00 A.M.

(B) It shall be unlawful to be open for business or to admit the public to any premises in or on which alcoholic liquor is sold by the drink or use or consumption on the premises during the hours within which the sale of alcoholic liquor is prohibited. However, any business granted a license which only permits the sale of alcoholic liquor in sealed packages, but not for consumption on the premises where sold, may remain open during the hours within which the sale of alcoholic liquor is prohibited, to sell goods or provide services other than the sale of alcoholic liquor. **(Ord. No. 425; 07-21-92)**

(C) The times referred to above shall mean "Daylight Savings Time" when the same is in effect in the Village, and upon cessation of Daylight Savings Time, shall mean "Central Standard Time".

(D) A restaurant may be kept open after these hours, but no alcoholic liquor may be sold or consumed by the public. **(Ord. No. 340; 03-20-84)**

(235 ILCS 5/4-1)

21-3-2 HAPPY HOUR RESTRICTIONS.

(A) All retail licensees shall maintain a schedule of the prices charged for all drinks of alcoholic liquor to be served and consumed on the licensed premises or in any room or part thereof. Whenever a hotel or multi-use establishment which holds a valid retailer's license operates on its premises more than one establishment at which drinks of alcoholic liquor are sold at retail, the hotel or multi-use establishment shall maintain at each such establishment a separate schedule of the prices charged for such drinks at the establishment.

(B) No retail licensee or employee or agent of such licensee shall:

(1) Sell more than **one (1) drink** of alcoholic liquor for the price of **one (1) drink** of alcoholic liquor;

(2) Sell, offer to sell or serve to any person an unlimited number of drinks of alcoholic liquor during any set period of time for a fixed price, except at private functions not open to the general public or as provided by **235 ILCS 5/6-28.5**;

(3) Increase the volume of alcoholic liquor contained in a drink, or the size of a drink of alcoholic liquor, without increasing proportionately the price regularly charged for the drink on that day;

(4) Encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or the awarding of drinks of alcoholic liquor as prizes for such game or contest on the licenses premises; or

(5) Advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under paragraphs (1) through (4).

(C) Permitted happy hours and meal packages, party packages, and entertainment packages.

(1) As used in this Section:

(a) **"Dedicated event space"** means a room or rooms or other clearly delineated space within a retain licensee's premises that is reserved for the exclusive use of party package invitees during the entirety of a party package. Furniture, stanchions and ropes, or other room dividers may be used to clearly delineate a dedicated event space.

(b) **"Meal package"** means a food and beverage package, which may or may not include entertainment, where the service of alcoholic liquor is an accompaniment to the food, including, but not limited to, a meal, tour, tasting, or any combination thereof for a fixed price by a retail licensee or any other licensee operating within a sports facility, restaurant, winery, brewery, or distillery.

(c) **"Party package"** means a private party, function, or event for a specific social or business occasion, either arranged by invitation or reservation for a defined number of individuals, that is not open to the general public and where attendees are served both food and alcohol for a fixed price in a dedicated event space.

(2) A retail licensee may:

(a) offer free food or entertainment at any time;

(b) include drinks of alcoholic liquor as part of a meal package;

(c) sell or offer for sale a party package only if the retail licensee:

(i) offers food in the dedicated event space;

(ii) limits the party package to no more than **three (3) hours**;

(iii) distributes wristbands, lanyards, shirts, or any other such wearable items to identify party package attendees so the attendees may be granted access to the dedicated event space; and

(iv) excludes individuals not participating in the party package from the dedicated event space;

(d) include drinks of alcoholic liquor as part of a hotel package;

(e) negotiate drinks of alcoholic liquor as part of a hotel package;

(f) provide room service to persons renting rooms at a hotel;

(g) sell pitchers (or the equivalent, including, but not limited to, buckets of bottled beer), carafes, or bottles of alcoholic liquor which are customarily sold in such manner, or sell bottles of spirits;

(h) advertise events permitted under this Section;

(i) include drinks of alcoholic liquor as part of an entertainment package where the licensee is separately licensed by a municipal ordinance that (i) restricts dates of operation to dates during which there is an event at an adjacent stadium, (ii) restricts hours of serving alcoholic liquor to **two (2) hours** before the event and **one (1) hour** after the event, (iii) restricts alcoholic liquor sales to beer and wine, (iv) requires tickets for admission to the establishment, and (v) prohibits sale of admission tickets on the day of an event and permits the sale of admission tickets for single events only; and

(j) discount any drink of alcoholic liquor during a specified time period only if:

(i) the price of the drink of alcoholic liquor is not changed during the time that it is discounted;

(ii) the period of time during which any drink of alcoholic liquor is discounted does not exceed **four (4) hours** per day and **fifteen (15) hours** per week; however, this period of time is not required to be consecutive and may be divided by the licensee in any manner;

(iii) the drink of alcoholic liquor is not discounted between the hours of **10:00 P.M.** and the licensed premises' closing hour; and

(iv) notice of the discount of the drink of alcoholic liquor during a specified time is posted on the licensed premises or on the licensee's publicly available website at least **seven (7) days** prior to the specified time.

(D) A violation of this Section shall be grounds for suspension or revocation of the retailer's license as provided by **Article IV** of this Chapter. **(235 ILCS 5/6-28)**

21-3-3 PROHIBITED LOCATIONS. No license shall be issued for the sale of any alcoholic liquor at retail within **one hundred (100) feet** of any church, school (other than an institution of higher learning), hospital, home for the aged or indigent persons, or for veterans, their spouses or children or any military or naval station; provided, that this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs or to restaurants, food shops, or other places where the sale of alcoholic liquors is not the principal business carried on if such place of business so exempted shall have been established for such purposes prior to the taking effect of this Chapter; nor to the renewal of a license for the sale at retail of alcoholic liquor on the premises within **one hundred (100) feet** of any church or school where such church or school has been established within such **one hundred (100) feet** since the issuance of the original license. In the case of a church, the distance of **one hundred (100) feet** shall be measured to the nearest part of any building used for worship services or educational programs and not to property boundaries.

Nothing in this Section shall prohibit the issuance of a license to a church or private school to sell at retail alcoholic liquor if any such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors. **(235 ILCS Sec. 5/6-11)**

21-3-4 CHANGE OF LOCATION. A retail liquor dealer's license shall permit the sale of alcoholic liquor only on the premises described in the application and license. Such location may be changed only upon the written permit to make such change issued by the Local Liquor Control Commissioner. No change of location shall be permitted unless the proposed new location is a proper one for the retail sale of alcoholic liquor under the law of this state and the Code of this Village. **(235 ILCS 5/7-14)**

21-3-5 STORES SELLING SCHOOL SUPPLIES, LUNCHES, ETC. No license shall be issued to any person for the sale at retail of any alcoholic liquor at any store or other place of business where the majority of customers are minors of school age or where the principal business transacted consists of school books, school supplies, food, lunches, or drinks for such minors. **(235 ILCS 5/6-12)**

21-3-6 TRANSPORTING, ETC., IN MOTOR VEHICLES. No person shall, within this Village, transport, carry, possess, or have any alcoholic liquor in, upon, or about any motor vehicle in or on any public street, alley or place, except in the original package and with the seal unbroken.

21-3-7 OPEN LIQUOR - CUP-TO-GO PROHIBITED. The licensee shall not knowingly permit any person to leave his premises with open liquor or in a **"cup-to-go".**

21-3-8 LIQUOR IN VEHICLES; UNDERAGE. The presence in a vehicle other than a public vehicle of any alcoholic liquor shall be prima facie evidence that it is in the possession of and is being carried by all persons occupying such vehicle at the time of which such alcoholic liquor is found, except under the following circumstances:

(A) If such liquor is found on the person of one of the occupants therein; or

(B) If such vehicle contains at least one occupant over **twenty-one (21) years of age**.

21-3-9 RESTRICTED RESIDENTIAL AREAS. It shall be unlawful to establish a retail liquor business within the Village in violation of the restrictions of the Zoning Code. **(See Chapter 40 of the Revised Code)**

21-3-10 ELECTION DAYS. All such licensees may sell alcoholic liquor at retail, by the drink or in the original package for consumption either on or off the premises licensed on the day of any national, state, county or municipal election, including primary elections during the hours the polls are open within the political area in which such election is being held and on Sundays; subject to all the remaining terms, conditions and opening hours and closing hours as set forth in this Chapter. **(Ord. No. 72-3; 03-16-72)**

21-3-11 UNLAWFUL ACTS. It shall be unlawful for any person to do or commit any of the following acts within the Village, to-wit:

(A) Drink any alcoholic liquors on any public street, alley, sidewalk, or other public way without special permission granted by the Local Liquor Control Commissioner.

(B) Drink any alcoholic liquors in any public park, except with the permission of the Local Liquor Control Commissioner.

(C) Drink any alcoholic liquors on any private property without permission of an owner thereof.

(D) Appear on or in any public street, alley, sidewalk or other public place, including parks and recreation areas, in an intoxicated condition.

21-3-12 UNLAWFUL ENTERTAINMENT. No licensee, his agent, servant or employee shall permit or allow any lewd or lascivious act or any topless and/or bottomless employee and/or employees **[topless being defined as naked and substantially without clothing or covering of the body from the waist to the neckline and bottomless being defined as naked and substantially without clothing or covering of the body from the waist downward],** or entertainment to be performed within the licensed premises by an entertainer employed therein, or by any employee or guest.

Nor shall any licensee, his agent, servant or employee permit or allow any employee or guest or any other person whomever to solicit or encourage the purchasing of any alcoholic liquor or beverage of any description, or the giving of any gratuity or gift by any patron or guest to or for the benefit of such employee or guest.

The following kinds of conduct on premises in this Village licensed to sell alcoholic liquor are prohibited:

(A) The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts;

(B) The actual or simulated exhibition, touching, caressing, or fondling of the breasts, buttocks, pubic hair, anus, vulva, or genitals;

(C) The actual or simulated displaying of the breasts, buttocks, pubic hair, anus, vulva, or genitals;

(D) The permitting by a licensee of any person to remain in or upon the licensed premises who exposes to view any portion of his or her breasts, buttocks, genitals, vulva, or anus;

(E) The displaying of films or pictures depicting acts, a live performance of which are prohibited by the regulations quoted above.

21-3-13 SANITARY CONDITIONS. All premises used for the retail sale of alcoholic liquor or for the storage of such liquor for such sale shall be kept in a clean and sanitary condition, and shall be kept in full compliance with the codes regulating the condition of the premises used for the storage or sale of food for human consumption. **(410 ILCS 650/1, et seq.)**

21-3-14 DISEASED EMPLOYEES. It shall be unlawful to employ in any premises used for the retail sale of alcoholic liquor, any person who is afflicted with or who is a carrier of any contagious disease, infectious or venereal disease; and it shall be unlawful for any person who is afflicted with or a carrier of any such disease to work in or about any premises or to engage in any way in the handling, preparation or distribution of such liquor. **(410 ILCS 650/10)**

21-3-15 HEALTH PERMIT. Every licensee shall have, at all times, a valid operating permit from the County Health Department which regulates health standards.

21-3-16 PEDDLING. It shall be unlawful to peddle alcoholic liquor in this Village. **(235 ILCS 5/4-1)**

21-3-17 GAMBLING. It is unlawful to keep, place, maintain, or operate any gambling device or instrument in and upon the premises used or occupied as a place where alcoholic liquor is sold or given away except for gambling devices that fully comply with the Video Gaming Act **(230 ILCS 40/1 et seq.)**. Participants in any of the following activities shall not be convicted of gambling:

(A) Manufacture of gambling devices, including the acquisition of essential parts therefore and the assembly thereof, for transportation in interstate or foreign commerce to any place outside this state when such transportation is not prohibited by any applicable federal law; or the manufacture, distribution or possession of video gaming terminals, as defined in the Illinois Video Gaming Act, by manufacturers, distributors, terminal operators, and establishments licensed to do so under the Illinois Gaming Act.

(B) Video gaming terminal games located at a licensed establishment, licensed truck stop establishment, licensed fraternal establishment, or licensed veteran's establishment when conducted in accordance with the Illinois Gaming Act.

(C) That is lawfully conducted under the Video Gaming Act if such activity complies with all requirements of the Video Gaming Act **(230 ILCS 40/1 et seq.)**. **(Ord. No. 819; 07-03-12) (720 ILCS 5/28-1)**

21-3-18 DISORDERLY HOUSE. Any person licensed under this Chapter shall not suffer or permit any disorder, drunkenness, quarreling, fighting, unlawful games, or riotous or disorderly conduct in any house or premises kept or occupied by him for the sale of liquor. **(235 ILCS 5/4-1)**

21-3-19 PROHIBITED SALES - GENERALLY. No licensee, nor any officer, associate, member, representative, agent or employee of such licensee shall sell, give or deliver alcoholic liquor to any person under the age of **twenty-one (21) years,** or to any intoxicated person or to any person

known by him to be a habitual drunkard, spendthrift, insane, or mentally ill. 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 (21) years,** except in the performance of a religious ceremony or service. **(235 ILCS 5/6-16)**

21-3-20 PERSONS SELLING LIQUOR. It shall be unlawful for any person under the age of **eighteen (18) years** to attend any bar or to sell, draw, pour or mix any alcoholic liquor in any licensed retail premises. **(235 ILCS 5/4-1) (Ord. No. 718; 05-01-07)**

21-3-21 UNLAWFUL PURCHASE OF LIQUOR. Any person to whom the sale, gift or delivery of any alcoholic liquor is prohibited because of age shall not purchase or accept a gift of such alcoholic liquor or have such alcoholic liquor in his possession. **(235 ILCS 5/6-20)**

21-3-22 IDENTIFICATION REQUIRED. If a licensee or his agents or employees believe or have reason to believe that a sale or delivery of any alcoholic liquor is prohibited because of the age of the prospective recipient, he shall, before making such sale or delivery, demand presentation of some form of positive identification, containing proof of age, issued by a public officer in the performance of his official duties.

Proof that the defendant/licensee or his employees or agent demanded, was shown, and reasonably relied upon such written evidence in any transaction forbidden by this Section is competent evidence and may be considered in any criminal prosecution therefor or in any proceedings for the suspension or revocation of any license based thereon. **(235 ILCS 5/6-20)**

21-3-23 TRANSFER OF IDENTIFICATION CARD. No person shall transfer, alter or deface such an identification card; use the identification card of another; carry or use a false or forged identification card; or obtain an identification card by means of false information. No person shall purchase, accept delivery, or have possession of alcoholic liquor in violation of this Chapter.

The consumption of alcoholic liquor by any person under the age of **twenty-one (21) years** is forbidden. **(235 ILCS 5/6-20)**

21-3-24 POSTING WARNING. In every licensed business where alcoholic liquor is sold, there shall be displayed at all times in a prominent place, a printed card which shall be supplied by the Village Clerk, and which shall read as follows:

UNDERAGE LIQUOR WARNING

"YOU ARE SUBJECT TO A FINE UP TO $750 UNDER THE ORDINANCES OF THIS MUNICIPALITY IF YOU PURCHASE ALCOHOLIC LIQUOR OR MISREPRESENT YOUR AGE FOR THE PURPOSE OF PURCHASING OR OBTAINING ALCOHOLIC LIQUOR."

21-3-25 EXCLUSIONARY PROVISION. The possession and dispensing or consumption by an underaged person of alcoholic liquor in the performance of a religious service or ceremony, or the consumption by an underaged person under the direct supervision and approval of the parent or parents of such underaged person in the privacy of a home is not prohibited by this Chapter. **(235 ILCS 5/6-20)**

21-3-26 INSPECTIONS. It shall be unlawful to refuse to grant admittance to the premises for which a license has been issued at any time upon the verbal request of the Chief of Police, any police officer, or member of the Local Liquor Control Commissioner for the purpose of making an inspection of such premises or any part thereof. **(235 ILCS 5/4-4)**

21-3-27 BOOKS AND RECORDS---AVAILABLE UPON REASONABLE NOTICE AND MAINTAINED IN STATE RECORDS. It shall be the duty of every retail licensee to make books and records available upon reasonable notice for the purpose of investigation and control by the Local Liquor Control Commissioner having jurisdiction over the licensee. Such books and records need not be maintained on the licensed premises, but must be maintained in the State of Illinois. **(235 ILCS 5/6-10)**

21-3-28 RESTRICTIONS ON LICENSEE. In addition to the restrictions on licensing, the holder of a license is subject to the following restrictions:

(A) It is unlawful for any licensee to accept, receive or borrow money or anything of value directly or indirectly from any manufacturer or distributor of alcoholic liquor. **(235 ILCS 5/6-5)**

(B) No licensee licensed under the provisions of this Code shall deny or permit his agents or employees to deny any person the full and equal enjoyment of the accommodations, advantages, facilities and privileges of any premises in which alcoholic liquors are authorized to be sold subject only to the conditions and limitations established by law and applicable alike to all citizens. **(235 ILCS 5/6-17)**

(C) No licensee shall sell liquor to any persons on credit, or in payment for services rendered but this does not apply to clubs and hotels and liquor purchased for consumption off the premises. **(235 ILCS 5/6-19)**

(D) No licensee shall fill or refill in whole or in part any original package of alcohol with the same or other liquor and no liquor shall be sold except in original packages. **(235 ILCS 5/6-22)**

(E) No alcoholic liquor shall be sold or delivered in any building belonging to or under the control of a municipality except in connection with the operation of an established food service facility or at a site specifically provided for in the Act and where dram shop insurance coverage is provided. **(235 ILCS 5/6-15)**

(F) An established place of business is a prerequisite to the issuance of a license. Revocation of a license when a licensee ceases to operate the business before the license expires is within the authority of the Liquor Commission on the grounds of nonuse. **(See Goode V. Thomas 31 Ill. App. 3d 674, 1975)**

21-3-29 SELLING FALSE IDENTIFICATION. Any person who sells, gives, or furnishes to any person under the age of **twenty-one (21) years** any false or fraudulent written, printed, or photostatic evidence of the age and identity of such person or who sells, gives or furnishes to any person under the age of **twenty-one (21) years** evidence of age and identification of any other person is guilty of violating this Code. **(235 ILCS 5/6-16)**

21-3-30 FALSE IDENTIFICATION. Any person under the age of **twenty-one (21) years** who presents or offers to any licensee, his agent or employee, any written, printed or photostatic evidence of age and identity which is false, fraudulent, or not actually his own for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any alcoholic beverage, or who has in his possession any false or fraudulent, written, printed, or photostatic evidence of age and identity, is guilty of violating this Code. **(235 ILCS 5/6-16)**

21-3-31 UNDERAGED DRINKING ON STREETS. Any person under the age of **twenty-one (21) years** who has any alcoholic beverage in his possession on any street or highway or in any public place, or in any place open to the public is guilty of violating this Code. This Section does not apply to possession by a person under the age of **twenty-one (21) years** making a delivery of an alcoholic beverage in pursuance of the order of his or her parent or in pursuance of his or her employment. **(235 ILCS 5/6-16) (Ord. No. 718; 05-01-07)**

21-3-32 RESIDENTIAL DRINKING. Any person shall be guilty of a violation of this Code where he or she knowingly permits a gathering at a residence which he or she occupies of **two (2) or more persons** where any one or more of the persons is under **twenty-one (21) years** of age and the following factors also apply:

(A) the person occupying the residence knows that any such person under the age of **twenty-one (21)** is in possession of or is consuming any alcoholic beverage; and

(B) the possession or consumption of the alcohol by the person under **twenty-one (21)** is not otherwise permitted by this Code and

(C) the person occupying the residence knows that the person under the age of **twenty-one (21)** leaves the residence in an intoxicated condition.

For the purposes of this Section where the residence has an owner and a tenant or lessee, there is a rebuttable presumption that the residence is occupied only by the tenant or lessee. **(235 ILCS 5/6-16) (Ord. No. 718; 05-01-07)**

21-3-33 RENTING HOTEL ROOMS FOR DRINKING. Any person who rents a hotel or motel room from the proprietor or agent thereof for the purpose of or with the knowledge that such room shall be used for the consumption of alcoholic liquor by persons under the age of **twenty-one (21) years** shall be guilty of violating this Code. **(235 ILCS 5/6-16)**

21-3-34 BASSET TRAINING REQUIRED.

(A) For all licenses issued on or after **October 1, 2016** and all original or renewal applications for liquor licenses shall be accompanied with proof of completion of a State Certified Beverage Alcohol Sellers and Servers Education and Training (BASSET) program for all persons who sell or serve alcoholic beverages, all management personnel working on premises, and anyone whose job description entails the checking of identification for the purpose of alcoholic beverages, pursuant to that license.

(B) A state certified BASSET training program shall be defined as a BASSET program licensed by the State of Illinois Liquor Control Commission (ILCC) as required by **235 ILCS 5/3-12(11.1)** and **6-27** and Title 77 of Illinois Administrative Code, Chapter XVI, Section 3500. All licensed BASSET providers shall be required to have on file all licenses and certificates to prove current qualifications and provide a certificate of course completion and a card (a picture type ID is optional), to participants as proof of completion.

(C) After **October 1, 2016**, any new owner, manager, employee, or agent requiring BASSET training, shall within **ninety (90) days** from the beginning of their employment with that licensee, complete an ILCC BASSET approved seller/server training program and shall until completion of the BASSET program work under the supervision of a person who has completed BASSET training.

(D) A photo copy of certificate of completion for all owners, managers, employees, or agents required by this Section to have BASSET training shall be maintained, by the establishment, in manner that will allow inspection, upon demand, by any designee of both the state or local liquor control authorities.

(E) The City will honor all State of Illinois Liquor Control Commission (ILCC) BASSET approved programs.

ARTICLE IV - VIOLATIONS AND PENALTIES

21-4-1 OWNER OF PREMISES PERMITTING VIOLATION. If the owner of the licensed premises or any person from whom the licensee derives the right to possession of such premises, or the agent of such owner or person shall knowingly permit the licensee to use said licensed premises in violation of the terms of this Code, said owner, agent or other person shall be deemed guilty of a violation of this Code to the same extent as said licensee and be subject to the same punishment. **(235 ILCS 5/10-2)**

21-4-2 ACTS OF AGENT OR EMPLOYEE - LIABILITY; KNOWLEDGE. Every act or omission of whatsoever nature constituting a violation of any of the provisions of this Code by any officer, director, manager or other agent or employee of any licensee shall be deemed and held to be the act of such employer or licensee, and said employer or licensee shall be punishable in the same manner as if said act or omission had been done or omitted by him personally. **(235 ILCS 5/10-3)**

21-4-3 REVOCATION OF LICENSE AFTER CONVICTION. Whenever any licensee shall be convicted of any violation of this Code, the license of said licensee may, in the discretion of the Local Liquor Control Commissioner, be revoked and forfeited and all fees paid thereon shall be forfeited, and it shall thereafter be unlawful and shall constitute a further violation of this Code for said licensee to continue to operate under such license. **(235 ILCS 5/10-4)**

21-4-4 REVOCATION OF LICENSE WHEN EMPLOYEE CONVICTED. Whenever any officer, director, manager, or other employee in a position of authority of any licensee under this Code shall be convicted of any violation of this Code while engaged in the course of his employment or while upon the premises described by the license, the license shall be revoked and the fees paid thereon forfeited, both as to the holder of the license and as to the premises, as if said licensee had himself been convicted. **(235 ILCS 5/10-5)**

21-4-5 MISBRANDING. Any person who shall knowingly possess, sell or in any way dispose of any alcoholic liquor under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the package or other containers of the alcoholic liquor, or who shall cause any such act to be done, shall forfeit the alcoholic liquor and the packages and containers to the State and shall be subject to the punishment and penalties provided for violation of this Code. **(235 ILCS 5/10-6)**

21-4-6 ABATEMENT OF PLACE USED IN VIOLATION. Every lot, parcel or tract of land, and every building, structure, tent, railroad car, boat, wagon, vehicle, establishment or place whatsoever, together with all furniture, fixtures, ornaments and machinery located thereon, wherein there shall be conducted any unlawful sale of any alcoholic liquor, or whereon or wherein there shall be kept, stored, concealed or allowed any alcoholic liquor intended for illegal sale or to be sold, disposed of or in any other manner used in violation of any of the provisions of this Code, is hereby declared to be a public nuisance and shall be abated as provided by the laws of this State for the abatement of public nuisances. **(235 ILCS 5/10-7)**

21-4-7 USE OF PREMISES FOR ONE YEAR AFTER REVOCATION. When any license has been revoked for any cause, no license shall be granted for the same premises for a period of **one (1) year** thereafter. **(235 ILCS 5/7-13)**

21-4-8 REVOCATION OF LICENSES. The Local Liquor Control Commission shall have the following powers, functions and duties with respect to licenses granted under this Code.

(A) In addition to and not limited by the specific penalties set out for violations of specific articles of this Code, the Local Liquor Control Commissioner may suspend for **thirty (30) days** or revoke any liquor license issued under this Code for violation of any state law pertaining to the sale of alcoholic liquors by any licensee, his agent, servant or employee.

(B) To suspend or revoke any liquor license if the licensee makes any false statement or misrepresentation in the application for a license.

(C) To enter or to authorize any law enforcing officer to enter at any time upon any premises licensed hereunder to determine whether any of the provisions of this Code or any rules or regulations adopted by him or by the State Commission have been or are being violated, and at such time to examine said premises of said licensee in connection therewith;

(D) To notify the Secretary of State where a club incorporated under the General Not for Profit Corporation Act or a foreign corporation functioning as a club in this State under a certificate of authority issued under that Act has violated this Code by selling or offering for sale at retail alcoholic liquors without a retailer's license;

(E) To receive complaint from any citizen within his jurisdiction that any of the provisions of this Act, or any rules or regulations adopted pursuant hereto, have been or are being violated and to act upon such complaints in the manner hereinafter provided;

(F) The Local Liquor Control Commissioner shall also have the power to levy fines in accordance with **Section 21-4-10** of this Code. **(235 ILCS 5/4-4)**

21-4-9 COMPLAINT BY RESIDENTS. Any **five (5) residents** of the Village shall have the right to file a complaint with the Liquor Commission, stating that a licensee under this Code has been or is violating the provisions of this Code or any amendments hereto, or of any of the statutes of this State of Illinois, enacted with reference to the control of liquor. Such complaint shall be made in writing and shall be signed and sworn to by the parties complaining.

The complaint shall state the particular provision, rule or regulation believed to have been violated and the facts in detail upon which such belief is based. If the Liquor Commission is satisfied that the complaint substantially charges a violation, and that from the facts alleged, there is reasonable cause for such belief, he shall set the matter for hearing, and shall serve notice upon the licensee of the time and place of such hearing and of the particular charges in the complaint. **(235 ILCS 5/7-7)**

21-4-10 REVOCATION OR SUSPENSION OF LOCAL LICENSE; - NOTICE AND HEARING. The Liquor Commission may revoke or suspend any license issued by it if it determines that the licensee has violated any of the provisions of the **Illinois Liquor Act,** any valid ordinance adopted by the Village, any applicable rule or regulation established by the Liquor Commission or the State Commission which is not inconsistent with law.

(A) Fine as Opposed to Suspension or Revocation. In addition to the suspension, the Local Liquor Control Commissioner in any county or municipality may levy a fine on the licensee for such violations. The fine imposed shall not exceed One Thousand Dollars ($1,000.00) for a first violation within a twelve (12) month period, One Thousand Five Hundred Dollars ($1,500.00) for a second violation within a twelve (12) month period, and Two Thousand Five Hundred Dollars ($2,500.00) for a third or subsequent violation within a twelve (12) month period. Each day on which a violation continues shall constitute a separate violation. Not more than Fifteen Thousand Dollars ($15,000.00) in fines under this Section may be imposed against any licensee during the period of his license. Proceeds from such fines shall be paid into the general corporate fund of the municipal treasury. (See P.A. 89-0063)

(B) **Revocation and Suspension: Notice.** However, no such license shall be so revoked or suspended and no licensee shall be fined except after a public hearing by the Local Liquor Control Commissioner with a **three (3) day** written notice to the licensee affording the licensee an opportunity to appear and defend. All such hearings shall be open to the public and the Local Liquor

Control Commissioner shall reduce all evidence to writing and shall maintain an official record of the proceedings. If the Local Liquor Control Commissioner has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the community it may, upon the issuance of a written order stating the reason for such conclusion and without notice or hearing order the licensed premises closed for not more than **seven (7) days**, giving the licensee an opportunity to be heard during that period, except that if such licensee shall also be engaged in the conduct of another business or businesses on the licensed premises such order shall not be applicable to such other business or businesses.

(C) **Hearing.** The Local Liquor Control Commissioner shall, within **five (5) days** after such hearing, if he determines after such hearing that the license should be revoked or suspended, state the reason or reasons for such determination in a written order of revocation or suspension and shall serve a copy of such order within the **five (5) days** upon the license. The findings of the Commission shall be predicted upon competent evidence. **(235 ILCS 5/7-5)**

21-4-11 APPEALS FROM ORDER OF LOCAL LIQUOR CONTROL COMMISSIONER. Except as provided in this Section, any order or action of a Local Liquor Control Commissioner levying a fine or refusing to levy a fine on a licensee, granting or refusing to grant a license, revoking or suspending or refusing to revoke or suspend a license or refusing for more than **thirty (30) days** to grant a hearing upon a complaint to revoke or suspend a license may within **twenty (20) days** after notice of such order or action by appealed by any resident of the Village under the jurisdiction of the Local Liquor Control Commissioner or any person interested, to the State Commission.

In any case where a licensee appeals to the State Commission from an order or action of the Local Liquor Control Commissioner having the effect of suspending or revoking a license, denying a renewal application, or refusing to grant a license, the licensee shall resume the operation of the licensed business pending the decision of the State Commission and the expiration of the time allowed for an application for rehearing. If an application for rehearing is filed, the licensee shall continue the operation of the licensed business until the denial of the application or, if the rehearing is granted, until the decision on rehearing. **(235 ILCS 5/7-9)**

21-4-12 SUBSEQUENT VIOLATIONS IN A YEAR. In any case in which a licensee appeals to the State Commission a suspension or revocation by a Local Liquor Control Commissioner that is the second or subsequent such suspension or revocation placed on that licensee within the preceding **twelve (12) month period,** the licensee shall consider the suspension or revocation to be in effect until a reversal of the Local Liquor Control Commissioner's action has been issued by the State Commission and shall cease all activity otherwise authorized by the license. The State Commission shall expedite, to the greatest extent possible, its consideration of any appeal that is an appeal of a second or subsequent suspension or revocation within the past **twelve (12) month period**. **(235 ILCS 5/7-9)**

21-4-13 APPEAL LIMITATIONS FOR SUBSEQUENT VIOLATION. Any appeal of the decision and findings of the Local Liquor Control Commissioner in **Section 21-4-12** shall be limited to a review of the official record of the proceedings of said Local Liquor Control Commissioner. The official record shall be a "certified official record" of the proceedings taken and prepared by a certified court reporter or certified shorthand reporter. A copy of this record shall be filed by the Local Liquor Control Commissioner within **five (5) days** after notice of the filing of such appeal is received by the Village from State Commission. **(235 ILCS 5/7-9)**

OFFICE USE ONLY

VILLAGE OF SMITHTON
APPLICATION FOR LIQUOR LICENSE

Date Received: _____
License # _____
Amount Due: _____
Paid Date: _____

The undersigned hereby makes an application properly completed, signed and filed with the Village Clerk for Liquor License and submits the following information:

1. Applicant's full name: _____
   A. If a partnership or corporation, give names of owners of more than 5%:
   _____
   _____
2. Name and location of business for which license is sought:
   _____
   (exact address & zip code)

3. State classification of liquor license applying for:
   Class "A" Tavern: _____ Class "B" Convenience/Liquor Store: _____
   Class "C" Restaurant: _____ Class "D" Civic Organizations, etc.: _____
   Location, Date & Hours of Class D Event: _____
4. Name and address of owner of premises: _____
   _____
   A. If leased, period covered by lease: _____
5. Is this business located within 100 feet of any church, school, hospital, home for the aged or indigent persons or veterans, their wives or children, or any naval or military station? _____

6. Has any manufacturer or distributor directly or indirectly paid or agreed to pay for this license, advanced money, or anything else of value, except as specifically permitted in the Act, or any credit, or is such a person directly or indirectly interested in the ownership, conduct or operation of the place of business? _____ If yes, give particulars. _____
   _____

7. A. Name of Applicant / Business Owner: _____
      Date of Birth: _____
   B. Residence Address: _____
      Telephone Number: _____
   C. Place of Birth: _____
   D. Are you a citizen of the Unites States? _____
      If naturalized citizen, time and place of naturalization: _____
8. Have you ever been convicted of a felony under any Federal or State Law? _____
   If so, give date and State of offense: _____
9. Have you ever made application for a liquor license for any other premises? _____
   A. Date: _____
   B. State disposition of application: _____
   C. Give address: _____
10. Has any license previously issued to you by State, Federal or local authorities been suspended or revoked? _____

    If so, state reason therefore and date of suspension or revocation: _____

To Be Filled Out by Business Partner

11. A. Name of partner, if any: _____
    Date of Birth: _____
    B. Residence Address: _____
    Telephone Number: _____
    C. Place of Birth: _____
    D. Are you a citizen of the Unites States? _____
    If naturalized citizen, time and place of naturalization: _____
    _____
12. Have you ever been convicted of a felony under any Federal or State Law? _____
    If so, give date and State of offense: _____
13. Have you ever made application for a liquor license for any other premises? _____
    A. Date: _____
    B. State disposition of application: _____
    C. Give address: _____
14. Has any license previously issued to you by State, Federal or local authorities been suspended or revoked? _____
    If so, state reason therefore and date of suspension or revocation: _____
    _____

AFFIDAVIT

STATE OF ILLINOIS)
County of St. Clair) SS.

I swear (or affirm) that I will not violate any of the ordinances of the Village of Smithton or the laws of the State of Illinois or the laws of the United States of America, in the conduct of the place of business described herein, and that the statements contained in this application are true and correct to the best of my knowledge and belief.

_____ _____
Signature of Applicant Date

_____
Printed Name of Applicant

_____ _____
Signature of Partner Date

Subscribed and sworn to before me this _____ day of _____, 20 ____.

_____
Notary Public Seal:

_____ _____
Mayor / Liquor Commissioner Date

_____ _____
Village Clerk Date

VILLAGE OF SMITHTON
GAMING LICENSE APPLICATION

APPLICATION # _____

APPLICATION FEE_____

DISTRIBUTOR'S NAME AND ADDRESS_____

_____

_____

DISTRIBUTOR'S PHONE NUMBER _____

DISTRUBUTOR'S STATE LICENSE # _____

ESTABLISHMENT'S NAME & ADDRESS_____

_____

_____

ESTABLISHMENT'S PHONE NUMBER _____

ESTABLISHMENT'S STATE LICENSE # _____

NUMBER OF LICENSED TERMINALS _____

TERMINAL SERIAL NUMBERS _____

_____

_____

_____

_____

_____

ESTABLISHMENT OWNER SIGNATURE_____

DATE_____

COPIES OF DISTRIBUTOR'S **AND** ESTABLISHMENT'S STATE GAMING LICENSES ARE **REQUIRED** PRIOR TO ISSUING LICENSES EACH YEAR.

Application Approved _____ Application Denied_____

Reviewed by: _____ Date: _____

Reviewed by: _____ Date: _____

CHAPTER 22 – MANDATED POLICIES

ARTICLE		*TITLE*	*PAGE*
I	*IDENTITY THEFT*		
	Section 22-1-1	*Program Adoption*	*22-1*
	Section 22-1-2	*Program Purpose and Definitions*	*22-1*
	Section 22-1-3	*Identification of Red Flags*	*22-2*
	Section 22-1-4	*Detecting Red Flags*	*22-3*
	Section 22-1-5	*Preventing and Mitigating Identity Theft*	*22-3*
	Section 22-1-6	*Program Updates*	*22-4*
	Section 22-1-7	*Program Administration*	*22-4*
II	*USE OF SOCIAL SECURITY NUMBERS*		
	Section 22-2-1	*Definitions*	*22-6*
	Section 22-2-2	*Prohibited Activities*	*22-6*
	Section 22-2-3	*Public Inspection and Copying of Documents*	*22-7*
	Section 22-2-4	*Applicability*	*22-7*
	Section 22-2-5	*Compliance with Federal Law*	*22-7*
	Section 22-2-6	*Embedded Social Security Numbers*	*22-8*
	Section 22-2-7	*Identity—Protection Requirements*	*22-8*
	Section 22-2-8	*Penalty*	*22-8*
	Section 22-2-9	*Amendment of Privacy Policy*	*22-8*
	Section 22-2-10	*Conflict with Stricter Laws*	*22-8*
III	*FREEDOM OF INFORMATION POLICY*		
	Section 22-3-1	*Public Records Available*	*22-9*
	Section 22-3-2	*Designation, Duties and Training of Freedom of Information Act Officers*	*22-9*
	Section 22-3-3	*Procedures*	*22-9*
	Section 22-3-4	*Requests to Inspect or Copy*	*22-9*
	Section 22-3-5	*Request for Commercial Purposes*	*22-10*
	Section 22-3-6	*Fees*	*22-11*
	Section 22-3-7	*Public File*	*22-11*
	Section 22-3-8	*Granting or Denial of Requests*	*22-11*
	Section 22-3-9	*Certain Information Exempt from Inspection and Copying*	*22-11*
	Section 22-3-10	*Notice of Denial of Request; Appeals*	*22-11*
IV	*FAIR HOUSING CODE*		
	Section 22-4-1	*Short Title*	*22-12*
	Section 22-4-2	*Purpose and Declaration of Policy*	*22-12*
	Section 22-4-3	*Construction*	*22-12*
	Section 22-4-4	*Definitions*	*22-12*
	Section 22-4-5	*Discriminatory Terms*	*22-13*
	Section 22-4-6	*Refusals to Deal*	*22-13*
	Section 22-4-7	*Withholding Housing*	*22-13*
	Section 22-4-8	*Advertisements*	*22-13*
	Section 22-4-9	*Advertisements, Causing or Permitting*	*22-13*

ARTICLE		TITLE	PAGE
IV	FAIR HOUSING CODE (CONTINUED)		
	Section 22-4-10	- Signs and Notices	22-13
	Section 22-4-11	- Exemptions	22-13
	Section 22-4-12	- Limitations	22-14
	Section 22-4-13	- Withholding Housing	22-14
	Section 22-4-14	- Refusals of Offers	22-14
	Section 22-4-15	- Advertisements	22-14
	Section 22-4-16	- Signs and Notices	22-14
	Section 22-4-17	- Licensing	22-14
	Section 22-4-18	- Discrimination in Lending	22-14
	Section 22-4-19	- Refusals to Deal in Lending	22-14
	Section 22-4-20	- Coverage	22-15
	Section 22-4-21	- Representation	22-15
	Section 22-4-22	- Other Violations	22-15
	Section 22-4-23	- Complaints	22-15
	Section 22-4-24	- Hearings by Village Board	22-15
	Section 22-4-25	- Enforcement	22-16
	Section 22-4-26	- Remedies	22-16
	Section 22-4-27	- Fines	22-16
V	INVESTMENT POLICY		
	Section 22-5-1	- Policy	22-17
	Section 22-5-2	- Scope	22-17
	Section 22-5-3	- Prudence	22-17
	Section 22-5-4	- Objectives	22-17
	Section 22-5-5	- Delegation of Authority	22-17
	Section 22-5-6	- Ethics and Conflicts of Interest	22-17
	Section 22-5-7	- Authorized Financial Dealers and Institutions	22-17
	Section 22-5-8	- Authorized and Suitable Investments	22-17
	Section 22-5-9	- Collateralization	22-17
	Section 22-5-10	- Safekeeping and Custody	22-18
	Section 22-5-11	- Diversification	22-18
	Section 22-5-12	- Maximum Maturities	22-18
	Section 22-5-13	- Internal Control	22-18
	Section 22-5-14	- Performance Standards	22-18
	Section 22-5-15	- Reporting	22-18
	Section 22-5-16	- Market to Market	22-18
	Section 22-5-17	- Investment Policy Adoption	22-18
VI	ETHICS CODE		
	Section 22-6-1	- State Officials and Employees Ethics Act	22-19
VII	EQUAL EMPLOYMENT POLICY		
	Section 22-7-1	- Adoption of Codes	22-20
	Section 22-7-2	- Non-Discriminatory Practices	22-20
	Section 22-7-3	- Contracting with Non-Complaints	22-20
	Section 22-7-4	- Outreach to All	22-22
	Section 22-7-5	- Minority Hiring	22-22

ARTICLE		TITLE	PAGE
VII	EQUAL EMPLOYMENT POLICY (CONTINUED)		
	Section 22-7-6	- Accommodations for Disabled	22-22
	Section 22-7-7	- Compliance by Employees	22-22
	Section 22-7-8	- Designated Enforcers	22-22
VIII	DRUG FREE WORKPLACE		
	Section 22-8-1	- Definitions	22-23
	Section 22-8-2	- Requirements for Village	22-23
IX	DRUG/ALCOHOL TESTING POLICY AND PROCEDURE		
	Section 22-9-1	- Drug and Alcohol Free Workplace Policy	22-25
	Section 22-9-2	- Definitions	22-25
	Section 22-9-3	- Prohibited Actions	22-25
	Section 22-9-4	- Applicability	22-25
	Section 22-9-5	- Testing Procedure	22-26
	Section 22-9-6	- Screening and Testing	22-26
	Section 22-9-7	- Confidentiality of Test Results	22-28
	Section 22-9-8	- Consequences of Positive Test Result or Refusal to Cooperate	22-28
X	POLICY PROHIBITING SEXUAL HARASSMENT		
	Section 22-10-1	- Prohibition on Sexual Harassment	22-29
	Section 22-10-2	- Definition of Sexual Harassment	22-29
	Section 22-10-3	- Procedure for Reporting an Allegation of Sexual Harassment	22-29
	Section 22-10-4	- Prohibition on Retaliation for Reporting Sexual Harassment Allegations	22-31
	Section 22-10-5	- Consequences of a Violation of the Prohibition on Sexual Harassment	22-31
	Section 22-10-6	- Consequences for Knowingly Makes a False Report	22-32

CHAPTER 22

MANDATED POLICIES

ARTICLE I – IDENTITY THEFT

22-1-1 PROGRAM ADOPTION. The Village of Smithton adopted this Identity Theft Prevention Program ("Program") pursuant to the Federal Trade Commission's Red Flags Rule ("Rule"), which implements Sections 114 and 315 of the Fair and Accurate Transactions Act of 2003. After consideration of the size and complexity of the Village's operations and account systems, and the nature and scope of the Village's activities, the Board of Trustees has determined that this Program was appropriate for the Village and therefore approves this Program by the adoption of Ordinance Number 750.

22-1-2 PROGRAM PURPOSE AND DEFINITIONS.

(A) **Fulfilling Requirements of the Red Flags Rule.** Under the Red Flags Rule, every financial institution and creditor is required to establish an identity theft prevention program tailored to its size, complexity and the nature of its operation. The program must contain reasonable policies and procedures to:

(1) Identity relevant Red Flags as defined in the Rule and this program for new and existing covered accounts and incorporate those Red Flags into the Program;

(2) Detect Red Flags that have been incorporated into the Program;

(3) Respond appropriately to any Red Flags that are detected to prevent and mitigate identity theft; and

(4) Update the Program periodically to reflect changes in risks to customers or to the safety and soundness of the District from identity theft.

(B) For the purposes of this Program, the following definitions apply:

(1) **Account.** "Account" means a continuing relationship established by a person with a creditor to obtain a product or service for personal, family, household or business purposes.

(2) **Covered Account.** A "covered account" means:

(a) any account the Village offers or maintains primarily for personal, family or household purposes, that involves multiple payments or transactions; and

(b) Any other account the Village offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the Village from Identity Theft.

(3) **Creditor.** "Creditor" has the same meaning as defined in Section 702 of the Equal Credit Opportunity Act, 15 U.S.C. 169a, and includes a person or entity that arranges for the extension, renewal or continuation of credit, including the District.

(4) **Customer.** A "customer" means a person or business entity that has a covered account with the Village.

(5) **Financial Institution.** "Financial institution" means a state or national bank, a state or federal savings and loan association, a mutual savings bank, a state or federal credit union, or any other entity that holds a "transaction account" belonging to a customer.

(6) **Identifying Information.** "Identifying information" means any name or number that may be used, along or in conjunction with any other information, to identify a specific person, including name, address, telephone number, social security number, date of birth, government issued driver's license or identification number, alien registration

number, government passport number employer or taxpayer identification number or unique electronic identification number.

(7) **Identity Theft.** "Identity Theft" means fraud committed using the identifying information of another person.

(8) **Red Flag.** A "Red Flag" means a pattern, practice, or specific activity that indicates the possible existence of Identity Theft.

(9) **Service Provider.** "Service Provider" means a person or business entity that provides a service directly to the Village relating to or connection with a covered account.

22-1-3 IDENTIFICATION OF RED FLAGS. In order to identify relevant Red Flags, the Village shall review and consider the types of covered accounts that it offers and maintains, the methods it provides to open covered accounts, the methods it provides to access its covered accounts, and its previous experiences with Identity Theft. The Village identifies the following Red Flags, in each of the listed categories:

(A) **Notifications and Warnings From Credit Reporting Agencies.**

(1) Report of fraud accompanying a credit report;

(2) Notice or report from a credit agency of a credit freeze on a customer or applicant;

(3) Notice or report from a credit agency or an active duty alert for an applicant; and

(4) Indication from a credit report of activity that is inconsistent with a customer's usual pattern or activity.

(B) **Suspicious Documents; Red Flags.**

(1) Identification document or card that appears to be forged, altered or inauthentic;

(2) Identification document or card on which a person's photograph or physical description is not consistent with the person presenting the document;

(3) Other document with information that is not consistent with existing customer information (such as a person's signature on a check appears forged); and

(4) Application for service that appears to have been altered or forged.

(C) **Suspicious Personal Identifying Information; Red Flags.**

(1) Identifying information presented that is inconsistent with other information the customer provides (such as inconsistent birth dates);

(2) Identifying information presented that is inconsistent with other sources of information (for instance, an address not matching an address on a driver's license);

(3) Identifying information presented that is the same as information as shown on other applications that were found to be fraudulent;

(4) Identifying information presented that is consistent with fraudulent activity (such as an invalid phone number or fictitious billing address);

(5) Social security number presented that is the same as one given by another customer;

(6) An address or phone number presented that is the same as that of another person;

(7) Failing to provide complete personal identifying information on an application when reminded to do so (however, by law social security numbers must not be required); and

(8) Identifying information which is not consistent with the information that is on file for the customer.

(D) **Suspicious Account Activity or Unusual Use of Account; Red Flags.**

(1) Change of address for an account followed by a request to change the account holder's name;
(2) Payments stop on an otherwise consistently up-to-date account;
(3) Account used in a way that is not consistent with prior use (such as very high activity);
(4) Mail sent to the account holder is repeatedly returned as undeliverable;
(5) Notice to the Village that a customer is not receiving mail sent by the Village;
(6) Notice to the Village that an account has unauthorized activity;
(7) Breach in the Village's computer system security; and
(8) Unauthorized access to or use of customer account information.

(E) **Alerts From Others; Red Flag.**

(1) Notice to the Village from a customer, a victim of identity theft, a law enforcement authority or other person that it has opened or is maintaining a fraudulent account for a person engaged in Identity Theft.

22-1-4 DETECTING RED FLAGS.

(A) **New Accounts.** In order to detect any of the Red Flags identified above associated with the opening of a **new account**, Village personnel will take the following steps to obtain and verify the identity of the person opening the account:

(1) Require certain identifying information such as name, date of birth, residential or business address, principal place of business for an entity, driver's license or other identification;
(2) Verify the customer's identity (for instance, review a driver's license or other identification card);
(3) Review documents showing the existence of a business entity; and
(4) Independently contact the customer.

(B) **Existing Accounts.** In order to detect any of the Red Flags identified above for an **existing account**, Village personnel will take the following steps to monitor transactions with an account:

(1) Verify the identification of customers if they request information (in person, via telephone, via facsimile, via email);
(2) Verify the validity of requests to change billing addresses; and
(3) Verify changes in banking information given for billing and payment purposes.

22-1-5 PREVENTING AND MITIGATING IDENTITY THEFT. In the event Village personnel detect any identified Red Flags, such personnel shall take one or more of the following steps, depending on the degree of risk posed by the Red Flag:

(1) Monitor a covered account for evidence of Identity Theft;
(2) Contact the customer with the covered account;
(3) Change any passwords or other security codes and devices that permit access to a covered account;
(4) Not open a new covered account;
(5) Close an existing covered account;
(6) Reopen a covered account with a new number;
(7) Not attempt to collect payment on a covered account;
(8) Notify the Program Administrator for determination of the appropriate step(s) to take;
(9) Notify law enforcement; or

(10) Determine that no response is warranted under the particular circumstances.

(B) **Protect Customer Identifying Information.** In order to further prevent the likelihood of Identity Theft occurring with respect to Village accounts, the Village should take the following steps with respect to its internal operating procedures to protect customer identifying information:

(1) Secure the Village website but provide clear notice that the website is not secure;
(2) Undertake complete and secure destruction of paper documents and computer files containing customer information;
(3) Make office computers password protected and provide that computer screens lock after a set period of time;
(4) Keep offices clear of papers containing customer identifying information;
(5) Request only the last four digits of social security numbers (if any);
(6) Maintain computer virus protection is up to date; and
(7) Require and keep only the kinds of customer information that are necessary for Village purposes.

22-1-6 PROGRAM UPDATES. The program will be periodically reviewed and updated to reflect changes in risks to customers and to the safety and soundness of the Village from Identity Theft. The Program Administrator shall at least annually consider the Village's experiences with Identity Theft, changes in Identity Theft methods, changes in Identity Theft detection and prevention methods, changes in types of accounts the Village maintains and changes in the Village's business arrangements with other entities and service providers. After considering these factors, the Program Administrator shall determine whether changes to the Program, including the listing of Red Flags, are warranted. If warranted, the Program Administrator shall present the Program Administrator's recommended changes to the Board of Trustees for review and approval.

22-1-7 PROGRAM ADMINISTRATION.

(A) **Oversight.** The Program Administrator shall be responsible for developing, implementing and updating the program.

(B) **Staff Training and Reports.** Village staff responsible for implementing the Program shall be trained either by or under the direction of the Program Administrator in the detection of Red Flags, and the responsive steps to be taken when a Red Flag is detected.

(C) **Service Provider Arrangements.** In the event the Village engages a service provider to perform an activity in connection with one or more covered accounts, the Village shall take the following steps to require that the service provider performs its activity in accordance with reasonable policies and procedures designed to detect, prevent and mitigate the risk of Identity Theft.

(1) Require, by contract, that service providers acknowledge receipt and review of the Program and agree to perform its activities with respect to Village covered accounts in compliance with the terms and conditions of the Program and with all instructions and directives issued by the Program Administrator relative to the Program; or
(2) Require, by contract, that service providers acknowledge receipt and review of the Program and agree to perform its activities with respect to Village covered accounts in compliance with the terms and conditions of the service provider's identity theft prevention program and will take appropriate action to prevent and mitigate identity theft; and that the service providers agree to report promptly to the Village in writing if the service provider in connection with a Village covered account detects an incident of actual or attempted identity theft or is unable to resolve one or more Red Flags that the service provider detects in connection with a covered account.

(D) **Customer Identifying Information and Public Disclosure.** The identifying information of Village customers with covered accounts shall be confidential and shall be exempt from the public disclosure to the maximum extent authorized by law, including RCW 42.56230(4). The Board of Trustees also finds and determines that public disclosure of the Village specific practices to identify, detect, prevent and mitigate identity theft may compromise the effectiveness of such practices and hereby directs that, under the Program, knowledge of such specific practices shall be limited to the Program Administrator and those Village employees and service providers who need to be aware of such practices for the purpose of preventing Identity Theft.

(Ord. No. 750; 11-18-08)

ARTICLE II - USE OF SOCIAL SECURITY NUMBERS

22-2-1 DEFINITIONS.

"Person" means any individual in the employ of the Village.

"Policy" or "Privacy Policy" means this document, as now or hereafter amended.

"Publicly post" or "publicly display" means to intentionally communicate or otherwise intentionally make available to the general public.

"Social Security Number" means the nine (9) digit number assigned to an individual by the United States Social Security Administration for the purposes authorized or required under the United States Social Security Act of August 14, 1935, as amended (Public Law 74-271).

(5 ILCS 179/1)

22-2-2 PROHIBITED ACTIVITIES.

(A) No officer or employee of the Village shall do any of the following:

(1) Publicly post or publicly display in any manner an individual's Social Security Number.

(2) Print an individual's Social Security Number on any card required for the individual to access products or services provided by the person or entity.

(3) Require an individual to transmit his or her Social Security Number over the Internet, unless the connection is secure or the Social Security Number is encrypted.

(4) Print an individual's Social Security Number on any materials that are mailed to the individual, through the United States Postal Service, any private mail service, electronic mail, or a similar method of delivery, unless Illinois or federal law requires the Social Security Number to be on the document to be mailed. Notwithstanding any provision in this Section to the contrary, Social Security Numbers may be included in applications and forms sent by mail, including, but not limited to, any material mailed in connection with the administration of the Illinois Unemployment Insurance Act, any material mailed in connection with any tax administered by the Illinois Department of Revenue, and documents sent as part of an application or enrollment process or to establish, amend, or terminate an account, contract, or policy or to confirm the accuracy of the Social Security Number. A Social Security Number that may permissibly be mailed under this Section may not be printed, in whole or in part, on a postcard or other mailer that does not require an envelope or be visible on an envelope without the envelope having been opened.

(B) Except as otherwise provided in this policy, beginning immediately on the effective date of the Village's authorizing Ordinance, no officer or employee of the Village shall do any of the following:

(1) Collect, use, or disclose a Social Security number from an individual, unless (i) required to do so under State or Federal law, rules, or regulations, or the collection, use, or disclosure of the Social Security Number is otherwise necessary for the performance of that agency's duties and responsibilities; (ii) the need and purpose for the Social Security Number is documented before collection of the Social Security Number; and (iii) the Social Security Number collected is relevant to the documented need and purpose.

(2) Require an individual to use his or her Social Security Number to access an Internet website.

(3) Use the Social Security Number for any purpose other than the purpose for which it was collected.

(C) The prohibitions in subsection (B) do not apply in the following circumstances:

(1) The disclosure of Social Security Numbers to agents, employees, contractors, or subcontractors of the Village or disclosure to another governmental entity or its agents, employees, contractors, or subcontractors if disclosure is necessary in order for the entity to perform its duties and responsibilities; and, if disclosing to a contractor or subcontractor, prior to such disclosure, the officer or employee of the Village must first receive from the contractor or subcontractor a copy of the contractor's or subcontractor's policy that sets forth how the requirements imposed under this Policy on the Village to protect an individual's Social Security Number will be achieved.

(2) The disclosure of Social Security Numbers pursuant to a court order, warrant, or subpoena.

(3) The collection, use, or disclosure of Social Security Numbers in order to ensure the safety of: Village employees; persons committed to correctional facilities, local jails, and other law enforcement facilities or retention centers; wards of the State; and all persons working in or visiting a Village facility.

(4) The collection, use, or disclosure of Social Security Numbers for Internal verification or administrative purposes.

(5) The collection or use of Social Security Numbers to investigate or prevent fraud, to conduct background checks, to collect a debt, to obtain a credit report from a consumer reporting agency under the federal Fair Credit Reporting Act, to undertake any permissible purpose that is enumerated under the federal Gramm Leach Bliley Act, or to locate a missing person, a lost relative, or a person who is due a benefit such as a pension benefit or an unclaimed property benefit.

(D) Any standards of the Village for the collection, use, or disclosure of Social Security Numbers that are stricter than the standards under this Policy with respect to the protection of those Social Security Numbers, then, in the event of any conflict with the provisions of this Policy, the stricter standards adopted by the Village shall control.

22-2-3 PUBLIC INSPECTION AND COPYING OF DOCUMENTS. Notwithstanding any other provision of this policy to the contrary, all officers and employees of the Village must comply with the provisions of any other State law with respect to allowing the public inspection and copying of information or documents containing all or any portion of an individual's Social Security Number. All officers and employees of the Village must redact Social Security Numbers from the information or documents before allowing the public inspection or copying of the information or documents.

22-2-4 APPLICABIILITY.

(A) This policy does not apply to the collection, use, or disclosure of a Social Security Number as required by State or Federal law, rule, or regulation.

(B) This policy does not apply to documents that are required to be open to the public under any State or Federal law, rule, or regulation, applicable case law, Supreme Court Rule, or the Constitution of the State of Illinois.

22-2-5 COMPLIANCE WITH FEDERAL LAW. If a federal law takes effect requiring any federal agency to establish a national unique patient health identifier program, the Village shall follow that law.

22-2-6 EMBEDDED SOCIAL SECURITY NUMBERS. Beginning immediately on the effective date of the Village's authorizing Ordinance, no officer or employee of the Village may encode or embed a Social Security Number in or on a card or document, including, but not limited to, using a bar code, chip, magnetic strip, RFID technology, or other technology, in place of removing the Social Security Number as required by this Policy.

22-2-7 IDENTITY--PROTECTION REQUIREMENTS.

(A) All officers, employees and agents of the Village identified as having access to Social Security Numbers in the course of performing their duties to be trained to protect the confidentiality of all Social Security Numbers. Training shall include instructions on the proper handling of information that contains Social Security Numbers from the time of collection through the destruction of the information.

(B) Only employees who are required to use or handle information or documents that contain Social Security Numbers have access to such information or documents.

(C) Social Security Numbers requested from an individual shall be provided in a manner that makes the Social Security Number easily redacted if required to be released as part of a public records' request.

(D) When collecting a Social Security Number or upon request by the individual, a statement of the purpose or purposes for which the Village is collecting and using the Social Security Number be provided.

(E) A written copy of this Privacy Policy, and any amendment thereto, shall be filed with the Village Board within **thirty (30) days** after approval of this Policy or any amendment thereto.

(F) The Village shall advise its employees of the existence of the Policy and make a copy of this Policy available to each employee, and shall also make this Privacy Policy available to any member of the public, upon request and at no charge for a single copy of this Privacy Policy. If the Village amends this Privacy Policy, then the Village shall also advise its employees of the existence of the amended Policy and make a copy of the amended Policy available to each employee.

22-2-8 PENALTY. Any person who violates any portion of this Article, as now or hereafter amended, shall be subject to a fine of not less than **One Hundred Dollars ($100.00)** for the first such violation and a fine of not less than **Seven Hundred Fifty Dollars ($750.00)** for each violation thereafter.

22-2-9 AMENDMENT OF PRIVACY POLICY. The Privacy Policy adopted in this Division and Chapter shall be subject to amendment from time to time by the Village Board as the Village Board shall deem necessary in its sole discretion in order to maintain the Village's compliance with the Illinois Identity Protection Act as now or hereafter amended.

22-2-10 CONFLICT WITH STRICTER LAWS. This Policy does not supersede any more restrictive law, rule, or regulation regarding the collection, use, or disclosure of Social Security Numbers.

[NOTE: This Policy is to comply with Public Act 096-9874 of the State of Illinois, cited as the Identity Protection Act, and codified as Title 30, Act 5, Section 1, et seq., as now or hereafter amended.]

ARTICLE III - FREEDOM OF INFORMATION POLICY

22-3-1 PUBLIC RECORDS AVAILABLE. To the extent required by the Freedom of Information Act, **5 ILCS 140-1 et seq.** the Village shall make available to any person for inspection or copying all public records, except as otherwise provided in Section 7 of the Freedom of Information Act, **5 ILCSA 140/7**.

22-3-2 DESIGNATION, DUTIES AND TRAINING OF FREEDOM OF INFORMATION ACT OFFICERS.

(A) The Village Administrative Assistant is hereby designated to act as Freedom of Information Officer. The Officer shall receive requests submitted to the Village under the Freedom of Information Act, insure that the Village responds to requests in a timely fashion, and issue responses under the Freedom of Information Act. The Freedom of Information officer shall develop a list of documents or categories of records that the Village shall immediately disclose upon request.

(B) Upon receiving a request for a public record, the Freedom of Information Officer shall:

(1) Note the date the Village receives the written request;

(2) Compute the date on which the period for response will expire and make a notation of that date on the written request;

(3) Maintain an electronic or paper copy of the written request including all documents submitted with the request until the request has been complied with or denied; and

(4) Create a file for the retention of the original request, a copy of the response, a record of written communications with the person making the request, and a copy of other communications regarding the request.

(C) The Freedom of Information Act officers shall successfully complete an electronic training curriculum to be developed by the Public Access Counselor in the office of the Attorney General of the State of Illinois and thereafter successfully complete an annual training program. Thereafter when a new Freedom of Information officer is designated by the Village, that person shall successfully complete the electronic training curriculum within **thirty (30) days** after assuming the position. Successful completion of the required training curriculum within the periods provided shall be a prerequisite to continue serving as a Freedom of Information officer.

22-3-3 PROCEDURES. The Village shall prominently display at the Village Clerk's office, display on its website, make available for inspection and copying, and send through the mail as requested, each of the following:

(A) A brief description of the Village, which will include, but not be limited to a block diagram giving its functional departments, the total amount of its operating budget, the number and location of all of its separate offices, the approximate number of full and part-time employees and the identification and membership of any board, commission, committee or council which operates in an advisory capacity relative to the operation of the Village, or which exercises control over its policies or procedures; and

(B) A brief description of the methods whereby the public may request information and public records, a directory designating the Freedom of Information officers, the address where request for public records should be directed, and the fees relating thereto.

22-3-4 REQUESTS TO INSPECT OR COPY. All requests to inspect or copy records or documents prepared, maintained or under the control of the Village shall be made in the following manner:

(A) All requests shall be in writing, shall state with reasonable particularity what records are to be inspected or copied, shall state whether the records are requested for a commercial

purpose, and shall be signed by the person making the request. The request may be, but is not required to be, submitted on a form provided by the Village.

(B) The written request shall be submitted to the Village Clerk or to the Mayor. If neither the Village Clerk nor the Mayor is available, the request shall be submitted to any employee of the Village acting under the direction of the Village Clerk.

(C) The Officer receiving the request shall date stamp the request and indicate the date by which a response to the request must be made.

(D) Each request for other than commercial purposes shall be granted or denied in writing within **five (5) business days** after its receipt by the Village, except as hereafter stated. The failure to grant or deny a request within **five (5) business days** shall operate as a denial, except as provided hereinbelow.

(E) The time limit set forth hereinabove may be extended for an additional **five (5) business days** by notice in writing to the person making the request of the **five (5) business days** extension. The notification shall state the reason(s) for the **five (5) business day's** extension and contain a date certain on which the requested record(s) will be available. The failure to grant or deny a request within the additional **five (5) business days** shall operate as a denial. The person making the request and the Village may agree in writing to extend the time for compliance for a period to be determined by the parties. If the person making the request and the Village agree to extend the period for compliance, a failure by the Village to comply with any previous deadlines shall not be treated as a denial of the request for the records.

(F) Charges for copies of records and/or documents shall be imposed in accordance with the following:

(1) No fees shall be charged for the first **fifty (50) pages** of black and white, letter or legal sized copies requested.

(2) **Fifteen Cents ($0.15)** for one-sided page for each black and white, letter, legal sized or 11" x 17" copy requested.

(3) **One Dollar ($1.00)** for each certified copy requested.

(4) **Ten Cents ($0.10)** for each audio recording.

(G) It shall be the responsibility of the person making the request to pick up the requested documents at Village Hall. If the person making the request asks the Village to mail the documents, he or she shall provide the Village with his/her correct mailing address so as to efficiently process all requests. Copies of records requested to be mailed will be forwarded United States Certified Mail to the address provided. Pre-payment of **Two Dollars Fifty Cents ($2.50)** per ounce shall be required.

(H) When a person requests a copy of a record maintained in an electronic format, the Village shall furnish it in the electronic format specified by the person making the request, if feasible. If it is not feasible to furnish the public records in the specified electronic format, then the Village shall furnish it in the format in which it is maintained by the Village, or in paper format at the option of the person making the request.

22-3-5 REQUEST FOR COMMERCIAL PURPOSES. The Village shall respond to a request for records to be used for a commercial purpose within **twenty-one (21) working days** after receipt. The response shall (1) provide to the person making the request an estimate of the time required by the Village to provide the records requested and an estimate of the fees to be charged, which the Village may require the person to pay in full before copying the requested documents, (2) deny the request pursuant to **one (1)** or more of the exemptions set out in the Freedom of Information Act, **5 ILCS 140/1 et seq.**, (3) notify the person making the request that the request is unduly burdensome and extend an opportunity to the person making the request to attempt to reduce the request to manageable portions, or (4) provide the records requested.

Unless the records are exempt from disclosure, the Village shall comply with a commercial request within a reasonable period considering the size and complexity of the request, and giving priority to records requested for non-commercial purposes.

It is unlawful for a person to knowingly obtain a public record for a commercial purpose within disclosing that it is for a commercial purpose, and any person obtaining a public record for commercial purpose without disclosing that it is for a commercial purpose shall be fined in accordance with the Village Code.

22-3-6 FEES. The Village Clerk shall determine when the established fees are subject to waiver or reduction because the release of the requested information is in the public interest.

22-3-7 PUBLIC FILE. The Village Clerk shall establish and maintain a central file, open to the public, of all denials of requests for records which shall be indexed according to the exemption utilized to deny a request for records, and to the extent possible, according to the types of records requested.

22-3-8 GRANTING OR DENIAL OF REQUESTS. A request for all records within a category shall be granted unless the request constitutes an undue burden upon the Village. Prior to denying a request based upon the burdensome nature of the request, an opportunity to narrow the request to manageable proportions shall be provided. If the attempt to narrow the request fails, the request may be denied because compliance will unduly burden the operations of the Village and the burden outweighs the public interest in the information. The denial shall be in writing, specifying the reasons why compliance will be unduly burdensome and the extent to which compliance will so burden the operations of the Village. Repeated requests from the same person for the same records that are unchanged or identical to records previously provided are properly denied under the Freedom of Information Act shall be deemed unduly burdensome under this Section.

22-3-9 CERTAIN INFORMATION EXEMPT FROM INSPECTION AND COPYING. If any record exempt from disclosure contains material which is not exempt, the information which is exempt shall be deleted and the remaining information shall be available for inspection and copying.

22-3-10 NOTICE OF DENIAL OF REQUEST; APPEALS.

(A) If the Village denies the request, the Village shall notify the person making the request in writing of:

(1) the decision to deny the request;
(2) the reasons for the denial, including a detailed factual basis for the application of any exemption claim;
(3) the names and titles or positions of each person responsible for the denial;
(4) the right to review by the Public Access Counselor and the address and phone number for the Public Access Counselor; and
(5) the right to judicial review.

If an exemption is claimed, then the denial must include the specific reasons for the denial, including a detailed factual basis and a citation to support a legal authority.

(B) If the Village asserts an exemption under Subsection (1)(c) or (1)(f) of Section 7 of the Freedom of Information Act, it shall, within the time periods provided for Respondent to request, provide written notice to the person making the request and the Public Access Counselor of its intent to deny the request in whole or in part. The notice shall include:

(1) a copy of the request for access to records;
(2) the proposed response from the Village;
(3) a detailed summary of the Village's basis for asserting its exemption.

If the Public Access Counselor determines that further inquiry is warranted, the procedures set forth in the Freedom of Information Act, as amended from time to time, regarding the review of denials shall be applicable. Times for response compliance by the Village to the request shall be tolled until the Public Access Counselor concludes his or her inquiry.

ARTICLE IV - FAIR HOUSING CODE

22-4-1 SHORT TITLE. This Code shall be known and may be cited as the Fair Housing Code of the Village.

22-4-2 PURPOSE AND DECLARATION OF POLICY. It is hereby declared to be the policy of the Village and the purpose of this Code, in the exercise by the Village of its police and regulatory powers for the protection of the public safety for the health, morals, safety, and welfare of the persons in and residing in the Village, and for the maintenance and promotion of commerce, industry and good government in the Village, to secure to all persons living or desiring to live in the Village a fair opportunity to purchase, lease, rent, or occupy housing without discrimination based on race, color, religion or national origin.

22-4-3 CONSTRUCTION. This Code shall be construed according to the fair import of its terms and shall be liberally construed to further the purposes and policy stated in **Section 22-4-2** and the special purposes of the particular provision involved.

22-4-4 DEFINITIONS. For the purposes of this Code:

(A) **"Dwelling"** means any building or structure, or portion thereof, within the Village which is arranged, designed or used as a home, residence or living quarters of one or more individuals.

(B) **"Housing"** includes any building or structure, or portion thereof, within the Village, which is used or occupied or is intended, arranged or designed to be used or occupied as the home, residence or living quarters of one or more individuals, groups or families, and includes any vacant land within the Village which is zoned and intended to be used for the construction of any such building or structure.

(C) **"Lease"** includes sublease, assignment, and rent (or rental), and includes any contract to do any of the foregoing.

(D) **"Lending institution"** means any bank, insurance company, savings and loan association, other person in the business of lending money or guaranteeing loans, any person in the business of obtaining, arranging or negotiating loans or guarantees as agent or broker, and any person in the business of buying or selling loans or instruments for the payment of money which are secured by title to a security interest in real estate, but shall not include any religious institution or organization nor any charitable or educational organization operated, supervised or controlled by a religious institution or organization.

(E) **"National origin"** includes the national origin of an ancestor.

(F) **"Owner"** means any person who holds legal or equitable title to, or owns any beneficial interest in, any Dwelling or Housing, or who holds legal or equitable title to shares of, or holds any beneficial interest in, any real estate cooperative which owns any Dwelling or Housing.

(G) **"Person"** includes one or more individuals, corporations, partnerships, associations, legal representatives, mutual companies, unincorporated organizations, trusts, trustees, trustees in bankruptcy, receivers and fiduciaries.

(H) **"Purchase"** includes any contract to purchase.

(I) **"Real estate agent"** means any real estate broker, and real estate salesman, and any other person who, as employee or agent or otherwise, engages in the management or operation of any Dwelling or Housing.

(J) **"Real estate broker"** means any person licensed as a real estate broker in accordance with the provisions of the **Illinois Compiled Statutes** or required thereby to be so licensed. **(See 225 ILCS Sec. 455/1 et seq.)**

(K) **"Real estate salesman"** means any person licensed as a real estate salesman in accordance with the provisions of the **Illinois Compiled Statutes** or required thereby to be so licensed.

(L) **"Real estate transaction"** means the purchase, sale, exchange, or lease of any Dwelling or Housing, and an option to do any of the foregoing.

(M) **"Sale"** includes any contract to sell, exchange, or to convey, transfer or assign legal or equitable title to or a beneficial interest in real estate.

22-4-5 DISCRIMINATORY TERMS. It shall be an unlawful housing practice and a violation of this Code for any owner or other person to sell or lease a dwelling or housing on terms, conditions or privileges that discriminate between persons because of race, color, religion or national origin.

22-4-6 REFUSALS TO DEAL. It shall be an unlawful housing practice and a violation of this Code for any owner or other person to refuse to negotiate for, enter into, or perform any sale or lease of any dwelling or housing, because of the race, color, religion or national origin of any party, to such sale or lease, or of any member of the family of any such party, or of any person using or occupying or intending to use or occupy such dwelling or housing, or of any person using or occupying any dwelling or housing in the area in which such dwelling or housing is located.

22-4-7 WITHHOLDING HOUSING. It shall be an unlawful housing practice and a violation of this Code for any owner or other person to represent to any person that any dwelling or housing is not available for inspection, purchase, sale, lease, or occupancy when in fact it is so available, or otherwise to withhold housing from any person because of race, color, religion or national origin.

22-4-8 ADVERTISEMENTS. It shall be an unlawful housing practice and a violation of this Code for any owner or other person to publish or circulate a statement, advertisement or notice of an intention to sell or lease any dwelling or housing in a manner that is unlawful under this Code.

22-4-9 ADVERTISEMENTS, CAUSING OR PERMITTING. It shall be an unlawful housing practice and a violation of this Code for any owner or other person to cause any person to circulate or publish a statement, advertisement or notice that such owner or other person intends to sell or lease any dwelling or housing in a manner that is unlawful under this Chapter, or to consent thereto.

22-4-10 SIGNS AND NOTICES. It shall be an unlawful housing practice and a violation of this Code for any owner or other person to post or erect, or cause any person to post or erect, any sign or notice upon any dwelling or housing, indicating an intent to sell or lease any dwelling or housing in a manner that is unlawful under this Chapter.

22-4-11 EXEMPTIONS. This Code shall not apply to the rental of any room or dwelling unit in any owner-occupied dwelling which consists of more than **one (1)** but less than **five (5) dwelling units**. As used herein, the term "dwelling unit" means **one (1)** or more rooms which are arranged, designed, or used as living quarters for **one (1) family** or **one (1) individual**. The term owner includes the spouse or any lineal descendant or ancestor of the owner.

22-4-12 LIMITATIONS. Nothing in this Code shall require an owner to offer property to the public at large before selling or renting it, providing he complies with all other provisions of this Code. Nor shall this Code be deemed to prohibit owners from giving preference to prospective tenants or buyers for any reason other than religion, race, color or national origin. Nothing in this Code shall require an owner to offer property for sale or lease or to show his property to any person if such person is not negotiating for the purchase or lease of such property in good faith.

22-4-13 WITHHOLDING HOUSING. It shall be an unlawful housing practice and a violation of this Code for any real estate agent or other person to represent to any person that any dwelling or housing is not available for inspection, sale, lease or occupancy when in fact it is so available or otherwise to withhold housing from any person because of race, color, religion or national origin.

22-4-14 REFUSALS OF OFFERS. It shall be an unlawful housing practice and a violation of this Code for any real estate agent or other person to refuse to receive or to fail to transmit a bona fide offer for the purchase, sale, exchange or lease of any dwelling or housing because of the race, color, religion or national origin of the person making such offer.

22-4-15 ADVERTISEMENTS. It shall be an unlawful housing practice and a violation of this Code for any real estate agent or other person to publish or circulate a statement, advertisement or notice of an intention to sell or lease any dwelling or housing in a manner that is unlawful under this Code.

22-4-16 SIGNS AND NOTICES. It shall be an unlawful housing practice and a violation of this Code for any real estate agent or other person to post or erect, or cause or permit any person to post or erect, any sign or notice upon any dwelling or housing, other person, indicating an intent to sell or lease any dwelling or housing in a manner that is unlawful under this Code.

22-4-17 LICENSING. Every real estate broker shall apply for and obtain a license from the Village prior to transacting any business involving real estate in the Village as a real estate broker and prior to advertising or assuming to act as such real estate broker. The commission of a single act as such real estate broker without such license shall constitute a violation of this Code. **(See 225 ILCS Sec. 455/33 for preemptive powers)**

22-4-18 DISCRIMINATION IN LENDING. It shall be an unlawful housing practice and a violation of this Code for any lending institution, in making, agreeing to make, arranging, or negotiating any loan or guarantee of funds for the purpose of financing the purchase or sale, construction, lease, rehabilitation, improvement, renovation or repair of any dwelling or housing, to offer, seek or agree to terms, conditions or privileges that discriminate between persons because of race, color, religion or national origin.

22-4-19 REFUSALS TO DEAL IN LENDING. It shall be an unlawful housing practice and a violation of this Code for any lending institution to refuse to negotiate for, enter into or perform any agreement to lend or guarantee the loan of funds for the purchase, sale, construction, lease, rehabilitation, improvement, renovation or repair of any dwelling or housing because of the race, color, religion or national origin of any party to such agreement or of any member of the family of any such party, or of the residents of the area in which such dwelling or housing is located.

22-4-20 COVERAGE. This Code shall apply, respectively, to every real estate agent who, within the Village, performs any function as such real estate agent but does not maintain an office or place of doing business within the Village, and this Code applies to every real estate agent and lending institution who maintains an office of place of doing business within the Village; provided, however, that the provisions of this Code shall not be so construed as to prohibit a real estate broker or real estate agent on behalf of the owner, from inquiring into and reporting upon qualifications of any prospective buyer or tenant with respect to limitations or exclusions other than those of race, color, religion or national origin.

22-4-21 REPRESENTATION. It shall be an unlawful housing practice and a violation of this Code for any person, for the purpose of inducing any other person to enter into a real estate transaction with such person, his principal or his agent.

(A) To represent that a change has occurred, will occur or may occur with respect to the race, color, religion or national origin in composition of the owners or occupants in any block, neighborhood or area in which the dwelling or housing (which is the subject of the real estate transaction) is located, or

(B) To represent that a change with respect to the race, color, religion or national origin in the composition of the owners or occupants in any block, neighborhood or area will result in lowering of property values, or in an increase in criminal or anti-social behavior, or in a decline in the quality of schools, in such block, neighborhood or area.

22-4-22 OTHER VIOLATIONS. It shall be an unlawful housing practice and a violation of this Code for any person:

(A) To aid, abet, incite, or coerce a person to engage in unlawful housing practice,

(B) Willfully to interfere with the performance of a duty or the exercise of a power by the Village Board or one of its members or representatives, or

(C) Willfully to obstruct or prevent a person from complying with the provisions of this Code or an order issued thereunder.

22-4-23 COMPLAINTS.

(A) Any person aggrieved in any manner by a violation of any provisions of this Code may file with the Village Board a written verified complaint setting forth his grievance. The complaint shall state:

(1) the name and address of the complaint;

(2) the name and address of the person against whom the complaint is brought, if known to the complainant; and

(3) the alleged facts surrounding the alleged violation of this Code;

and such complaint shall state the name and address of all persons believed to have knowledge concerning the alleged facts.

(B) After the filing of any complaint, the Village Board shall serve a copy of the complaint on the party or parties charged.

22-4-24 HEARINGS BY VILLAGE BOARD.

(A) Such hearing shall be conducted by the Village Board upon due and reasonable notice to all parties. The Village Board shall have power to administer oaths and to take sworn testimony. Any party alleged to have violated this Code shall be entitled to be represented by counsel and shall have the right to call witnesses in his own behalf and to cross-examine witnesses.

(B) At the conclusion of such hearing, the Village Board shall render the complainant a decision.

22-4-25 ENFORCEMENT.

(A) The Village Board shall be empowered to order any person found to be engaging in an unfair housing practice to cease and desist from such practice, upon such terms as shall be necessary and proper for the enforcement of this Code.

(B) The Village Board shall be empowered at the conclusion of proceedings held under **Section 13-1-24**, to direct the Village Attorney to do any one or more of the following:

(1) To institute and prosecute proceedings to enforce, against any person found in violation of this Code, the fine provided for in **Section 13-1-27** below;

(2) To apply to any court of competent jurisdiction;

(a) for an order restraining any person from violating any provision of this Code.

(b) for such other or further relief as may seem to the court appropriate for the enforcement of this Code and the elimination of violations hereof.

(3) To petition or institute proceedings with the Department of Registration and Education for the purpose of causing the Department to revoke, suspend or refuse to renew the license granted by such Department to any real estate broker or real estate salesman found to have violated any provision of this Code.

(4) In the case of any unlawful housing practice or violation of this Code by any person in the course of performing under a contract or subcontract with the State or any political subdivision or agency thereof, or with the United States of America or any agency or instrumentality thereof, to petition or institute proceedings with such contracting agency for the purpose of causing it to terminate such contract or any portion thereof, either absolutely or on condition of compliance with the provisions of this Code.

(C) The Village Board may issue such cease and desist orders and may direct such action by the Village Attorney, as shall be necessary for the enforcement of this Code.

22-4-26 REMEDIES. Any person aggrieved in any manner by the violation of any provision of this Code who has exhausted the remedies provided in **Section 13-1-24** of this Code may apply to any court of competent jurisdiction for appropriate relief from such violation, including:

(A) An order compelling compliance with this Code;

(B) An order to prohibit any person found by the court to have violated any provision of this Code from the sale, lease, exchange, transfer, conveyance or assignment of any dwelling or housing which is the subject of such violation;

(C) An order requiring specific performance of any contract for the sale, lease, exchange, transfer, conveyance or assignment of any dwelling or housing or any person who, in violation of this Code, refuses or fails to perform such contract;

(D) Compensatory damages; and

(E) Such other and further relief as may seem to the court appropriate for the enforcement of this Code and the elimination of violations hereof.

22-4-27 FINES. Any person who violates any provision of this Code shall be subject to a fine not to exceed **Seven Hundred Fifty Dollars ($750.00).**

(See ILCS Sec. 5/11-11.1-1)

ARTICLE V – INVESTMENT POLICY

22-5-1 POLICY. It is the policy of the Village to invest public funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow demands of the entity and conforming to all state and local statutes governing the investment of public funds.

22-5-2 SCOPE. This policy includes all funds governed by the Board of Trustees.

22-5-3 PRUDENCE. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital, as well as the probable income to be derived.

The standard of prudence to be used by investment officials shall be the "prudent person" standard and shall be applied the context of managing an overall portfolio.

22-5-4 OBJECTIVES. The primary objective in order of priority shall be:

Legality – conformance with federal, state and other legal requirements.

Safety – preservation of capital and protection of investment principal.

Liquidity – maintenance of sufficient liquidity to meet operation requirements.

Yield – attainment of market rates of return.

The portfolio should be reviewed periodically as to its effectiveness in meeting the entity's needs for safety, liquidity, rate of return, diversification and its general performance.

22-5-5 DELEGATION OF AUTHORITY. Management and administrative responsibility for the investment program is hereby delegated to the Treasurer, who, under the delegation of the Board of Trustees, shall establish written procedure for the operation of the investment program.

22-5-6 ETHICS AND CONFLICTS OF INTEREST. Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions.

22-5-7 AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS. The Treasurer will maintain a list of financial institutions authorized to provide investment services.

In addition, a list will also be maintained of approved security brokers/dealers selected by credit worthiness.

22-5-8 AUTHORIZED AND SUITABLE INVESTMENTS. Investments may be made in any type of security allowed for in the Illinois State Statutes regarding the investment of public funds.

Investments shall be made that reflect the cash flow needs of the fund type being invested.

22-5-9 COLLATERALIZATION. Funds on deposit (checking accounts, certificates of deposit, etc.) in excess of FDIC limits must be secured by some form of collateral, witnessed by a written agreement and held at an independent third party institution in the name of the municipality.

22-5-10 SAFEKEEPING AND CUSTODY. All security transactions, including collateral for repurchase agreements, entered into by the Village, shall be conducted on a delivery-versus-payment (DVP) basis. Securities will be held by an independent third-party custodian designated by the Treasurer and evidenced by safekeeping receipts and a written custodial agreement.

22-5-11 DIVERSIFICATION. The entity shall diversity its investments to the best of its ability based on the type of funds invested and the cash flow needs of those funds. Diversification can be by type of investment, number of institutions invested in, and length of maturity.

22-5-12 MAXIMUM MATURITIES. To the extent possible, the Village shall attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the Village will not directly invest in securities maturing more than **twenty (20) years** from the date of purchase.

Reserve funds may be invested in securities exceeding **twenty (20) years** if the maturity of such investments is made to coincide as nearly as practicable with the expected use of the funds.

22-5-13 INTERNAL CONTROL. The Treasurer is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the entity are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The internal control shall address the following points:

Control of collusion
Separation of transaction authority from accounting
Custodial safekeeping
Written confirmation of telephone transactions for investments and
Wire transfers

22-5-14 PERFORMANCE STANDARDS. This investment portfolio will be managed in accordance with the parameters specified within this policy. The portfolio should obtain a comparable rate of return during a market/economic environment of stable interest rates. Portfolio performance should be compared to benchmarks with similar maturity, liquidity and credit quality as the portfolio. (Entity will have to insert their benchmark, i.e., 90-day T-bill, Illinois Funds, etc.)

22-5-15 REPORTING. The Treasurer shall prepare an investment report at least monthly. The report should be provided to the Board of Trustees and available upon request. The report should be in a format suitable for review by the general public. An annual report should also be provided to the Board.

22-5-16 MARKET TO MARKET. A statement of the market value of the portfolio shall be issued to the Board of Trustees annually.

22-5-17 INVESTMENT POLICY ADOPTION. The Board of Trustees shall adopt this Investment Policy. The Treasurer shall review the policy on an annual basis and the Board of Trustees must approve any modifications made thereto.

ARTICLE VI – ETHICS CODE

22-6-1 STATE OFFICIALS AND EMPLOYEES ETHICS ACT.

(A) The regulations of Sections 5-15 **(5 ILCS 430/5-15)** and Article 10 **(5 ILCS 430/10-10 through 10-40)** of the State Officials and Employees Ethics Act, **5 ILCS 430/1-1 et seq.**, (hereinafter referred to as the "Act" in this Section) are hereby adopted by reference and made applicable to the officers and employees of the Village to the extent required by **5 ILCS 430/70-5**.

(B) The solicitation or acceptance of gifts prohibited to be solicited or accepted under the Act, by any officer or any employee of the Village, is hereby prohibited.

(C) The offering or making of gifts prohibited to be offered or made to an officer or employee of the Village, is hereby prohibited.

(D) The participation in political activities prohibited under the Act, by any officer or employee of the Village, is hereby prohibited.

(E) For the purposes of this Section, the terms "officer" and "employee" shall be defined as set forth in **5 ILCS 430/70-5(c)**.

(F) The penalties for violations of this Section shall be the same as those penalties set forth in **5 ILCS 430/50-5** for similar violations of the Act.

(G) This Section does not repeal or otherwise amend or modify any existing ordinances or policies which regulate the conduct of Village officers and employees. To the extent that any such existing ordinances or policies are less restrictive than this Section, however, the provisions of this Section shall prevail in accordance with the provisions of **5 ILCS 430/70-5(a)**.

(H) Any amendment to the Act that becomes effective after the effective date of this Section shall be incorporated into this Section by reference and shall be applicable to the solicitation, acceptance, offering and making of gifts and to prohibited political activities. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Section by reference without formal action by the corporate authorities of the Village.

(I) If the Illinois Supreme Court declares the Act unconstitutional in its entirety, then this Section shall be repealed as of the date that the Illinois Supreme Court's decision becomes final and not subject to any further appeals or rehearings. This Section shall be deemed repealed without further action by the Corporate Authorities of the Village if the Act is found unconstitutional by the Illinois Supreme Court.

(J) If the Illinois Supreme Court declares part of the Act unconstitutional but upholds the constitutionality of the remainder of the Act, or does not address the remainder of the Act, then the remainder of the Act as adopted by this Section shall remain in full force and effect; however, that part of this Section relating to the part of the Act found unconstitutional shall be deemed repealed without further action by the Corporate Authorities of the Village.

ARTICLE VII - EQUAL EMPLOYMENT POLICY

22-7-1 ADOPTION OF CODES. The Village hereby declares to uphold, defend, enforce, and advocate for all laws related to Equal Employment Opportunity including, but not limited to, the following:

(A) **Title VI of the Civil Rights Act of 1964** which prohibits discrimination in the participation in or benefits of programs or activities receiving federal financial assistance on the basis of race, color, or national origin.

(B) **Title VII of the Civil Rights Act of 1964** which prohibits discrimination because of race, color, religion, sex or national origin in all employment practices including hiring, firing, promotions, compensation, and other terms, privileges and conditions of employment.

(C) **Title IX of the Education Amendments of 1972** which prohibits discrimination in federally assisted education programs.

(D) **The Equal Pay Act of 1963** which covers all employees who are covered by the Fair Labor Standards Act. The Act forbids pay differentials on the basis of sex.

(E) **The Age Discrimination Act of 1967** which prohibits discrimination because of age against anyone between the ages of **forty (40)** and **sixty-five (65)**.

(F) **Federal Executive Order 11246** which requires every contract with federal financial assistance to contain a clause against discrimination because of race, color, religion, sex, or national origin.

(G) **Section 504 of the Rehabilitation Act of 1973 and DOL Implementing Regulations at 29 CFR 32** which prohibits any discrimination based on disability.

(H) **Section 188 of WIA and the U.S. DOL Regulations at 29 CFR Parts 31 and 32** which provides that no person in the United States shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination on the basis of race, color, or national origin, under any program or activity receiving Federal financial assistance from the Department of Labor.

(I) **Chapter 68, Article I, Section 17-19 of the Illinois Constitution** which prohibits discrimination based on race, color, creed, national ancestry, disability, and sex in the hiring and promotion practices of any employer.

(J) **The Americans with Disabilities Act of 1990** which prohibits any discrimination against qualified individuals with disabilities on the basis of their disability.

(K) **Illinois Human Rights Act (775 ILCS 5)** which prohibits discrimination based on race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, or unfavorable discharge from military service in connection with employment, real estate transactions, access to financial credit, and the availability of public accommodations.

22-7-2 NON-DISCRIMINATORY PRACTICES. The Village will assure non-discriminatory employment practices in recruitment, recruitment advertising, employment, placement, layoff or termination, promotion, demotion or transfer, rate of pay or other forms of compensation and use of facilities.

22-7-3 CONTRACTING WITH NON-COMPLAINTS. The Village will not contract with other agencies, banks, businesses, vendors, etc., who practice or establish a pattern of discrimination based on race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, or unfavorable discharge from military.

(A) The Village will incorporate into any contract for construction work, or modification thereof, subject to the relevant rules, regulations, and orders of the Secretary of Labor or of any prior authority that remain in effect, which is paid for in whole or in part with the aid of such financial assistance, the following "Equal Opportunity Clause":

(1) In the event of the contractor's noncompliance with the provisions of this Equal Employment Opportunity Clause, the Act or the Rules and Regulations of the Department, the contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or in part, and other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the contractor agrees as follows:

(a) That he or she will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, sexual orientation, military status or an unfavorable discharge from military service; and, further, that he or she will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any underutilization.

(b) That, if he or she hires additional employees in order to perform this contract or any portion of this contract, he or she will determine the availability (in accordance with the Department's Rules and Regulations) of minorities and women in the areas from which he or she may reasonably recruit and he or she will hire for each job classification for which employees are hired in a way that minorities and women are not underutilized.

(c) That, in all solicitations or advertisements for employees placed by him or her or on his or her behalf, he or she will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, sexual orientation, military status or an unfavorable discharge from military service.

(d) That he or she will send to each labor organization or representative of workers with which he or she has or is bound by a collective bargaining or other agreement or understanding, a notice advising the labor organization or representative of the contractor's obligations under the Act and the Department's Rules and Regulations. If any labor organization or representative fails or refuses to cooperate with the contractor in his or her efforts to comply with the Act and Rules and Regulations, the contractor will promptly notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations under the contract.

(e) That he or she will submit reports as required by the Department's Rules and Regulations, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Act and the Department's Rules and Regulations.

(f) That he or she will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain

compliance with the Act and the Department's Rules and Regulations.

(g) That he or she will include verbatim or by reference the provisions of this clause in every subcontract awarded under which any portion of the contract obligations are undertaken or assumed, so that the provisions will be binding upon the subcontractor. In the same manner as with other provisions of this contract, the contractor will be liable for compliance with applicable provisions of this clause by subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply with the provisions. In addition, the contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

22-7-4 OUTREACH TO ALL. The Village assures that it will actively provide nondiscriminatory outreach, selection, and service to all individuals.

22-7-5 MINORITY HIRING. Efforts will be made to hire minority individuals for all job categories so that minority employment in all categories of the work force will represent a proportionate share of minority populations in the Village as well as surrounding areas.

22-7-6 ACCOMMODATIONS FOR DISABLED. The Village will provide accommodations to the best of its ability for employees with disabilities, contingent on budget and structural limitations.

22-7-7 COMPLIANCE BY EMPLOYEES. All Village employees are expected to adhere to the above policy and to work actively for its implementation both internally and in carrying out Village program activities.

22-7-8 DESIGNATED ENFORCERS. The Village designates the Mayor and the Village Board to carry out the EEO/AA plan.

ARTICLE VIII - DRUG FREE WORKPLACE

22-8-1 DEFINITIONS.

(A) **"Drug Free Workplace"** means any place for the performance of work for or on behalf of the Village, done by an employee of the Village, or an employee of a contractor or subcontractor performing work for the Village.

(B) **"Employee"** as used within the meaning of this Article, means an employee of the Village as well as an employee of a contractor or subcontractor performing work for the Village.

(C) **"Controlled Substance"** means a controlled substance as defined in the Illinois Controlled Substance Act, **720 ILCS 570/100 et seq.** (1992 State Bar Edition) or Cannabis as defined in the Cannabis Control Act, **720 ILCS 550/1 et seq.** (1992 State Bar Edition).

(D) **"Conviction"** means a finding of guilt, including a plea of nolo contendere, or imposition of sentence, or both, by any judicial body charged with determining violations of the Federal or State criminal drug statutes.

(E) **"Criminal Drug Statute"** means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance.

(F) **"State"** means all officers, boards, commissions, and agencies created by the Constitution, whether in the executive, legislative, or judicial branch; all officers, departments, boards, commissions, agencies, institutions, authorities, universities, bodies politic and corporate of the State; or administrative units or corporate outgrowths, of the State government which are created by or pursuant to statute.

22-8-2 REQUIREMENTS FOR VILLAGE. The Village shall provide a drug free workplace by:

(A) **Publishing a Statement.**

(1) Notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, including cannabis, is prohibited in the workplace.

(2) Specifying the actions that will be taken against employees for violations of such prohibition.

(3) Notifying employee that, as a condition of employment, the employee will:

(a) abide by the terms of the statement; and

(b) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than **five (5) days** after such conviction.

(B) Establishing a drug free awareness program to be administered by a person appointed by the Mayor to inform employees about:

(1) the dangers of drug abuse in the workplace;

(2) the Village's policy of maintaining a drug free workplace;

(3) any available drug counseling, rehabilitation, and employee assistance programs; and

(4) the penalties that may be imposed upon employees for drug violations.

(C) A copy of the statement required by Subsection (A) above shall be given to each employee and posted in a prominent place in the workplace.

(D) If the Village receives a grant from the State or Contract for the procurement of any property or services from the State, then the Village shall notify the contracting or granting agency within **ten (10) days** after receiving notice under part (b) of paragraph (3) of Subsection (A) from an employee or otherwise receiving actual notice of such conviction.

(E) Within **thirty (30) days** from receiving notice from an employee of a conviction of a violation of a criminal drug statute occurring in the workplace, the Mayor shall take action against such employee as may be appropriate as determined by the Mayor and which may include but is not limited to reprimand; suspension for any length of time with or without pay; termination from

employment; and/or a requirement to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

(F) Assisting employees in selecting a course of action in the event drug counseling, treatment, and rehabilitation is required and indicating that a trained referral team is in place.

(G) Making a good faith effort to continue to maintain a drug free workplace through implementation of this Section.

ARTICLE IX – DRUG/ALCOHOL TESTING POLICY AND PROCEDURE

22-9-1 DRUG AND ALCOHOL FREE WORKPLACE POLICY. The Village is committed to maintaining a drug free workplace pursuant to the federal and state Drug Free Workplace Acts, 41 U.S.C.A. § 701 *et seq.*, **30 ILCS 580/1 *et seq.*** It is the policy of the Village that the public has the reasonable right to expect persons employed by the Village to be free from the effects of alcohol and drugs. The Village, as the employer, has the right to expect its employees to report for work fit and able for duty. This policy is intended to ensure that Village employees are not impaired in their ability to perform assigned duties in a safe, healthy and productive manner and to protect any such employee and the public from the risks associated with the adverse effects of drugs and alcohol. Accordingly, the unlawful manufacture, distribution, possession, or use of a controlled substance, including cannabis and alcohol, is prohibited in the workplace or while acting on behalf of the Village. Employees are required to sign a release and consent/authorization form, a copy of which is included with this policy, at the time the policy is distributed to the employee.

22-9-2 DEFINITIONS. For purposes of this policy, the following definitions apply:

(A) **"Abuse of alcohol"** or **"being under the influence of alcohol"** means the consumption of any beverage, mixture or preparation, including any medication containing alcohol, which results in an employee being intoxicated. Intoxicated or a positive test for alcohol shall mean a test result which shows an alcohol concentration of .02 or more for all persons covered by Federal DOT regulations and .08 or more for all persons not covered by Federal DOT regulations.

(B) **"Abuse of any drug"** means the use of any illegal drug, the use of any prescription drug which has not been legally prescribed and dispensed, or the misuse of any legally prescribed drug.

(C) **"Drug"** means any controlled substances listed in the Federal Controlled Substances Act, 21 U.S.C. § 801 *et seq.*, or the Illinois Controlled Substances Act, **720 ILCS 570/100 *et seq.***, and cannabis as defined in the state Cannabis Controlled Act, **720 ILCS 550 *et seq.***

22-9-3 PROHIBITED ACTIONS. Employees shall be prohibited from:

(A) Manufacture, distribution, dispensation, possession, use, sale, purchase, abuse of alcohol or being under the influence of alcohol at any time during the course of the employee's workday or anywhere on or in any Village-owned property, including Village buildings and Village-owned vehicles.

(B) Manufacture, distribution, dispensation, possession, use, sale, purchase, being under the influence of or abuse of any drug at any time and at any place.

(C) Failure to immediately disclose to his or her Department Head or immediate supervisor any drug or other medication-related work restrictions, or failure to disclose the taking of any drug or medication whose container has warnings that such drug or medication may affect any such employee's ability to perform his or her job, or to drive or operate machinery.

(D) Testing positive for any drug or for the abuse of alcohol or being under the influence of any drug and/or alcohol during working hours.

(E) Failure to comply with this policy.

(F) Refusal to submit to any drug or alcohol test under this policy, which shall also include, but not be limited to, any attempt to tamper with or substitute any sample to be used in connection with any such test.

22-9-4 APPLICABILITY. This Drug/Alcohol Testing Policy and Procedure is not intended to replace the Drug Free Workplace Programs but to define and clarify, who will be tested, when the employees will be tested and where employees will be tested. The following four employee categories define under which category each full time, part time/temporary and volunteer employee will be tested:

(A) Any employee who drives a Village vehicle, tractor, tractor mower or similar motor powered equipment that moves under its own power will be tested under the Federal DOT testing standards.

(B) Testing for employees of the Police Department shall be controlled by the provisions set forth in their union contract.

(C) All other Village employees who are not included within the two categories listed above in (A) or (B) will be subject to testing to comply with the requirements necessary to establish a Drug Free Workplace within the Village.

(E) Part time/temporary employees and volunteer employees of the Village will remain exempt from pre-employment and random testing as defined in this testing program, but they can be included for testing if reasonable suspicion should arise, or an accident should occur during the tenure of their part time/temporary or volunteer employment. After reasonable suspicion of abuse of drugs or alcohol has been established or an accident should occur, the decision to request a drug and alcohol test for the employee must be deemed necessary and reasonable by the Mayor and/or the supervisor of the employee.

22-9-5 TESTING PROCEDURE. In conducting any drug testing under this policy, the Village shall:

(A) Use only a clinical laboratory or hospital facility that is licensed pursuant to the Illinois Clinical Laboratory and Blood Bank Act, **210 ILCS 25/101** ***et seq.***, that has been or is capable of being accredited by the National Institute of Drug Abuse ("NIDA").

(B) Insure that the laboratory or facility selected conforms to all NIDA standards.

(C) Follow all Federal DOT guidelines for the collection, testing and reporting procedures.

(D) In conducting any alcohol testing under this policy, the Village shall use a facility that:

(1) Ensures that all technicians are trained and equipment is calibrated.

(2) Conducts breath test to detect the presence of alcohol or blood tests if circumstances require.

(E) The fees for drug/alcohol testing shall be paid as follows:

(1) Pre-employment testing will be paid by the Village.

(2) Post accident tests shall be paid by the Village.

(3) Reasonable suspicion testing will be paid by the Village.

(4) Random testing will be paid by the Village.

(5) Retesting at the request of the employee after a positive drug or alcohol test shall be at the employee's sole expense.

(6) Drug/Alcohol test for renewal of CDL Driver's License shall be paid by the Village.

22-9-6 SCREENING AND TESTING.

(A) **Pre-Employment Testing.**

(1) All employee applicants shall be advised of the Village Drug/Alcohol testing requirements at the time of interview. After having successfully completed the interview process, the selected prospective full time employee shall then be required to successfully complete the Village's drug screening test, as part of his/her background investigation.

(2) All applicants for full time employment shall sign a release and consent/authorization form for Drug/Alcohol testing.

(3) An applicant will not be employed or considered for employment if:
the test results confirm POSITIVE;
he/she refuses to complete the test;
he/she tampers with, or adulterates the specimen;

he/she fails to cooperate in the testing process (including executing all required documentation).

(B) **Testing Based on Reasonable Suspicion.** If there is a reasonable suspicion that any Village employee, paid or volunteer, has violated any of the prohibited actions covered by this policy, such employee may be required to undergo drug and/or alcohol testing. Reasonable suspicion exists if the facts and circumstances warrant a rational inference that an employee has violated any of the acts prohibited by this policy. Reasonable suspicion shall be based upon the following:

(1) Observable phenomena, such as direct observation of use or the verifiable physical symptoms resulting from the abuse of drugs or being under the influence of alcohol which may include by way of example but is not limited to a pattern of abnormal conduct or erratic behavior, a dramatic decline in work performance, excessive sick leave usage, difficulty in walking, slurred speech, needle marks, glazed stare, and possession of alcohol, or unauthorized banned substance or drug paraphernalia at work.

(2) Information provided by an identifiable, reliable and credible third party that an employee has committed any of the acts prohibited by this policy.

In the event reasonable suspicion exists, the Village shall arrange for a drug and/or alcohol test. When testing is ordered, the employee may be temporarily reassigned or relieved from duty and placed on leave with pay pending the receipt of the test results by the Village. The Village shall also provide the employee with written notice setting forth the objective facts and reasonable inferences to be drawn from those facts which form the basis of the reasonable suspicion.

The employee will then be escorted to the testing facility or collection facility by a designated supervisor immediately.

After completing the test, the employee will be escorted to his/her residence or at the option of his/her supervisor to another location to await the test results, and the employee shall be off work with pay pending the results of the tests. Under no circumstances shall the employee be allowed to leave the work site or the test site driving his/her own vehicle or a Village vehicle.

Employees who test positive for either drugs or alcohol will be subject to disciplinary action, up to and including termination.

(C) **Random Testing.** Random drug testing shall be conducted during working hours. Employees will be selected at random for a drug test by a random drawing/lottery. The testing times and dates are unannounced and are with unpredictable frequency throughout the year.

When testing is ordered, the employee will be directed to the testing facility or collection facility within a reasonable period of time.

After completing the test, the employee will return to work pending the results of the test.

Employees who test positive for drugs will be subject to disciplinary action, up to and including termination.

(D) **Post Accident Testing.** Post accident drug/alcohol testing is required immediately following any accident involving a Village employee, paid or volunteer, who operates Village equipment or operates a Village vehicle where an injury to a person has occurred or where damage to equipment, or property has occurred and that damage exceeds **One Hundred Dollars ($100.00)**, based on actual cost or reliable estimates of damage.

When testing is ordered, the employee will be escorted to the testing facility or collection facility by a designated supervisor within a reasonable period of time following the accident.

Employees who test positive for either drugs or alcohol will be subject to disciplinary action, up to and including termination.

(E) **Testing Required for Position Required to Have a CDL.** In addition to the provisions of this policy, any employee who is appointed to a position required to have a commercial driver's license ("CDL") shall be subject to drug and/or alcohol screening following any work related accident. Mandatory drug screening shall also be required of all applicants chosen to be hired for positions requiring a CDL. Those who fail the pre-employment drug screening shall not be hired for those positions.

22-9-7 CONFIDENTIALITY OF TEST RESULTS. Any employee subject to a drug and/or alcohol test under this policy will be provided a copy of all information and reports received by the Village in connection with any drug and/or alcohol test and any results thereof under this policy. Any results of drug and alcohol test will be disclosed to any employee tested, the applicable supervisor, Village Attorney and those permitted by law.

22-9-8 CONSEQUENCES OF POSITIVE TEST RESULT OR REFUSAL TO COOPERATE. Any employee who refuses to cooperate in testing or who fails a test or violates the Drug and Alcohol Policy shall be subject to disciplinary action, up to and including termination.

ARTICLE X – POLICY PROHIBITING SEXUAL HARASSMENT

22-10-1 PROHIBITION ON SEXUAL HARASSMENT. It is unlawful to harass a person because of that person's sex. The courts have determined that sexual harassment is a form of discrimination under Title VII of the U.S. Civil Rights Act of 1964, as amended in 1991. All persons have a right to work in an environment free from sexual harassment. Sexual harassment is unacceptable misconduct which affects individuals of all genders and sexual orientations. It is a policy of this Village to prohibit harassment of any person by any municipal official, municipal agent, municipal employee or municipal agency or office on the basis of sex or gender. All municipal officials, municipal agents, municipal employees and municipal agencies or offices are prohibited from sexually harassing any person, regardless of any employment relationship or lack thereof.

22-10-2 DEFINITION OF SEXUAL HARASSMENT. This policy adopts the definition of sexual harassment as stated in the Illinois Human Rights Act, which currently defines sexual harassment as:

(A) Any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:

(1) Submission to such conduct is made a term or condition of an individual's employment, either explicitly or implicitly; or

(2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

(3) Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

(B) Conduct which may constitute sexual harassment includes, but is not limited to:

(1) **Verbal Harassment.** Sexual innuendoes, suggestive comments, insults, humor, jokes about: sex, anatomy or gender-specific traits, sexual propositions, threats, repeated requests for dates, or statements of a sexual nature about other employees, even outside of their presence.

(2) **Non-verbal Harassment.** Suggestive or insulting sounds (whistling), leering, obscene gestures, sexually suggestive bodily gestures, "catcalls", "smacking" or "kissing" noises.

(3) **Visual.** Posters, signs, pin-ups or slogans of a sexual nature, viewing pornographic material or websites.

(4) **Physical Harassment.** Touching, unwelcome hugging or kissing, pinching, brushing the body, any coerced sexual act or actual assault.

(5) **Textual/Electronic Harassment.** "Sexting" (electronically sending messages with sexual content, including pictures or video), the use of sexually explicit language, harassment, cyber stalking and threats via all forms of electronic communication (e-mail, text/picture/ video messages, intranet/on-line postings, blogs, instant messages and posts on social network websites like Facebook and Twitter).

(C) The most severe and overt forms of sexual harassment are easier to determine. On the other end of the spectrum, some sexual harassment is more subtle and depends, to some extent, on individual perception and interpretation. The courts will assess sexual harassment by a standard of what would offend a "reasonable person."

22-10-3 PROCEDURE FOR REPORTING AN ALLEGATION OF SEXUAL HARASSMENT.

(A) An employee who either observes sexual harassment or believes herself/himself to be the object of sexual harassment should deal with the incident(s) as directly and firmly as possible

by clearly communicating his/her position to the offending employee, and his/her immediate supervisor. It is not necessary for sexual harassment to be directed at the person making the report.

(B) Any employee may report conduct which is believed to be sexual harassment, including the following:

(1) **Electronic/Direct Communication.** If there is sexual harassment behavior in the workplace, the harassed employee should directly and clearly express his/her objection that the conduct is unwelcome and request that the offending behavior stop. The initial message may be verbal. If subsequent messages are needed, they should be put in writing in a note or a memo.

(2) **Contact with Supervisory Personnel.** At the same time direct communication is undertaken, or in the event the employee feels threatened or intimidated by the situation, the problem must be promptly reported to the immediate supervisor of the person making the report, a department head, a director of human resources, an ethics officer, the village manager or administrator, or the chief executive officer of the Municipality.

The employee experiencing what he/she believes to be sexual harassment must not assume that the employer is aware of the conduct. If there are no witnesses and the victim fails to notify a supervisor or other responsible officer, the Municipality will not be presumed to have knowledge of the harassment.

(3) **Resolution Outside Municipality.** The purpose of this policy is to establish prompt, thorough and effective procedures for responding to every report and incident so that problems can be identified and remedied by the Municipality. However, all municipal employees have the right to contact the Illinois Department of Human Rights (IDHR) or the Equal Employment Opportunity Commission (EEOC) for information regarding filing a formal complaint with those entities. An IDHR complaint must be filed within **three hundred (300) days** of the alleged incident(s) unless it is a continuing offense. A complaint with the EEOC must also be filed within **three hundred (300) days**.

(4) **Allegations of Sexual Harassment Made Against an Elected Official of the Governmental Unit by Another Elected Official of a Governmental Unit.** In addition to the methods of reporting included above, an elected official may request an independent review of a complaint of sexual harassment by another elected official. The request shall be made to the human resources director, the village manager or administrator or the chief elected official of the Village. The official receiving the request shall take immediate action in keeping with the procurement process of the Village to retain a qualified individual or entity for the independent review of the allegations of sexual harassment in violation of this policy. The outcome of the independent review shall be reported to the corporate authorities.

(C) Documentation of any incident may be submitted with any report (what was said or done, the date, the time and the location), including, but not limited to, written records such as letters, notes, memos and telephone messages.

(D) All allegations, including anonymous reports, will be accepted and investigated regardless of how the matter comes to the attention of the Municipality. However, because of the serious implications of sexual harassment charges and the difficulties associated with their investigation and the questions of credibility involved, the claimant's willing cooperation is a vital component of an effective inquiry and an appropriate outcome.

22-10-4 PROHIBITION ON RETALIATION FOR REPORTING SEXUAL HARASSMENT ALLEGATIONS.

(A) No municipal official, municipal agency, municipal employee or municipal office shall take any retaliatory action against any municipal employee or official due to a municipal employee's or official's:

(1) Disclosure or threatened disclosure of any violation of this policy,

(2) Providing information related to an investigation or testimony before any public body conducting an investigation, hearing or inquiry into any violation of this policy, or

(3) Assistance with or participation in a proceeding to enforce the provisions of this policy.

(B) For the purposes of this policy, retaliatory action means the reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms or conditions of employment of any municipal employee that is taken in retaliation for a municipal employee's or official's involvement in protected activity pursuant to this policy.

(C) No individual making a report will be retaliated against, even if a report made in good faith is not substantiated. In addition, any witness will be protected from retaliation.

(D) Similar to the prohibition against retaliation contained herein, the State Officials and Employees Ethics Act **(5 ILCS 430/15-10)** provides whistleblower protection from retaliatory action, and this policy prohibits retaliatory action such as reprimand, discharge, suspension, demotion, or denial of promotion or transfer that occurs in retaliation for an employee who does any of the following:

(1) Discloses or threatens to disclose to a supervisor or to a public body an activity, policy or practice of any officer, member, agency or other employee that the employee reasonably believes is in violation of a law, rule, or regulation; or

(2) Provides information to or testifies before any public body conducting an investigation, hearing or inquiry into any violation of a law, rule or regulation by any officer, member, agency or other employee; or

(3) Assists or participates in a proceeding to enforce the provisions of the State Officials and Employees Ethics Act or this policy.

(E) Pursuant to the Whistleblower Act **(740 ILCS 174/15(a))**, an employer may not retaliate against an employee who discloses information in a court, an administrative hearing, before a legislative commission or committee or in any other proceeding, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule or regulation. In addition, an employer may not retaliate against an employee for disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule or regulation. **(740 ILCS 174/15(b))**.

(F) According to the Illinois Human Rights Act **(775 ILCS 5/6-101)**, it is a civil rights violation for a person, or for two or more people to conspire to retaliate against a person because he/she has opposed that which he/she reasonably and in good faith believes to be sexual harassment in employment, because he/she has made a charge, filed a complaint, testified, assisted or participated in an investigation, proceeding or hearing under the Illinois Human Rights Act.

(G) An employee who is suddenly transferred to a lower paying job or passed over for a promotion after filing a complaint with IDHR or EEOC, may file a retaliation charge – either due within **three hundred (300) days** of the alleged retaliation.

22-10-5 CONSEQUENCES OF A VIOLATION OF THE PROHIBITION ON SEXUAL HARASSMENT. In addition to any and all other discipline that may be applicable pursuant to municipal policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreements, any person who violates this policy or the Prohibition on Sexual Harassment contained in **5 ILCS 430/5-65**, may be subject to a fine of up to **Five Thousand Dollars ($5,000.00)** per offense, applicable disciplinary actions or discharge by the Municipality and any applicable fines and penalties established pursuant to local ordinance, State law or Federal law. Each violation may constitute a

separate offense. Any discipline imposed by the Municipality shall be separate and distinct from any penalty imposed by an ethics commission and any fines or penalties imposed by a court of law or a State or Federal agency.

22-10-6 CONSEQUENCES FOR KNOWINGLY MAKING A FALSE REPORT. A false report is a report of sexual harassment made by an accuser to accomplish an outcome other than stopping sexual harassment or stopping retaliation for reporting sexual harassment. A false report is not a report made in good faith which cannot be proven. Given the seriousness of the consequences for the accused, a false or frivolous report is a severe offense that can itself result in disciplinary action. Any person who intentionally makes a false report alleging a violation of any provision of this policy shall be subject to disciplinary action or discharge pursuant to applicable municipal policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreements.

In addition, any person who intentionally makes a false report alleging a violation of any provision of the State Officials and Employees Ethics Act to an ethics commission, an inspector general, the Illinois State Police, a State's Attorney, the Attorney General or any other law enforcement official is guilty of a Class A misdemeanor. An ethics commission may levy an administrative fine of up to **Five Thousand Dollars ($5,000.00)** against any person who intentionally makes a false, frivolous or bad faith allegation.

(Ord. No. 921; 11-06-18)

Policy

As a Federal Grantee, I hereby notify employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in this workplace. As a condition of employment, employees must abide by this policy.

Drug-Free Awareness

Drug abuse in the workplace has major adverse effects on the welfare of all citizens of the United States, and it results in lost productivity each year. Employees who use illegal drugs have three to four times more accidents while at work.

Employees with drug abuse problems should seek help. Employees desiring more information on the dangers of drug abuse in the workplace and those employees needing drug counseling, rehabilitation, or other employee assistance should contact the local municipal drug administrator.

Employees will be referred to the appropriate resource for available counseling, rehabilitation or other assistance.

Notice of Potential Personnel Actions for Illegal Drug Use On-the-Job

Penalties may be imposed upon employees for drug abuse violations occurring in our workplaces:

1. Employees must notify this employer of any criminal drug statute conviction or a violation occurring in the workplace no later than five days after such conviction.
2. Within 30 days of receiving notice of any criminal drug statute conviction or a violation occurring in the workplace, this employer will take appropriate personnel action against such employee, up to and including termination; or
3. Within 30 days of receiving notice of any criminal drug statute conviction or a violation occurring in the workplace, this employer may require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency.

Employee Certification

- ✓ I understand the drug-free workplace policy.
- ✓ I agree, as a condition of my employment, to abide by the terms of this program.
- ✓ I agree to notify this employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.

Employee Signature **Date**

Employer Statement

- ✓ I have explained the policy, drug-free awareness, and potential personnel action statements and have provided the employee's part of this pamphlet to the employee.

Authorized Employer Signature **Date**

Village of Smithton, Smithton, Illinois
Name of Organization

CHAPTER 23 – MANUFACTURED HOUSING CODE

ARTICLE		*TITLE*	*PAGE*
I	*GENERAL PROVISIONS*		
	Section 23-1-1	*Definitions*	*23-1*
	Section 23-1-2	*State Requirements Adopted by Reference*	*23-3*
	Section 23-1-3	*Manufactured Housing Act Adopted*	*23-3*
	Section 23-1-4	*Illinois Department of Public Health and Regulations Adopted*	*23-3*
	Section 23-1-5	*National Safety Standards*	*23-3*
	Section 23-1-6	*Skirting*	*23-3*
	Section 23-1-7	*Fire Extinguishers*	*23-3*
	Section 23-1-8	*Inspection*	*23-4*
	Section 23-1-9	*Off-Street Parking*	*23-4*
	Section 23-1-10	*Prohibited Residential Uses*	*23-4*
	Section 23-1-11	*Carbon Monoxide Alarm Detectors*	*23-4*
	Section 23-1-12	*Smoke and Fire Detectors*	*23-4*
II	*IMMOBILIZED MANUFACTURED HOMES*		
	Section 23-2-1	*Immobilized Manufactured Homes*	*23-5*
	Section 23-2-2	*Permit - Fee*	*23-5*
	Section 23-2-3	*Lot Size*	*23-5*
	Section 23-2-4	*Concrete Pads*	*23-5*
	Section 23-2-5	*Limit of Units*	*23-5*
III	*MANUFACTURED HOME PARKS*		
	Division I - Administration Requirements		
	Section 23-3-1	*Compliance with Statutes, Applicability of Article*	*23-6*
	Section 23-3-2	*Permitting and Planning a Park*	*23-6*
	Section 23-3-3	*Local Government Requirements*	*23-6*
	Section 23-3-4	*Permits*	*23-6*
	Section 23-3-5	*Inspection of Manufactured Home Park*	*23-6*
	Section 23-3-6	*Violation Proceedings*	*23-6*
	Section 23-3-7	*Initial Permit Required*	*23-7*
	Section 23-3-8	*23-3-9 Reserved*	
	Division II – Design and Construction Requirements		
	Section 23-3-10	*Plan Document*	*23-7*
	Section 23-3-11	*Application*	*23-7*
	Section 23-3-12	*Location*	*23-8*
	Section 23-3-13	*Roadways and Parking*	*23-8*
	Section 23-3-14	*Utility Connection Fee*	*23-8*
	Section 23-3-15	*23-3-16 Reserved*	
	Division III - Generally		
	Section 23-3-17	*Lot Size*	*23-8*
	Section 23-3-18	*Miscellaneous Restrictions*	*23-8*
	Section 23-3-19	*23-3-20 Reserved*	
	Division IV - Fees		
	Section 23-3-21	*License Fee*	*23-8*

CHAPTER 23

MANUFACTURED HOUSING CODE

ARTICLE I – GENERAL PROVISIONS

23-1-1 DEFINITIONS. The terms used in this Code shall have the following meanings:

"AFFIDAVIT" means an oath in writing, sworn before and attested by an individual who has authority to administer an oath.

"APPLICANT" means any person making application for a license or permit.

"CORPORATE AUTHORITIES" shall mean the Mayor and the Village Board of Trustees.

"IMMOBILIZED MANUFACTURED HOME": As applied to a manufactured home, "immobilize" means to remove the wheels, tongue and hitch and to affix to a permanent foundation. The term implies that, once affixed to a permanent foundation, the destruction of said foundation would be necessary in order to move the dwelling to another location.

"LICENSE" means a license certificate issued by the Village allowing a person to operate and maintain a manufactured home park under the provisions of this Code and the rules and regulations issued hereunder.

"LICENSEE" means any person having a license or permit under this Chapter.

"MANUFACTURED HOME" means a structure designed for permanent habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location or subsequent location at which it is intended to be a permanent habitation and designed to permit the occupancy thereof as a dwelling place for **one (1)** or more persons. The term shall only include manufactured homes constructed after **June 30, 1976,** in accordance with the Federal **"National Manufactured Housing Construction and Safety Standards Act of 1974".** Compliance with this standard is indicated by a 2-inch by 4-inch metal plate attached to the exterior tail light end of the manufactured home. The average width and/or length of the living area (excluding garages, carports, porches, or attachments) of a manufactured home shall not exceed a ratio of 3 to 1. As with all residences, a manufactured home shall have a minimum 4/12 pitch roof with residential style siding and roofing, **six (6) inch** minimum eave overhang, and shall have a minimum living area of not less than **nine hundred (900) square feet**. Provided that any such structure resting on a permanent foundation with wheels, tongue and hitch permanently removed shall not be construed as a **"manufactured home",** but shall be an "**immobilized manufactured home".** A manufactured home should not be confused with a "**camping trailer"** or **"recreational vehicle". (See 210 ILCS Sec. 115/2.10)**

"MANUFACTURED HOME, DEPENDENT" means a manufactured home which does not have a toilet and bath or shower facilities. **(See 210 ILCS Sec. 115/2.3)**

"MANUFACTURED HOME, DOUBLE-WIDE" consists of **two (2) mobile units** joined at the side into a single home, but kept on their separate chassis for repeated transportation to a site.

"MANUFACTURED HOME, INDEPENDENT" means a manufactured home which has self-contained toilet and bath or shower facilities. **(See 210 ILCS Sec. 115/2.4)**

"MANUFACTURED HOME LOT" means a parcel of land for the placement of a manufactured home and the exclusive use of its occupants.

"MANUFACTURED HOME PAD" means that part of an individual manufactured home space or lot beneath the manufactured home, including the concrete portion of the pad.

"MANUFACTURED HOME PARK" means a tract of land or **two (2)** or more contiguous tracts of land upon which contain sites with the necessary utilities for **two (2)** or more independent manufactured homes for permanent habitation either free of charge or for revenue purposes, and shall include any building, structure, vehicle, or enclosure used or intended for use as a part of the equipment of such manufactured home park. Separate ownership of contiguous tracts of land shall not preclude the tracts of land from common licensure as a manufactured home park if they are maintained and operated jointly. Neither an immobilized manufactured home nor a motorized recreational vehicle shall be construed as being a part of a manufactured home park. **(See 210 ILCS Sec. 115/2.5)**

"MANUFACTURED HOME SALES AREA" means a parcel of land used for the display, sale, and repair of new or used manufactured homes.

"MANUFACTURED HOME SPACE" means a portion of a manufactured home park designed for the use or occupancy of **one (1) manufactured home.**

"MANUFACTURED HOUSING UNIT" includes all forms of housing units listed in this Section and as regulated in this Code.

"MOBILE HOME" means a structure designed for permanent habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location or subsequent location at which it is intended to be a permanent habitation and designed to permit the occupancy thereof as a dwelling place for **one (1)** or more persons. The term **"mobile home"** shall only include homes constructed prior to **June 30, 1976**, not in accordance with the Federal **"National Manufactured Housing Construction and Safety Standards Act of 1974"**.

"MODULAR HOME": A modular home is a factory-fabricated single-family home built in **one (1)** or more sections. The average width and/or length of the living area (excluding garages, carports, porches, or attachments) of a modular home shall not exceed a ratio of 3 to 1. All modular homes shall be placed on a full perimeter foundation, extending below the frost depth. All wheels and towing devices shall be removed. As with all residences, a modular home shall have a minimum 4/12 pitch roof with residential style siding and roofing, **six (6) inch** minimum eave overhang, and shall have a minimum living area of not less than **nine hundred (900) square feet**. Modular homes shall have a yellow seal in the shape of the State of Illinois on the electrical panel box of the home or on the inside of the kitchen sink cabinet. Local officials may require additional items other than the minimum state requirements such as the National Manufactured Home Construction and Safety Standards (HUD Code) or the International Building Code (IBC). All structures shall be placed on a permanent foundation in order that they may be assessed as real estate.

"OWNER" or "OPERATOR" means the licensee.

"PERMANENT FOUNDATION": A foundation which extends into the ground below the frost line so as to attach and become a part of the real estate. Materials such as concrete, mortared concrete block, poured wall or mortared brick extending into the ground below the frost line shall satisfy the requirement for a permanent foundation. In addition, piers may be used, extending into the ground below the frost line, and sufficient in number to properly support the structure, provided the support beams are affixed to the permanent perimeter foundation.

"PERMANENT HABITATION" means a period of **two (2) or more months**.

"PERMIT" means a certificate issued by the Building or Zoning Inspector, permitting the construction, alteration, or reduction in number of spaces of a manufactured home park under the provisions in this Code.

"PERSON" means any individual, group of individuals, association, trust, partnership, corporation, person doing business under an assumed name, county, municipality, the State of Illinois, or any political subdivision or department thereof or any other entity.

"REVOCATION" means to declare invalid a permit or license issued to the applicant or licensee by this Village for an indefinite period of time.

"SITE" means the lot on which the manufactured home is located for permanent habitation. **(See 210 ILCS Sec. 115/2.7)**

"SPACE" shall be synonymous with **"Manufactured Home Space".**

"SUSPENSION" means to declare invalid a permit or license issued to the applicant or licensee by this Village for a temporary period of time with an expectation of resumption.

23-1-2 STATE REQUIREMENTS ADOPTED BY REFERENCE. The Illinois **Manufactured Home Park Act** and the **Manufactured Home Tiedown Act (77 Ill. Adm. Code 870)** of the **Illinois Compiled Statutes, Chapter 210, Section 115/1 et seq., as passed, approved and amended by the Illinois General Assembly** are hereby adopted by the Village. The applicable provisions as they pertain to manufactured homes and immobilized manufactured homes shall be controlling within the corporate limits of the Village.

23-1-3 MANUFACTURED HOUSING ACT ADOPTED. The **Illinois Manufactured Housing and Manufactured Home Act, as passed and approved by the Illinois General Assembly** is hereby adopted by the Village, the applicable provisions as they pertain to manufactured homes and immobilized manufactured homes shall be controlling within the Village. **(See 430 ILCS Sec. 115/1 et seq.)**

23-1-4 ILLINOIS DEPARTMENT OF PUBLIC HEALTH AND REGULATIONS ADOPTED. The **Manufactured Home Community Code** as approved by the **Illinois Department of Public Health (1998)** is hereby adopted by the Village. The applicable provisions as they pertain to the Manufactured Home community shall be controlling within the corporate limits.

23-1-5 NATIONAL SAFETY STANDARDS. No manufactured home or immobilized manufactured home shall be located in the Village unless the unit has the **National Manufactured Housing Construction and Safety Standards** metal seal affixed thereto.

23-1-6 SKIRTING. Skirting shall be used to conceal all underpinning, plumbing, and support piers whether on a permanent foundation or otherwise. All skirting shall be installed on all manufactured housing units within **sixty (60) days** of the placement of the unit.

23-1-7 FIRE EXTINGUISHERS. All manufactured housing units located in the Village shall be equipped with a fire extinguishing apparatus capable of extinguishing all types of fires. Such

extinguishers shall be of sufficient size so that they will reasonably protect the manufactured housing units. All fire extinguishers shall be approved by the Fire Chief or his designated representative prior to installation of the manufactured home. **(See 425 ILCS Secs. 60/1-60/4)**

23-1-8 INSPECTION. All Manufactured Housing units located in the Village shall be subject to reasonable inspection by an official or officials designated by the Village Board.

23-1-9 OFF-STREET PARKING. Every owner of a manufactured housing unit shall provide for an off-street parking area of **four hundred (400) square feet.**

23-1-10 PROHIBITED RESIDENTIAL USES.

(A) **Dependent Manufactured Home.** It shall be unlawful to locate a dependent manufactured home in the Village unless placed in a state-licensed travel trailer park.

(B) **Independent Travel Trailer.** It shall be unlawful to reside in an independent travel trailer in the Municipality unless it is located in a state-licensed travel trailer park.

(C) **Manufactured Home.** It shall be unlawful to locate a manufactured home or a manufactured home in a state-licensed travel trailer park without written permission of the Village Board or the Zoning Board.

23-1-11 CARBON MONOXIDE ALARM DETECTORS. Each unit shall be equipped with a carbon monoxide alarm detector as prescribed by state statute. **(See 430 ILCS 135/1 et seq.)**

23-1-12 SMOKE AND FIRE DETECTORS. Each unit shall be equipped with smoke and fire detectors as prescribed by state statute.

ARTICLE II - IMMOBILIZED MANUFACTURED HOMES

23-2-1 IMMOBILIZED MANUFACTURED HOMES. All immobilized manufactured homes located in the Village shall be classified as real estate; therefore, it is mandatory for all persons owning, operating, renting, or leasing an existing manufactured home outside a manufactured home park to remove or cause to have removed the wheels or any other transportation device from the manufactured home. The owner or lessor shall permanently fix it to the ground in a manner that conforms to the definition of an immobilized manufactured home in **Section 23-1-1**. All existing manufactured homes, when replaced, shall comply with the immobilization provisions of this Code.

23-2-2 PERMIT - FEE. All persons seeking to locate or replace a manufactured home or an immobilized manufactured home outside a manufactured home park shall obtain a **Building or Zoning Permit** from the Village Clerk or Building Inspector. No utility services shall be connected to the unit until the Village has issued the appropriate permits. The fee to locate or relocate a manufactured home or immobilized manufactured home shall be **Fifty Dollars ($50.00)**. **(See Zoning Code for districts permitting these uses.)**

23-2-3 LOT SIZE. The minimum lot size for the location of an immobilized manufactured home unit shall be **eight thousand (8,000) square feet**. All units shall be located in the Village according to the requirements and restrictions of this Code. They shall not exceed **forty percent (40%) coverage** of the lot or the requirements of the Zoning Code, if any.

23-2-4 CONCRETE PADS. All immobilized manufactured homes shall conform to the specifications for these units as provided in the definition in **Section 23-1-1**.

23-2-5 LIMIT OF UNITS. There shall be **only one (1)** immobilized manufactured home per lot in the Village.

ARTICLE III - MANUFACTURED HOME PARKS

DIVISION I - ADMINISTRATION REQUIREMENTS

23-3-1 COMPLIANCE WITH STATUTES, APPLICABILITY OF ARTICLE. Every manufactured home park hereafter established in the Village shall, at a minimum, conform to the requirements of:

(A) The Illinois **Manufactured Home Park Act** and the **Manufactured Home Tiedown Act (77 Ill. Adm. Code 870)** of the **Illinois Compiled Statutes, Chapter 210, Section 115/1 et seq., as passed, approved and amended by the Illinois General Assembly** are hereby adopted by the Village. The applicable provisions as they pertain to manufactured homes and immobilized manufactured homes shall be controlling within the corporate limits of the Village.

(B) The **Manufactured Home Community Code** as approved by the **Illinois Department of Public Health (1998)** is hereby adopted by the Village. The applicable provisions as they pertain to Manufactured Home community shall be controlling within the corporate limits.

(C) **This Code.**

(D) Zoning Code.

In case of conflict between any provisions of the above, the more stringent requirement shall prevail.

23-3-2 PERMITTING AND PLANNING A PARK. Any person seeking to establish, operate, alter, or expand a manufactured home park shall obtain a permit to construct or a license to operate a manufactured home park.

"Construct or operate a manufactured home park", as used in this Code shall include, but not necessarily be limited to supplying or maintaining common water, sewer, or other utility supplies or services, or the collection of rents directly or indirectly from **two (2)** or more independent manufactured homes. **(All plans shall be submitted to the Village Board for approval prior to the granting of a permit.)**

23-3-3 LOCAL GOVERNMENT REQUIREMENTS. A permit does not relieve the applicant from complying with this Code or other ordinances applicable thereto. **(See Zoning Code, if any.)**

23-3-4 PERMITS. The Village Board shall review each application and plan documents submitted. When the application and plan documents are found to be in compliance with the **"Manufactured Home Community Code",** as approved by the **Illinois Department of Public Health,** the Village Board may issue the proper permit to construct or alter a manufactured home park to the applicant. Permits shall be valid for **one (1) year from date of issue.**

23-3-5 INSPECTION OF MANUFACTURED HOME PARK. Upon completion of the proposed construction of a manufactured home park or the proposed alteration of a manufactured home park, the applicant shall notify the Village or the designated official in order that an inspection of the complete facilities can be made.

23-3-6 VIOLATION PROCEEDINGS. Any license granted hereunder shall be subject to revocation or suspension by the Mayor. However, the Mayor or his representative shall first serve or cause to be served upon the licensee a written notice in which shall be specified the way or ways in which such licensee has failed to comply with the statutes, or any rules or regulations promulgated by the

Village pertaining thereto. The notice shall require the licensee to remove or abate such nuisance, unsanitary or objectionable condition, specified in such notice within **five (5) days** or within a longer period of time as may be allowed by the Village Board. If the licensee fails to comply with the terms and conditions of the notice within the time specified or such extended period of time, the Mayor or his representative may revoke or suspend such license.

23-3-7 INTITIAL PERMIT REQUIRED. Each manufactured home that locates on a lot in a manufactured home park shall secure an initial Building or Zoning Permit from the Village. All future locations on the same lot shall be exempt from the fee. **(See Zoning Code)**

23-3-8 - 23-3-9 RESERVED.

DIVISION II - DESIGN AND CONSTRUCTION REQUIREMENTS

23-3-10 PLAN DOCUMENT. In order to obtain a permit to construct or an original license to operate a manufactured home park, the applicant shall file with the Village a written application and plan documents and such plan documents shall be prepared by a registered engineer or architect licensed to practice in the State of Illinois, with registration seal affixed. **Two (2) copies** of the plan document shall accompany the application filed with the Village Clerk to obtain a permit to construct or alter a manufactured home park or an original license to operate a manufactured home park, not previously licensed by the Department. These plans shall include, but not be limited to the design and construction criteria set forth herein. **[The plans shall be submitted to the Zoning Administrator.]**

23-3-11 APPLICATION.

(A) Every applicant shall file with the Village Clerk a written application and plan documents for the proposed construction or alteration of a manufactured home park.

(B) The application shall be completed by the applicant and the engineer or architect and shall include:

(1) The full name and address of the applicant or applicants, or names and addresses of the partners if the applicant is a partnership, or the names and addresses of the officers if the applicant is a corporation, and the present or last occupation of the applicant at the time of the filing of the application. If the applicant is a corporation, a copy of the certificate of incorporation must be filed with the application.

(2) The proposed method of lighting the structures and land upon which the manufactured home park is to be located.

(3) The plot plans of the manufactured home park, building plans and specifications for existing buildings and facilities, and the plans and specifications for new buildings and facilities or the proposed alterations in existing facilities.

(4) An affidavit of the applicant as to the truth of the matters contained in the application shall be attached.

(5) Each application shall be accompanied by an application fee of **Three Hundred Dollars ($300.00)** for a permit to construct, or an application fee of **One Hundred Fifty Dollars ($150.00)** for a permit to alter to increase the size of the park.

23-3-12 LOCATION.

(A) Sites selected for manufactured home development shall be well-drained and free from topographical or geological hinderances and from other conditions unfavorable to a proper residential environment. The manufactured home development shall not be located near swamps, wetlands, marshes, or other breeding places of insects, rats, mice or other rodents. When a good, natural drainage is not available, storm water drainage shall be provided and such drainage shall not endanger any water supply or surface watercourse.

(B) The Village Board may authorize a site survey to ascertain that the proposed location complies with the above requirements. **(See Flood Plain and Zoning Codes, if any.)**

23-3-13 ROADWAYS AND PARKING.

(A) All streets and driveways in every park shall be constructed in compliance with the Subdivision Code in **Chapter 34**.

(B) All streets in parks constructed shall have a minimum right-of-way of **fifty (50) feet** and a minimum road width of **thirty-two (32) feet** for the purpose of this Code, and shall be considered private streets to be maintained by the park owner or operator.

If a manufactured home park has more than **fifty (50) units**, a wider street may be required by the corporate authorities.

(C) Sidewalks and walkways shall be constructed abutting a street in a manufactured home park and shall be a minimum of **four (4) feet** in width; provided, however, there shall be no minimum width requirement for sidewalks for each individual lot. No portion of a manufactured home shall block, in any way, the pedestrian traffic on the walkways.

23-3-14 UTILITY CONNECTION FEE. The cost of connecting to the Village utility systems shall be **Two Hundred Dollars ($200.00)** per pad.

23-3-15 - 23-3-16 RESERVED.

DIVISION III - GENERALLY

23-3-17 LOT SIZE. The minimum lot size for a manufactured home pad shall be **eight thousand (8,000) square feet,** with a minimum frontage of **fifty (50) feet.**

23-3-18 MISCELLANEOUS RESTRICTIONS.

(A) No manufactured home unit parked in a manufactured home park shall be immobilized.

(B) Not more than **one (1) manufactured home unit** shall be parked in **one (1)** space.

(C) No travel-trailer shall be permitted in any manufactured home park, unless a special area has been approved for that purpose by the Village Board or the Zoning Board.

23-3-19 - 23-3-20 RESERVED.

DIVISION IV - FEES

23-3-21 LICENSE FEE. The annual license fee per manufactured home park shall be **Fifty Dollars ($50.00),** and shall be due and payable **on or before May 1st of each year.** The Village Clerk shall notify the owner or operator of the annual fee at least **thirty (30) days** prior to **May 1st.**

CHAPTER 24 – MOTOR VEHICLE CODE

ARTICLE		*TITLE*	*PAGE*
I	*DEFINITIONS*		
	Section 24-1-1 -	*Illinois Vehicle Code; Definitions Adopted*	*24-1*
II	*GENERAL REGULATIONS*		
	Section 24-2-1 -	*Obedience to Police*	*24-1*
	Section 24-2-2 -	*Scene of Fire*	*24-1*
	Section 24-2-3 -	*Signs and Signals*	*24-1*
	Section 24-2-4 -	*Unauthorized Signs*	*24-1*
	Section 24-2-5 -	*Interference with Signs or Signals*	*24-1*
	Section 24-2-6 -	*Advertising Signs*	*24-2*
	Section 24-2-7 -	*Animals or Bicycles*	*24-2*
	Section 24-2-8 -	*Lamps and Other Equipment on Bicycles*	*24-2*
III	*STOP AND THROUGH STREETS*		
	Section 24-3-1 -	*Through Streets*	*24-3*
	Section 24-3-2 -	*One-Way Streets or Alleys*	*24-3*
	Section 24-3-3 -	*Stop Streets*	*24-3*
	Section 24-3-4 -	*Yield Right-of-Way Streets*	*24-3*
	Section 24-3-5 -	*Posting Signs*	*24-3*
IV	*DRIVING RULES*		
	Section 24-4-1 -	*Illinois Vehicle Code; Rules of the Road Adopted*	*24-4*
	Section 24-4-2 -	*Driving Rules*	*24-4*
	Section 24-4-3 -	*Duty to Report Accident*	*24-5*
	Section 24-4-4 -	*Transporting Liquor in Vehicles*	*24-5*
	Section 24-4-5 -	*Excessive Noise – Stopped Vehicle*	*24-5*
	Section 24-4-6 -	*Excessive Noise – Wheels*	*24-5*
	Section 24-4-7 -	*Excessive Noise – Squealing Tires*	*24-5*
	Section 24-4-8 -	*Reckless, Negligent or Careless Driving*	*24-5*
	Section 24-4-9 -	*Excessive Noise While Driving*	*24-5*
V	*EQUIPMENT OF VEHICLES*		
	Section 24-5-1 -	*Illinois Vehicle Code; Equipment of Vehicles Adopted*	*24-6*
	Section 24-5-2 -	*Muffler*	*24-6*
	Section 24-5-3 -	*Sound Amplification System*	*24-6*
	Section 24-5-4 -	*Excessive Engine Braking Noise Prohibited*	*24-6*
VI	*PARKING RULES*		
	Section 24-6-1 -	*Time Limit Parking*	*24-7*
	Section 24-6-2 -	*Parking for Sale or Repair*	*24-7*

ARTICLE		TITLE	PAGE
VI		PARKING RULES (CONTINUED)	
	Section 24-6-3	- Private Property	24-7
	Section 24-6-4	- Stopping, Standing or Parking Prohibited in Specified Places	24-7
	Section 24-6-5	- Motor Transport Engines	24-8
	Section 24-6-6	- Parking for the Handicapped	24-8
	Section 24-6-7	- Load Limits	24-9
	Section 24-6-8	- Towing Cars Away	24-9
	Section 24-6-9	- Parking Violations	24-9
	Section 24-6-10	- Prima Facie Proof	24-10
	Section 24-6-11	- Snow Routes	24-10
	Section 24-6-12	- Parking Tickets – State Statute	24-10
VII		ABANDONED, LOST, STOLEN OR UNCLAIMED VEHICLES	
	Section 24-7-1	- Definitions	24-11
	Section 24-7-2	- Abandonment of Vehicles Prohibited	24-11
	Section 24-7-3	- Abandoned, Lost, Stolen, or Unclaimed Vehicle Notification to Law Enforcement Agencies	24-11
	Section 24-7-4	- Removal of Motor Vehicles or Other Vehicles; Towing or Hauling Away	24-12
	Section 24-7-5	- Police Tows; Reports, Release of Vehicles, Payment	24-12
	Section 24-7-6	- Record Searches for Unknown Owner	24-12
	Section 24-7-7	- Identifying and Tracing of Vehicle	24-13
	Section 24-7-8	- Reclaimed Vehicles; Expenses	24-13
	Section 24-7-9	- Disposal of Unclaimed Vehicle	24-14
	Section 24-7-10	- Disposal of Unclaimed Vehicles Without Notice	24-14
	Section 24-7-11	- Disposal of Hazardous Dilapidated Motor Vehicles	24-14
	Section 24-7-12	- Collection of Unpaid Charges	24-15
	Section 24-7-13	- Police Record for Disposed Vehicle	24-15
	Section 24-7-14	- Public Sale Proceeds; Disposition of	24-15
	Section 24-7-15	- Liability of Law Enforcement Officers	24-15
	Section 24-7-16	- Violations of Article	24-15
VIII		INTOXICATED DRIVING	
	Section 24-8-1	- Person Intoxicated	24-17
	Section 24-8-2	- Person on Drugs	24-17
	Section 24-8-3	- Blood Tests	24-17
	Section 24-8-4	- Adoption of Statutes	24-17
IX		OPERATION OF NON-HIGHWAY VEHICLES	
	Section 24-9-1	- Unlawful Operations	24-18
	Section 24-9-2	- State Statutes Applicable	24-18
	Section 24-9-3	- Required Permit	24-18
	Section 24-9-4	- Penalty	24-19

ARTICLE		TITLE	PAGE
Schedule "A"	-	Stop Intersections	MV-1
Schedule "B"	-	One-Way Streets	MV-5
Schedule "C"	-	Yield Intersections	MV-5
Schedule "D"	-	Speed Zones	MV-6
Schedule "E"	-	No Parking Zones	MV-7
Schedule "F"	-	Limited Parking Zones	MV-7
Schedule "H"	-	Handicapped Parking Zones	MV-8
Schedule "J"	-	Load Limit Streets	MV-8
Schedule "K"	-	Time Limit Parking	MV-8

CHAPTER 24

MOTOR VEHICLE CODE

ARTICLE I – DEFINITIONS

24-1-1 ILLINOIS VEHICLE CODE; DEFINITIONS ADOPTED. The Illinois Vehicle Code, **Illinois Compiled Statutes, Chapter 625, Chapter 1**, entitled **"Title and Definitions",** as passed, approved and amended by the Illinois General Assembly is hereby adopted by the Village, the provisions thereof shall be controlling within the corporate limits of the Village. **(65 ILCS 5/1-3-2 and 5/11-1-1)**

ARTICLE II - GENERAL REGULATIONS

24-2-1 OBEDIENCE TO POLICE. Members of the Police Department, Special Police, and Auxiliary Police assigned to traffic duty are hereby authorized to direct all traffic in accordance with the provisions of this Article or in emergencies as public safety or convenience may require, and it shall be unlawful for any person to fail or refuse to comply with any lawful order, signal or direction of a policeman. Except in cases of emergency, it shall be unlawful for any person not authorized by law to direct or attempt to direct traffic. **(625 ILCS 5/11-203)**

24-2-2 SCENE OF FIRE. The Fire Department officer in command or any fireman designated by him may exercise the powers and authority of a policeman in directing traffic at the scene of any fire or where the Fire Department has responded to an emergency call for so long as the Fire Department equipment is on the scene in the absence of or in assisting the Police Department.

24-2-3 SIGNS AND SIGNALS. It shall be unlawful for the driver of any vehicle to disobey the instructions of any traffic sign or signal placed in view by authority of the corporate authorities or in accordance with the laws of the State of Illinois except upon direction of a police officer. All signs and signals established by direction of the governing body shall conform to the Illinois State Manual of Uniform Traffic Control Devices for Streets and Highways. **(625 ILCS 5/11-301)**

24-2-4 UNAUTHORIZED SIGNS. No person shall place, maintain or display upon or in view of any street, any unauthorized sign, signal, marking, light, reflector or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, nor shall any person or place, maintain or display upon or in view of any street, any other sign which hides from view or interferes with the movement of traffic or effectiveness of any traffic-control device or any railroad sign or signal, and no person shall place or maintain, nor shall any public authority permit upon any highway, any traffic sign or signal bearing thereon any commercial advertising. No tree, bush or foliage of any kind shall be so placed, maintained, allowed to remain, or be displayed upon either public or private property in such a manner as to hide from view or interfere with the movement of traffic or the effectiveness of any traffic-control device, sign or signal.

24-2-5 INTERFERENCE WITH SIGNS OR SIGNALS. It shall be unlawful for any person to deface, injure, move or interfere with any official traffic sign or signal.

24-2-6 ADVERTISING SIGNS. It shall be unlawful to maintain anywhere in the Village any sign, signal, marking or device other than a traffic sign or signal authorized by the Village Board or the Illinois Department of Transportation, which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal in view of any street or highway, and it shall be unlawful to place or maintain any sign which hides from view any lawful traffic-control device. It shall be unlawful to maintain or operate any flashing or rotating beacon of light in view of any street or highway. **(See Chapter 27 and 33) (Also See Chapter 40 - Zoning Code)**

24-2-7 ANIMALS OR BICYCLES. Any person riding a bicycle or an animal or driving any animal drawing a vehicle upon any street shall be subject to the provisions of this Code applicable to the driver of a vehicle, except those provisions which can have no application to one riding a bicycle or driving or riding an animal. **(625 ILCS 5/11-206)**

24-2-8 LAMPS AND OTHER EQUIPMENT ON BICYCLES.

(A) Every bicycle, when in use at nighttime, shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least **five hundred (500) feet** to the front and with a red reflector on the rear of a type approved by the Department which shall be visible from all distances of **one hundred (100) feet** to **six hundred (600) feet** to the rear when directly in front of lawful lower beams of headlights on a motor vehicle. A lamp emitting a red light visible from a distance of **five hundred (500) feet** to the rear may be used in addition to the red reflector.

(B) A bicycle shall not be equipped with, nor shall any person use any siren upon a bicycle.

(C) Every bicycle shall be equipped with a brake which will adequately control movement of and stop and hold such bicycle.

(D) No person shall sell a new bicycle or pedal for use on a bicycle that is not equipped with a reflex reflector or conforming to specifications prescribed by the State on each pedal, visible from the front and rear of the bicycle during darkness from a distance of **two hundred (200) feet**.

(E) No person shall sell or offer for sale a new bicycle that is not equipped with side reflectors. Such reflectors shall be visible from each side of the bicycle from a distance of **five hundred (500) feet** and shall be essentially colorless or red to the rear of the center of the bicycle and essentially colorless or amber to the front of the center of the bicycle provided. The requirements of this paragraph may be met by reflective materials which shall be at least **three-sixteenths of an inch (3/16th")** wide on each side of each tire or rim to indicate as clearly as possible the continuous circular shape and size of the tires or rims of such bicycle and which reflective materials may be of the same color on both the front and rear tire or rim. Such reflectors shall conform to specifications prescribed by the State.

(F) No person shall sell or offer for sale a new bicycle that is not equipped with an essentially colorless front-facing reflector.

(G) Any person charged with a violation of this Section shall pay a fine of **One Dollar ($1.00)** for the first offense and for a similar charge during the same year a fine of **Five Dollars ($5.00)**. **(See 625 ILCS 5/11-1507)**

ARTICLE III - STOP AND THROUGH STREETS

24-3-1 THROUGH STREETS. The streets and parts of streets of the Village designated by ordinance as "through streets" are hereby declared to be through streets. The driver of a vehicle shall stop at the entrance to a through street and shall yield the right-of-way to other vehicles which have entered the intersection or which are approaching so close on a through street as to constitute an immediate hazard unless directed otherwise by the traffic officer. See **Schedule "A"** for applicable through and stop streets.

24-3-2 ONE-WAY STREETS OR ALLEYS. It shall be unlawful to operate any vehicle on any streets or alleys designated as one-way streets or alleys by ordinance in any direction other than that so designated. See **Schedule "B"** for the designated one-way streets and alleys. **(625 ILCS 5/11-208)**

24-3-3 STOP STREETS. The driver of a vehicle shall stop in obedience to a stop sign at an intersection where a stop sign is erected pursuant to ordinance at one or more entrances thereto and shall proceed cautiously, yielding to the vehicles not so obliged to stop which are within the intersection or approaching so close as to constitute an immediate hazard, unless traffic at such intersection is controlled by a police officer on duty, in which event, the directions of the police officer shall be complied with. See **Schedule "A"** for designated stop intersections. **(625 ILCS 5/11-302)**

24-3-4 YIELD RIGHT-OF-WAY STREETS. The driver of a vehicle approaching a yield sign, in obedience to such sign, shall slow down to a speed reasonable for the existing conditions and if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection. **(See Schedule "C")**

24-3-5 POSTING SIGNS. Appropriate signs shall be posted to show all through, stop and yield right-of-way streets, all one-way streets and alleys and all stop intersections. **(625 ILCS 5/11-304)**

ARTICLE IV - DRIVING RULES

24-4-1 ILLINOIS VEHICLE CODE; RULES OF THE ROAD ADOPTED. The Illinois Vehicle Code, **Illinois Compiled Statutes, Chapter 625, 5/11-100 et seq.**, entitled **"Rules of the Road",** as passed, approved and amended by the Illinois General Assembly is hereby adopted by the Village and the provisions thereof shall be controlling within the corporate limits of the Village except for the following changes, deletions and omissions:

(A) **Omissions:**

(1) Omit Sections 11-207, 11-208.1, 11-208.2, 11-209.1, 11-302, 11-303, 11-310(f), 11-313, 11-401 to and including 11-416, 11-500 to and including 11-502, 11-602, 11-603, 11-604, 11-606(b), 11-608, 11-1419, and 11-1422.

(B) **Changes and Additions:**

(1) Change 11-904(a) to read: "Preferential right-of-way at an intersection may be indicated by stop or yield signs as authorized by this Code."

(2) Change 11-1416(a) to read: "Any person who shall willfully and unnecessarily attempt to delay, hinder or obstruct any other person in lawfully driving and traveling upon or along any highway within this State or who shall offer for barter or sale, merchandise on said highway so as to interfere with the effective movement of traffic shall, upon conviction, be guilty of a violation of this Code."

24-4-2 DRIVING RULES.

(A) **Careless Driving.** It shall be unlawful to operate a vehicle in the Village in a careless manner so as to interfere with the safe or lawful operation of any other vehicle or so as to interfere with or to injure, damage, or endanger persons or property engaged in the lawful use of the street.

(B) **Drag Racing.** No person shall participate within the Village in drag racing as such activity is defined by **625 ILCS 5/11-504.**

(C) **Fleeing or Attempting to Elude Police Officer.** Any driver or operator of a motor vehicle who, having been given a visual or audible signal by a police officer directing such driver or operator to bring his vehicle to a stop, willfully fails to or refuses to obey such direction, increases his speed, extinguishes his lights or otherwise flees or attempts to elude the officer is guilty of a violation of this Chapter. The signal given by the police officer may be by hand, voice, siren, red or blue light. Provided, however, the officer giving such signal shall be in police uniform and if driving a vehicle, such vehicle shall be marked showing it to be an official police vehicle.

(D) **Unlawful Possession of Highway Sign or Marker.** Traffic control signals, signs or markers owned by the Village shall be possessed only by the Village's employees, police officers, contractors, or their employees engaged in highway construction, contract or work upon the roadways or public ways approved by the Village. No person shall possess a traffic control signal, sign or marker owned by the Village except as provided in this paragraph without the prior written authority of the Village. It shall be a violation of this Chapter for a person to possess such a traffic control signal, sign or marker without lawful authority. **(625 ILCS 5/11-313)**

(E) **Special Speed Limitations on Elevated Structures.** No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to such bridge or structure when such structure is sign-posted.

Upon the trial of any person charged with the violation of this Section, proof of the determination of the maximum speed by the Village and the existence of such signs is conclusive evidence of the maximum speed which can be maintained with safety to such bridge or structure. **(625 ILCS 5/11-608)**

(F) **General Speed Restrictions.** The speed limits on the various streets shall be approved by the Village Board, but shall not exceed **twenty miles per hour (20 MPH)** in a school zone

and not to exceed **twenty-five miles per hour (25 MPH)** on a residential street; otherwise, **thirty miles per hour (30 MPH)** on an arterial street unless otherwise posted. **(See Schedule "D") (625 ILCS 5/11-604) (65 ILCS 5/11-40-1)**

(G) **Special Speed Limit While Passing Schools.** No person shall drive a motor vehicle at a speed in excess of **twenty miles per hour (20 MPH)** while passing a school zone or while traveling upon any public thoroughfare on or across which children pass going to and from school during school days when school children are present.

This section shall not be applicable unless appropriate signs are posted upon streets and maintained by the Village or State wherein the school zone is located. **(625 ILCS 5/11-605)**

(H) **Failure to Reduce Speed.** A vehicle shall be driven upon the streets and alleys of this Village at a speed which is reasonable and proper with regard to traffic conditions and the use of the street or alley. The fact that the vehicle does not exceed the applicable maximum speed limit does not relieve the driver of the duty to decrease speed when approaching and crossing an intersection or when special hazard exists with respect to pedestrian or other traffic or by reason of weather or highway conditions. Speed must be decreased as may be necessary to avoid colliding with any person or vehicle on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.

(I) **Traffic Lane Usage.** Whenever any roadway within the Village has been divided into **two (2)** or more clearly marked lanes for traffic, a vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(J) **U-Turns Prohibited.** No driver of a vehicle shall make a "U-turn" on any street or at any intersection of any streets in the Village.

24-4-3 DUTY TO REPORT ACCIDENT. The driver of a vehicle which is in any manner involved in an accident within the Village shall, without unnecessary delay, notify the Police Department and shall make a report of such action. Failure to report an accident within the Village within **twenty-four (24) hours** shall result in arrests of the person or persons involved. **(625 ILCS 5/11-415)**

24-4-4 TRANSPORTING LIQUOR IN VEHICLES. No person shall transport, carry, possess or have any alcoholic liquor within the passenger area of any motor vehicle in this Village except in the original container and with the seal unbroken. **(625 ILCS 5/11-502)**

24-4-5 EXCESSIVE NOISE - STOPPED VEHICLE. No operator of a motor vehicle shall, when the motor vehicle is stopped, unreasonably accelerate the engine thereof with the gears of the vehicle in neutral, thereby causing an unreasonably loud or excessive noise.

24-4-6 EXCESSIVE NOISE - WHEELS. No operator of a motor vehicle shall when the motor vehicle is stopped, accelerate the engine with the gears of such vehicle in neutral and while so accelerating the engine, shift the gears of the vehicle into a forward or reverse movement, thereby causing an unreasonably loud noise with the drive wheels of the vehicle.

24-4-7 EXCESSIVE NOISE - SQUEALING TIRES. No operator of a motor vehicle shall cause the wheels of such vehicle to spin violently, thereby causing an unreasonably loud or excessive noise. **(625 ILCS 5/11-505)**

24-4-8 RECKLESS, NEGLIGENT OR CARELESS DRIVING. It shall be unlawful to operate any vehicle in the Village in a careless, reckless, negligent or wanton manner, or carelessly so as to endanger life or property.

24-4-9 EXCESSIVE NOISE WHILE DRIVING. No operator of a motor vehicle shall, when operating the vehicle, accelerate the vehicle or rapidly stop the vehicle causing an unreasonably loud noise.

ARTICLE V - EQUIPMENT OF VEHICLES

24-5-1 ILLINOIS VEHICLE CODE; EQUIPMENT OF VEHICLES ADOPTED. The Illinois Vehicle Code, **Illinois Compiled Statutes, Chapter 625, Section 12,** entitled **"Equipment of Vehicles",** as passed, approved, and amended by the Illinois General Assembly is hereby adopted by the Village and the provisions thereof shall be controlling within the corporate limits of the Village. **(625 ILCS 5/12-605, 5/12-605.1; and 5/12-605.2)**

24-5-2 MUFFLER. No motor vehicle shall be operated on any street unless such vehicle is provided with a muffler in efficient actual working condition; and the use of a cut-out is prohibited. No muffler shall cause an unreasonably loud or excessive noise. **(625 ILCS 5/12-602)**

24-5-3 SOUND AMPLIFICATION SYSTEM. No driver of any motor vehicle within this Village shall operate or permit operation of any sound amplification system which can be heard outside the vehicle from **seventy-five (75) feet** or more when the vehicle is being operated upon a highway, unless such system is being operated to request assistance or warn of a hazardous situation. This Section shall not apply to authorized emergency vehicles. **(625 ILCS 5/12-611)**

24-5-4 EXCESSIVE ENGINE BRAKING NOISE PROHIBITED. It shall be unlawful for an operator of a commercial vehicle as defined in **625 ILCS 5/1-111.8** to operate or actuate any engine braking system within the Village that emits excessive noise unless it is an emergency. The Superintendent is authorized and directed to post signs stating: **"EXCESSIVE ENGINE BRAKING NOISE PROHIBITED"** at appropriate locations. **(625 ILCS 5/12-602.1)**

ARTICLE VI - PARKING RULES

24-6-1 TIME LIMIT PARKING. It shall be unlawful to park any vehicle for a period of time in excess of the amount of time designated by law and so posted.

24-6-2 PARKING FOR SALE OR REPAIR. No person shall park a vehicle upon any street for the purpose of:

(A) displaying such vehicle for sale; or

(B) washing, greasing or repairing such vehicle, except when emergency repairs are necessary.

24-6-3 PRIVATE PROPERTY. It shall be unlawful to park any motor vehicle on any private property without the consent of the owner of the property.

24-6-4 STOPPING, STANDING OR PARKING PROHIBITED IN SPECIFIED PLACES.

(A) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control devices, no person shall:

(1) **Stop, Stand or Park a Vehicle:**

- (a) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
- (b) On a sidewalk.
- (c) Within an intersection.
- (d) On a crosswalk.
- (e) Between a safety zone and the adjacent curb or within **thirty (30) feet** of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings.
- (f) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.
- (g) Upon any bridge or other elevated structure upon a highway or within a highway tunnel.
- (h) On any railroad tracks.
- (i) At any place where official signs prohibit stopping.
- (j) On any controlled-access highway.
- (k) In the area between roadways of a divided highway, including crossovers.
- (l) In any alley that is open and maintained.

(2) **Stand or Park a Vehicle** (whether occupied or not, except momentarily to pick up or discharge passengers):

- (a) In front of a public or private driveway.
- (b) Within **fifteen (15) feet** of a fire hydrant.
- (c) Within **twenty (20) feet** of a crosswalk at an intersection.
- (d) Within **thirty (30) feet** upon the approach to any flashing signal, stop sign, yield sign or traffic-control signal located at the side of the roadway.
- (e) Within **twenty (20) feet** of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within **seventy-five (75) feet** of such entrance (when properly sign-posted).
- (f) At any place where official signs prohibit standing or parking.

(3) **Parking a Vehicle** (whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers):

(a) within **fifty (50) feet** of the nearest rail of a railroad crossing;

(b) at any place where official signs prohibit parking;

(c) in yellow zones.

(B) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful.

(C) Schedules "E", "F" and "G" shall list all applicable no-parking zones.

(D) **Truck Parking Prohibitions.** No person shall park any vehicle, vehicles or trailer the length of which exceeds **twenty (20) feet** or any Second Division vehicle licensed for an "F" classification or higher:

(1) Upon any street, alley or any public way within the Village except for the purpose and time period reasonably necessary to load and unload the same.

(2) Upon public or private property within the Village with the motor running for a continuous period in excess of **thirty (30) minutes**. **(625 ILCS 5/3-815)**

24-6-5 MOTOR TRANSPORT ENGINES. No person shall park or leave standing on any street, or portion thereof, any commercial vehicle having a manufacturer's gross vehicle weight rating of **ten thousand (10,000) pounds** or more. The prohibition hereby imposed shall not apply to the parking or standing of such a vehicle for the purpose of making pick-ups or delivering materials to be used in the repair, alteration, remodeling, or construction of any such building or structure for which a building permit has been obtained.

With the exception of the normal operation of business, legally licensed by the Village, it is declared to be unlawful and to be against the health, peace, and comfort of the Village, for any person within the limits of the Village to permit the operator of motor transport engines, auxiliary motors, or refrigeration units in any place within the corporate limits, in which a majority of the buildings, within a radius of **five hundred (500) feet**, are used exclusively for residential purposes.

The Police Department is hereby authorized to take the necessary measures to comply with this Section; including removal or towing away by commercial towing service, any of the above mentioned vehicle(s).

Vehicles towed away shall be restored to the owner or operator thereof after full payment of any citation and/or expense incurred by the Village in removing and storing of such vehicle.

24-6-6 PARKING FOR THE HANDICAPPED.

(A) **Designated Parking.** Certain parking spaces within the confines of the Village shall be designated for use by handicapped persons' vehicles only and will be posted with appropriate signs to that effect.

(B) **Use of Designated Handicapped Parking.** The use of designated handicapped parking locations, duly posted and signed shall to that effect, be open to any vehicle which bears the appropriate handicapped Illinois Registration Plate issued by the Secretary of State for the State of Illinois, or a valid handicapped parking permit issued by another governmental agency or which bears a handicapped card furnished in accordance with **Illinois Compiled Statutes, Chapter 625; Section 5/11-1301.1, et. seq.** furnished by the Village.

(C) **Application for Illinois Handicapped Registration Plate.** The issuance of an Illinois Handicapped Motor Vehicle Registration Plate shall be made with the Secretary of State of the State of Illinois at any facility provided and approved for that purpose by the Secretary of State. **(625 ILCS 5/11-1301.2)**

(D) **Penalty.** Any vehicle parked in violation of this Article in a posted designated handicapped space which does not bear an Illinois Handicapped Registration Plate, or a valid handicapped parking permit issued by another governmental agency of a Village Handicapped

Registration Card will be ticketed and the vehicle will be removed in accordance with departmental policies and in accordance with **Section 5/11-1302, Chapter 625 of the Illinois Compiled Statutes**. The registered owner of the vehicle as ascertained by the registration plates of the vehicle will be presumed to be in control of the vehicle and will be fined **Two Hundred Fifty Dollars ($250.00).** The same registered owner will be held liable for the cost of removal of the vehicle and must pay that cost, plus storage charges, if any, prior to the release of the vehicle. **(625 ILCS 5/11-1301.3(C))**

(E) **Handicapped Parking Areas.** Those places designated as "Handicapped Parking Spaces" are listed in **Schedule "H".**

24-6-7 LOAD LIMITS.

(A) **Established.** There is hereby established "gross load limits" on certain Village streets. The term "gross load limit" shall mean the total weight of a vehicle and the load it is carrying. The specified streets and the load limits are hereby listed in **Schedule "J".**

(B) **Restrictions.** It shall be unlawful to operate a vehicle upon any street where the operation is prohibited by this Section and where such signs of prohibition are posted, except that a vehicle may be driven on such street for not more than the minimum distance necessary for the purpose of making deliveries or picking up loads.

(C) **Exceptions.** This Chapter shall not include pickup trucks, trucks operated by the Village maintenance and repairs on the street or the operation of a vehicle owned by the U.S. government or State of Illinois while on lawful business of these agencies.

24-6-8 TOWING CARS AWAY.

(A) It shall be unlawful to park any boat, camper, trailer, recreational vehicle, or any inoperable vehicle upon any public street or upon any other public place for a period in excess of **forty-eight (48) hours**.

(B) The Police Department and all members thereof are hereby authorized to issue citation(s) in accordance with **Section 24-6-9** and/or to remove and tow away or have removed and towed away by a commercial towing service selected by the Chief of Police to do so, any boat, camper, trailer, recreational vehicle, or any inoperable vehicle which is unlawfully parked pursuant to or in violation of any term or provision of the Revised Code of Ordinances, or any said vehicle which creates or constitutes a traffic hazard, blocks the use of a fire hydrant, obstructs or may obstruct the movement of any emergency vehicle, or any vehicle designated in paragraph (A) which has been parked upon any public street or upon any public place for a period in excess of **forty-eight (48) hours** unless a permit is requested by the applicant and granted by the Chief of Police extending said time.

(C) Vehicles towed away pursuant to the terms and provisions of this Section shall be stored upon any Village property, in a public garage or parking lot or other appropriate location designated by the Chief of Police and shall be restored or returned to the owner thereof only after payment of all expense incurred by the Village for the removal and storage of said vehicle(s).

(Ord. No. 775; 12-15-09)

24-6-9 PARKING VIOLATIONS. Any person accused of a violation of an ordinance prohibiting parking a vehicle in a designated area or restricting the length of time a vehicle may be there parked, may settle and compromise the claim against him or her for such illegal parking by paying to the Village **Twenty-Five Dollars ($25.00)** for the first offense, **Fifty Dollars ($50.00)** for the second offense within **six (6) months**, and **One Hundred Dollars ($100.00)** for the third offense and beyond within **one (1) year**. Such payment may be made at the Village Hall and a receipt shall be issued for all money so received and such money shall be promptly turned over to the Treasurer to be credited to the General Fund. The members of the Police Department are hereby authorized to refrain from instituting a prosecution for the alleged offense involved for at least **five (5) days.**

Provided, this Section shall not apply to persons parking a vehicle so as to obstruct the entrance or exit of any place where Police and Fire Department apparatus or other emergency equipment is kept or housed or so as to block an emergency entrance in a hospital. Nor shall this Section apply to any

person charged with parking a vehicle so as to entirely obstruct traffic in any street or alley or parking in such a way as to reduce traffic on an arterial street to one-way traffic only; nor to any person who refuses to remove a vehicle illegally parked at the request of any member of the Police Department. **(Ord. No. 775; 12-15-09)**

(A) **Removal - Time Limit.** Any vehicle illegally parked for a period in excess of **twenty-four (24) hours** may be removed by a towing service authorized by the Police Department of the Municipality. In any emergency, any vehicle may be removed by any means when authorized by the Police Department of the Municipality.

(B) **Village Parking Lots.** No person shall park a motor vehicle on a Village parking lot unattended for more than **five (5) consecutive days**.

24-6-10 PRIMA FACIE PROOF. The fact that a vehicle which is illegally parked or operated is registered in the name of a person shall be considered prima facie proof that such person was in control of the vehicle at the time of such violation.

24-6-11 SNOW ROUTES. It shall be unlawful to park a vehicle on the following designated streets in **Schedule "K"** at any time within **eighteen (18) hours** after a snowfall of **three (3) inches** or more, unless the street has been cleared of snow.

24-6-12 PARKING TICKETS - STATE STATUTE. The Village Board intends to utilize **Illinois Compiled Statutes, Chapter 625; Section 5/6-306.5** and the procedure set forth therein.

The appropriate authorities are hereby authorized to utilize the statute and the procedure set forth therein.

ARTICLE VII – ABANDONED, LOST, STOLEN OR UNCLAIMED VEHICLES

24-7-1 DEFINITIONS. For the purpose of this Code, the following words shall have the meanings ascribed to them as follows:

"ABANDONED VEHICLE" shall mean all motor vehicles or other vehicles in a state of disrepair, rendering the vehicle incapable of being driven in its condition; or any motor vehicle or other vehicle that has not been moved or used for **seven (7) consecutive days** or more and is apparently deserted.

"ANTIQUE VEHICLE" means any motor vehicle or other vehicle **twenty-five (25) years** of age or older.

"COMPONENT PART" means any part of a vehicle other than a tire having a manufacturer's identification number or an identification number issued by the Secretary of State.

"DERELICT VEHICLE" means any inoperable, unregistered, or discarded motor vehicle, regardless of title, having lost its characteristic as a substantial property and left unattended without justification on the owner's, lienholder's or other legally entitled person's land contrary to the public policy expressed in this Code.

"HIGHWAY" means any street, alley or public way within this municipality.

"REMOVE" means to remove, deface, cover, or destroy.

"VEHICLE" means every device in, upon or by which any person or property is or may be transported or drawn upon a street or highway, whether subject to or exempt from registration, excepting, however, bicycles, snowmobiles and devices used exclusively upon stationary rails or tracks. **(See 625 ILCS 5/4-201)**

24-7-2 ABANDONMENT OF VEHICLES PROHIBITED.

(A) The abandonment of a vehicle or any part thereof on any highway in this Village is unlawful and subject to penalties as set forth under **Section 1-1-20** of this Code.

(B) The abandonment of a vehicle or any part thereof on private or public property, other than a highway, in view of the general public, anywhere in this Village is unlawful except on property of the owner or bailee of such abandoned vehicle. A vehicle or any part thereof so abandoned on private property shall be authorized for removal, by the Village, after a waiting period of **seven (7) days** or more, or may be removed immediately if determined to be a hazardous dilapidated motor vehicle under Section 5/11-40-3.1 of the Illinois Municipal Code. A violation of subsections (A) or (B) of this Section is subject to penalties as set forth under **Section 1-1-20** of this Code.

(C) A towing service may begin to process an unclaimed vehicle as abandoned by requesting a record search by the Secretary of State up to **ten (10) days** after the date of the tow, or any later date acceptable to the Secretary of State. This paragraph shall not apply to vehicles towed by order or authorization of the Village or a law enforcement agency. **(625 ILCS 5/4-201)**

24-7-3 ABANDONED, LOST, STOLEN OR UNCLAIMED VEHICLE NOTIFICATION TO LAW ENFORCEMENT AGENCIES. When an abandoned, lost, stolen or unclaimed vehicle comes into the temporary possession or custody of a person in this Village, not the owner of the vehicle, such person shall immediately notify the municipal police when the vehicle is within the corporate limits of any Village having a duly authorized police department, or the State Police or the county sheriff when the vehicle is outside the corporate limits of the Village. Upon receipt of such notification, the municipal

police will authorize a towing service to remove and take possession of the abandoned, lost, stolen or unclaimed vehicle. The towing service will safely keep the towed vehicle and its contents, maintain a record of the tow as set forth in **625 ILCS 5/4-204** for law enforcement agencies, until the vehicle is claimed by the owner or any other person legally entitled to possession thereof or until it is disposed of as provided in this Code. **(625 ILCS 5/4-202)**

24-7-4 REMOVAL OF MOTOR VEHICLES OR OTHER VEHICLES; TOWING OR HAULING AWAY.

(A) When a vehicle is abandoned on a highway in an urban district **ten (10) hours** or more, its removal by a towing service may be authorized by a law enforcement agency having jurisdiction.

(B) When a vehicle is abandoned or left unattended on a highway other than a toll highway, interstate highway, or expressway, outside of an urban district for **twenty-four (24) hours** or more, its removal by a towing service may be authorized by a law enforcement agency having jurisdiction.

(C) When an abandoned, unattended, wrecked, burned or partially dismantled vehicle is creating a traffic hazard because of its position in relation to the highway or its physical appearance is causing the impeding of traffic, its immediate removal from the highway or private property adjacent to the highway by a towing service may be authorized by a law enforcement agency having jurisdiction.

24-7-5 POLICE TOWS; REPORTS, RELEASE OF VEHICLES, PAYMENT. When a vehicle is authorized to be towed away as provided in **Section 24-7-3** or **24-7-4**:

(A) The authorization, any hold order, and any release shall be in writing, or confirmed in writing, with a copy given to the towing service.

(B) The police headquarters or office of the law officer authorizing the towing shall keep and maintain a record of the vehicle towed, listing the color, year of manufacture, manufacturer's trade name, manufacturer's series name, body style, Vehicle Identification Number, license plate year and number and registration sticker year and number displayed on the vehicle. The record shall also include the date and hour of tow, location towed from, location towed to, reason for towing and the name of the officer authorizing the tow.

(C) The owner, operator, or other legally entitled person shall be responsible to the towing service for payment of applicable removal, towing, storage, and processing charges and collection costs associated with a vehicle towed or held under order or authorization of the law enforcement agency. If a vehicle towed or held under order or authorization of a law enforcement agency is seized by the ordering or authorizing agency or any other law enforcement or governmental agency and sold, any unpaid removal, towing, storage, and processing charges and collection costs shall be paid to the towing service from the proceeds of the sale. If applicable law provides that the proceeds are to be paid into the treasury of the appropriate civil jurisdiction, then any unpaid removal, towing, storage, and processing charges and collection costs shall be paid to the towing service from the treasury of the civil jurisdiction. That payment shall not, however, exceed the amount of proceeds from the sale, with the balance to be paid by the owner, operator, or other legally entitled person.

(D) Upon delivery of a written release order to the towing service, a vehicle subject to a hold order shall be released to the owner, operator, or other legally entitled person upon proof of ownership or other entitlement and upon payment of applicable removal, towing, storage, and processing charges and collection costs. **(625 ILCS 5/4-204)**

24-7-6 RECORD SEARCHES FOR UNKNOWN OWNER.

(A) When a law enforcement agency authorizing the impounding of a vehicle does not know the identity of the registered owner, lienholder or other legally entitled person, that law

enforcement agency will cause the vehicle registration records of the State of Illinois to be searched by the Secretary of State for the purpose of obtaining the required ownership information.

(B) The law enforcement agency authorizing the impounding of a vehicle will cause the stolen motor vehicle files of the State Police to be searched by a directed communication to the State Police for stolen or wanted information on the vehicle. When the State Police files are searched with negative results, the information contained in the National Crime Information Center (NCIC) files will be searched by the State Police. The information determined from these record searches will be returned to the requesting law enforcement agency for that agency's use in sending a notification by certified mail to the registered owner, lienholder and other legally entitled persons advising where the vehicle is held, requesting a disposition be made and setting forth public sale information. Notification shall be sent no later than **ten (10) business days** after the date the law enforcement agency impounds or authorizes the impounding of a vehicle, provided that if the law enforcement agency is unable to determine the identity of the registered owner, lienholder or other person legally entitled to ownership of the impounded vehicle within a **ten (10) business day period** after impoundment, then notification shall be sent no later than **two (2) days** after the date the identity of the registered owner, lienholder or other person legally entitled to ownership of the impounded vehicle is determined. Exceptions to a notification by certified mail to the registered owner, lienholder and other legally entitled persons are set forth in **625 ILCS 5/4-209**.

(C) When ownership information is needed for a towing service to give notification as required under this Code, the towing service may cause the vehicle registration records of the State of Illinois to be searched by the Secretary of State.

The written request of a towing service, in the form and containing the information prescribed by the Secretary of State by rule, may be transmitted to the Secretary of State in person, by U.S. Mail or other delivery service, by facsimile transmission, or by other means the Secretary of State deems acceptable.

The Secretary of State shall provide the required information, or a statement that the information was not found in the vehicle registration records of the State, by U.S. Mail or other delivery service, facsimile transmission, as requested by the towing service, or by other means acceptable to the Secretary of State.

(D) The Secretary of State may prescribe standards and procedures for submission of requests for record searches and replies via computer link.

(E) Fees for services provided under this Section shall be in amounts prescribed by the Secretary of State under Section 3-821.1 of the Illinois Municipal Code. Payment may be made by the towing service using cash, any commonly accepted credit card, or any other means of payment deemed acceptable by the Secretary of State. **(625 ILCS 5/4-205)**

24-7-7 IDENTIFYING AND TRACING OF VEHICLE. When the registered owner, lienholder or other person legally entitled to the possession of a vehicle cannot be identified from the registration files of this State or from the registration files of a foreign state, if applicable, the law enforcement agency having custody of the vehicle shall notify the State Police, for the purpose of identifying the vehicle owner or other person legally entitled to the possession of the vehicle. The information obtained by the State Police will be immediately forwarded to the law enforcement agency having custody of the vehicle for notification purposes as set forth in **Section 24-7-6** of this Code. **(625 ILCS 5/4-206)**

24-7-8 RECLAIMED VEHICLES; EXPENSES.

(A) Any time before a vehicle is sold at public sale or disposed of as provided in **Section 24-7-9**, the owner, lienholder or other person legally entitled to its possession may reclaim the vehicle by presenting to the law enforcement agency having custody of the vehicle proof of ownership or proof of the right to possession of the vehicle.

(B) No vehicle shall be released to the owner, lienholder, or other person under this Section until all towing, storage, and processing charges have been paid. **(625 ILCS 5/4-207)**

24-7-9 DISPOSAL OF UNCLAIMED VEHICLE.

(A) When an abandoned, lost, stolen or unclaimed vehicle **seven (7) years** of age or newer remains unclaimed by the registered owner, lienholder or other legally entitled person for a period of **thirty (30) days** after notice has been given as provided in **Sections 24-7-6** and **24-7-7** of this Article, the law enforcement agency or towing service having possession of the vehicle shall cause it to be sold at public auction to a person licensed as an automotive parts recycler, rebuilder or scrap processor under **Article 5** of **Chapter 625 of the Illinois Compiled Statutes** or the towing operator which towed the vehicle. Notice of the time and place of the sale shall be posted in a conspicuous place for at least **ten (10) days** prior to the sale on the premises where the vehicle has been impounded. At least **ten (10) days** prior to the sale, the law enforcement agency where the vehicle is impounded, or the towing service where the vehicle is impounded, shall cause a notice of the time and place of the sale to be sent by certified mail to the registered owner, lienholder, or other legally entitled persons. Notice as provided in **Sections 24-7-6** and **24-7-7** of this Article as provided in this Section shall state the time and place of sale and shall contain a complete description of the vehicle to be sold and what steps must be taken by any legally entitled persons to reclaim the vehicle.

(B) If an abandoned, lost, stolen, or unclaimed vehicle displays dealer plates, notice under this Section and **Section 24-7-10** of this Code shall be sent to both the dealer and the registered owner, lienholder, or other legally entitled persons.

(C) In those instances where the certified notification specified in **Section 24-7-6** and **24-7-7** of this Article has been returned by the postal authorities to the law enforcement agency or towing service, the sending of a second certified notice will not be required. **(625 ILCS 5/4-208)**

24-7-10 DISPOSAL OF UNCLAIMED VEHICLES WITHOUT NOTICE.

(A) **New Car.** When the identity of the registered owner, lienholder, or other person legally entitled persons of an abandoned, lost, or unclaimed vehicle of **seven (7) years** of age or newer cannot be determined by any means provided for in this Article, the vehicle may be sold as provided for in **Section 24-7-9** without notice to any person whose identity cannot be determined.

(B) **Old Car.** When an abandoned vehicle of more than **seven (7) years** of age is impounded as specified by this Article, or when any such vehicle is towed at the request or with the consent of the owner or operator and is subsequently abandoned, it will be kept in custody or storage for a minimum of **ten (10) days** for the purpose of determining the identity of the registered owner, lienholder, or other legally entitled persons and contacting the registered owner, lienholder, or other legally entitled persons by the U.S. Mail, public service or in person for a determination of disposition; and an examination of the State Police stolen vehicle files for theft and wanted information. At the expiration of the **ten (10) day** period, without the benefit of disposition information being received from the registered owner, lienholder, or other legally entitled persons, the vehicle may be disposed of in either of the following ways:

(1) The law enforcement agency having jurisdiction will authorize the disposal of the vehicle as junk or salvage.

(2) The towing service may sell the vehicle in the manner provided in **Section 24-7-9** of this Article, provided that the paragraph shall not apply to vehicles towed by order or authorization of a law enforcement agency.

(C) **Antique Vehicle.** A vehicle classified as an antique vehicle, custom vehicle, or street rod may, however, be sold to a person desiring to restore it. **(625 ILCS Sec. 5/4-209)**

24-7-11 DISPOSAL OF HAZARDOUS DILAPIDATED MOTOR VEHICLES. Any hazardous dilapidated motor vehicle impounded pursuant to the provisions of this Article and **65 ILCS 5/11-40-3.1**, whether impounded at a public facility or on the property of private towing service, shall be kept in custody for a period of **ten (10) days** for the purpose of determining the identity of the registered owner or lienholder and contacting such owner or lienholder, if known, by regular U.S. Mail.

At the expiration of the **ten (10) day** period, without benefit of disposition information being received from the registered owner or lienholder, the law enforcement agency having jurisdiction will authorize the disposal of the vehicle as junk. **(65 ILCS 5/4-209.1)**

24-7-12 COLLECTION OF UNPAID CHARGES. In an action to collect towing, storage, and processing charges that remain unpaid after disposition of a vehicle towed or relocated under this Code, the towing service may recover reasonable collection costs.

24-7-13 POLICE RECORD FOR DISPOSED VEHICLE. When a vehicle in the custody of the Village or law enforcement agency is reclaimed by the registered owner, lienholder or other legally entitled person, or when the vehicle is sold at public sale or otherwise disposed of as provided in this Article, a report of the transaction will be maintained by that law enforcement agency for a period of **one (1) year** from the date of the sale or disposal. **(625 ILCS 5/4-210)**

24-7-14 PUBLIC SALE PROCEEDS; DISPOSITION OF.

(A) When a vehicle located within the corporate limits is authorized to be towed away by a law enforcement agency having jurisdiction and disposed of as set forth in this Article, the proceeds of the public sale or disposition after the deduction of towing, storage and processing charges shall be deposited in the treasury of the Municipality.

(B) The provisions of this Section shall not apply to vehicles disposed of or sold at public sale under subsection (k) of **625 ILCS 5/4-107** of the Illinois Vehicle Code. **(625 ILCS 5/4-211)**

24-7-15 LIABILITY OF LAW ENFORCEMENT OFFICERS.

(A) A law enforcement officer or agency, a department of municipal government designated under **625 ILCS 5/4-212.1** or its officers or employees, or a towing service owner, operator, or employee shall not be held to answer or be liable for damages in any action brought by the registered owner, former registered owner, or his legal representative, lienholder or any other person legally entitled to the possession of a vehicle when the vehicle was processed and sold or disposed of as provided by this Article.

(B) A towing service, and any of its officers or employees, that removes or tows a vehicle as a result of being directed to do so by a law enforcement officer or agency or a department of municipal government or its officers or employees shall not be held to answer or be liable for injury to, loss of, or damages to any real or personal property that occurs in the course of the removal or towing of a vehicle or its contents on a limited access highway in a designated Incident Management Program that uses fast lane clearance techniques as defined by the Department of Transportation. **(625 ILCS 5/4-213)**

24-7-16 VIOLATIONS OF ARTICLE.

(A) Any person who violates **Section 24-7-25** of this Article or who aids and abets in that violation:

(1) shall be subject to a mandatory fine of **Two Hundred Dollars ($200.00)**; and

(2) shall be required by the court to make a disposition on the abandoned or unclaimed vehicle and pay all towing, storage, and processing charges and collection costs pursuant to **Section 24-7-4(A) and (E)**.

(B) When a vehicle is abandoned, it shall be presumed that the last registered owner is responsible for the abandonment and shall be liable for all towing, storage, and processing charges and collection costs, less any amounts realized in the disposal of the vehicle. The last registered owner's liability for storage fees may not exceed a maximum of **thirty (30) days'** storage fees.

The presumption established under this paragraph may be rebutted by a showing that, prior to the time of the tow:

(1) a report of vehicle theft was filed with respect to the vehicle; or

(2) the vehicle was sold or transferred and the last registered owner provides the towing service with the correct identity and address of the new owner at the time of the sale or transfer.

If the presumption established under this Section is rebutted, the person responsible for theft of the vehicle or to whom the vehicle was sold or transferred is liable for all towing, storage, and processing charges and collection costs. **(625 ILCS 5/4-214)**

ARTICLE VIII – INTOXICATED DRIVING

24-8-1 PERSON INTOXICATED. No person who is under the influence of intoxicating liquor may drive or be in actual physical control of any vehicle within this Village.

24-8-2 PERSON ON DRUGS. No person who is a habitual user of or under the influence of any narcotic drug or who is under the influence of any other drug to a degree which renders him incapable of safely driving a vehicle may drive or be in actual physical control of any vehicle within this Village. The fact that a person charged with a violation of this paragraph is or has been entitled to use such drug under the law of this State does not constitute a defense against any charge of violation of this Section.

24-8-3 BLOOD TESTS. Upon the trial of any action or proceeding arising out of the acts alleged to have been committed by any person while driving or in physical control of the vehicle under the influence of intoxicating liquor, evidence of the amount of alcohol in the person's blood at the time of the act alleged as shown by a chemical analysis of his breath, blood, urine, saliva or other bodily substance is admissible, as provided hereinafter and the result of any such analysis shall give rise to the following presumptions:

(A) If there was, at the time of such analysis, 0.05 percent or less by weight of alcohol in the person's blood, it shall be presumed that the person was not under the influence of intoxicating liquor.

(B) If there was, at the time of such analysis, in excess of 0.05 percent, but not less than 0.10 percent by weight of alcohol in the person's blood, such fact shall not give rise to any presumption that the person was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining whether such person was under the influence of intoxicating liquor.

(C) If there was, at the time of such analysis, 0.10 percent or more by weight of alcohol in the person's blood, it shall be presumed that the person was under the influence of intoxicating liquor.

Percent by weight of alcohol in the blood shall be based upon grams of alcohol per **one hundred (100) cubic centimeters** of blood. Evidence based upon a chemical analysis of blood, urine, breath or other bodily substance shall not be admitted unless such substance was produced and such analysis made with the consent of the person as provided by State law, as amended, whose bodily substance was so analyzed.

The foregoing provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether or not the person being tried was under the influence of intoxicating liquor.

24-8-4 ADOPTION OF STATUTES. The provisions of the **Illinois Compiled Statutes**, as amended, regarding standards for chemical analysis and the evidentiary use thereof shall be observed.

ARTICLE IX – OPERATION OF NON-HIGHWAY VEHICLES

24-9-1 UNLAWFUL OPERATIONS. It shall be lawful for any person who has attained the age of **eighteen (18) years** or older to operate non-highway or low speed vehicles that are identified, defined, and specified by state statutory enactments **625 ILCS 5/11-1426.1** and **625 ILCS 5/11-1426.2** as well as all other statutory enactments cited within or referenced by said statutes.

24-9-2 STATE STATUTES APPLICABLE. Any person who operates a low speed or non-highway vehicle at any time over and upon municipal streets or roadways within the Village shall at all times and under all circumstances conform to and be in absolute compliance with all terms, provisions, conditions and limitations stated, described, defined, or imposed by the following state statutes: **625 ILCS 5/11-1426.1, 625 ILCS 5/11-1426.2, 625 ILCS 5/12-709, 625 ILCS 5/11-201, 625 ILCS 5/11-1427.3, 625 ILCS 5/11-1427, 625 ILCS 5/1-101.8, 625 ILCS 5/1-123.9, 625 ILCS 5/1-153.1, 625 ILCS 5/1-158.8, 625 ILCS 5/3-805.5, 625 ILCS 5/11-1427.5**.

24-9-3 REQUIRED PERMIT. No person shall operate a low speed or non-highway vehicle as defined by the statutes cited and specified herein on any municipal streets or roadways located within the geographic boundaries of the Village unless said person obtains a permit issued by the Village pursuant to the terms and provisions specified herein. **(See Appendix "A" and "B")**

(A) Any and all permits issued hereunder shall be granted for a period not to exceed **one (1) year** and shall be renewed annually.

(B) Permits shall be issued only to applicants who own the low-speed or non-highway vehicle which is the subject of said permit.

(C) The cost of said permit shall be **Twenty-Five Dollars ($25.00)** for Village residents and **Thirty Dollars ($30.00)** for non-residents whether issued initially or for renewal.

(D) A permit shall be required for each and every vehicle any person seeks to operate on any street or roadway within geographic boundaries of the Village.

(E) Permit stickers shall be attached to the rear of every low-speed or non-highway vehicle and shall be clearly visible.

(F) Every person who requests a permit shall complete in full an application supplied by the Village which shall require the following information:

(1) Name and address of the applicant.

(2) The serial number, make, model, and description of each low-speed or non-highway vehicle that the applicant seeks to operate on the streets and roadways of the Village.

(3) A copy of the liability coverage insurance policy issued specifically for the vehicle which applicant proposes to operate pursuant to the permit.

(G) A physically handicapped applicant or other person who seeks to operate any said vehicle shall submit a certificate signed by a physician under oath, certifying that said person is able to safely operate said low-speed or non-highway vehicle on Village streets and roadways.

(H) The Village may suspend or revoke any permit granted hereunder upon a finding by the Board of Trustees that the holder thereof has violated any provision of this Article or there is evidence that the permittee cannot safely operate a low-speed or non-highway vehicle upon the street or roadway of the Village.

(I) No permit shall be granted unless the low speed or non-highway vehicle which is the subject of the permit requested is inspected by the Chief of Police or other law enforcement officer designated by him to act on his behalf in order to determine that said vehicle is in full compliance with the statutory provisions specified herein, that said vehicle contains or has attached thereto all of the equipment required by said statutory provisions, that the vehicle is safe to operate on Village streets and roadways and that said vehicle is in full compliance with all other ordinances of the Village as well as the State of Illinois Motor Vehicle Code.

24-9-4 PENALTY. Any person convicted of any violation of any provision or term of this Article shall be fined not less than **Seventy-Five Dollars ($75.00)**, no more than **Seven Hundred Fifty Dollars ($750.00)** for any one (1) offense. A separate offense shall be deemed committed upon each day such duty or obligation remains unperformed or such violation continues. **(Ord. No. 896; 12-19-17)**

CITATION FORM

NO. _____

DATE _____ TIME _____

LICENSE NO. _____ STATE _____

LICENSE EXPIRES _____ MAKE OF VEHICLE _____

METER NUMBER _____ OFFICER _____

YOU ARE CHARGED WITH THE VIOLATION MARKED BELOW:

1.	Overparked	$25.00 [ ]
2.	Double Parked	$25.00 [ ]
3.	Parked at Fire Plug	$25.00 [ ]
4.	Blocking Driveway or Alley	$25.00 [ ]
5.	Parked Where Official Signs Erected	$25.00 [ ]
6.	Improper Parking	$25.00 [ ]
7.	Yellow Line	$25.00 [ ]
8.	Each Additional Hour Violation	$25.00 [ ]
9.	Parking on Sidewalk	$25.00 [ ]

NAME _____

ADDRESS _____

VILLAGE _____ STATE _____ ZIP CODE _____

You may settle and compromise a claim for illegal parking by paying the sum set forth above for the first particular violation and the same sum shall apply for the same particular offense for the second and each subsequent violation within 5 days after the time set out above. If not paid within this time limit, an **Enforcement Warrant** will be issued and an assessment of not less than **$25.00** will be collected.

FOR YOUR CONVENIENCE

After detaching your Ticket Stub, place the fine in the envelope and deposit it in the utility collection box at the Village Hall.

(See Section 24-6-9)

VILLAGE OF SMITHTON

ALTERNATIVE TRANSPORTATION PERMIT APPLICATION / INSPECTION REPORT

Permit #: _____ **Date:** _____

Applicant: _____
(LAST NAME) (FIRST NAME)

Address: _____

Telephone: _____

Email: _____

_____ **Smithton Resident/$25 Fee** _____ **Non-Resident/$30 Fee**

Driver's License # _____

Vehicle: _____ **Make/Model:** _____

Serial No.: _____

APPLICANT INSTRUCTIONS:

1. ***Complete the top portion of the permit application, then contact the police department for inspection.***
2. ***After inspection bring this application along with current proof of insurance, driver's license, and payment in person to the Smithton Village Hall, 101 S. Main St., Smithton, Illinois. Checks made payable to "Village of Smithton"***

ALTERNATIVE TRANSPORTATION INSPECTION REPORT

Please check (X) to indicate compliance:

_____ Horn	_____ Steering Apparatus	_____ Headlights
_____ Brakes	_____ Rubber Tires	_____ Taillights
_____ Turn Signals	_____ Rearview Mirror	_____ Brake Lights
_____ Windshield		_____ Seat Belts
_____ Slow Moving Vehicle Emblem		_____ Proof of Insurance

NOTES:

_____

The vehicle described above was inspected and is in compliance with regulations set forth by Village ordinances for operation within the Village of Smithton.

Inspector Signature: _____

Date of Inspection: _____ **Inspection Type:** _____ **New** _____ **Renewal**

This permit expires April 30, _____.

I have received and read the Village of Smithton ordinances regarding this Alternative Transportation Permit. I understand that if I operate this vehicle on Village streets, that I am required to renew this permit annually, which requires an inspection and proof of insurance. By signing this application, I agree to maintain adequate insurance in accordance with all current ordinances.

Signature: _____

Office Use Only:

Proof of Insurance _____ (Photocopy attached)

Driver's License _____ (Photocopy attached) Paid_____

Village Representative: _____

Alternative Transportation Requirement Checklist

_____ Horn

_____ Brakes

_____ Turn Signals

_____ Windshield

_____ Slow Moving Vehicle Emblem

_____ Proof of Insurance

_____Valid Drivers License

_____ Steering Apparatus

_____ Rubber Tires

_____ Rearview Mirror

_____ Seat Belts

_____ Headlights

_____ Tail Lights

_____ Brake Lights

SCHEDULE "A"

STOP INTERSECTIONS

In accordance with the provisions of Sections 24-3-1 and 24-3-3 of this Chapter, the following streets are hereby designated as stop intersections, to-wit:

I. **ONE AND TWO-WAY STOPS.**

THROUGH STREET	STOP STREET - DIRECTION
Rte. 159 (Main St.)	All Intersecting Streets
Abilene Lane	Wildhorse Road (East Bd.) **(#614)**
Abilene Lane	Sand Rock Road (West Bd.) **(#614)**
Arbor View Court	Schmermeier Road
Baederwood Dr.	Bannister Lane (Both) **(#614)**
Bannister Lane	Seasons Ridge (South Bd.) **(#614)**
Barker St.	High St. (South Bd.) **(#568)**
Barker St.	Smith St. (North Bd.)
Barleyridge Dr.	Bannister Lane (Both) **(#614)**
Barleyridge Dr.	Seasons Ridge (South Bd.) **(#675)**
Barleyridge Dr.	Seasons Ridge (East Bd.) **(#675)**
Barleyridge Dr.	Seasons Ridge (West Bd.) **(#675)**
Baywood Lane	Sand Rock Rd. (North Bd.) **(#614)**
Benford Ridge	Route 159 (East Bd.) **(#614)**
Brevo St.	N. Julia St. (Both)
Buchanan St.	High St. (Both) **(#545)**
Calderwood Court	Bannister Lane (West Bd.) **(#614)**
Cass St.	High St. (Both) **(#545)**
Cass St.	Smith St. (Both) **(#545)**
Cherry Oak Dr.	Willow Oak Dr. **(#582)**
Cortner Dr.	Bertille Dr. (West Bd.) **(#568)**
Cortner Dr.	Elvira St. (East Bd.)
Cortner Dr.	Stahl Dr. (East Bd.)
Cypress Oak Ln.	Shingle Oak Ln. **(#604)**
Cypress Oak Ln.	Wild Oak Ln. **(#604)**
Dalton Ln.	Wildhorse Rd. (North Bd.) **(#614)**
Driftstone	Cobblefield Pass (West Bd.) **(#731)**
Driftstone	Ledgestone (East Bd.) **(#731)**
Driftstone	River Rock (East Bd.) **(#731)**
Driftstone	Rockledge Trail (East Bd.) **(#731)**
East St.	Fischer St. (East Bd.) **(#568)**
East St.	Press Rd. (West Bd.)
Elk Meadows Ln.	Bannister Ln. (South Bd.) **(#614)**
Elk Meadows Ln.	Seasons Ridge (Both) **(#614)**
Elvira Dr.	Cortner Dr. (East Bd.) **(#568)**
Elvira Dr.	Stahl Dr. (South Bd.)
English Oak Ln.	Wild Oak Ln. **(#582)**

THROUGH STREET	STOP STREET - DIRECTION
Fieldview Dr.	Field Stone Crossing (North Bd.) **(#688)**
Fieldview Dr.	Stone Ln. (Both) **(#662)**
Fieldview Dr.	Stonefield Dr. (West Bd.) **(#731)**
Fieldview Dr.	Sun Valley Ct. (East Bd.) **(#731)**
Fieldview Dr.	White Stone Dr. (North Bd.) **(#688)**
Fischer St.	High St. (Both) **(#593)**
Fischer St.	Julia St. (Both)
Fischer St.	Lunch Rd. (South Bd.)
Fischer St.	St. John's Dr. (North Bd.)
Fischer St.	Smith St. (Both)
Franklin St.	Julia St. (Both)
Franklin St.	Smith St. (South Bd.)
Graner St.	Eddie Dr. (North Bd.) **(#568)**
Graner St.	Julia St. (Both) **(#545)**
Graner St.	St. Johns Dr. (South Bd.) **(#545)**
Graner St.	Suzanne Dr. (North Bd.) **(#568)**
Granite Dr.	Marble Dr. (West Bd.) **(#545)**
Granite Dr.	Stone Villa Dr. (East Bd.) **(#545)**
Hickory St.	Adams St. (West Bd.) **(#545)**
Hickory St.	Bern Ct. (East Bd.) **(#545)**
Hickory St.	Breckenridge St. (East Bd.)
Hickory St.	Fischer St. (Both) **(#545)**
Hickory St.	Jan Dr. (Both) **(#545)**
Hickory St.	Mill St. (Both)
High St.	Fischer St. **(#568)**
High St.	Mill St. (East Bd.)
Horseman Ridge	Wildhorse Rd. (West Bd.) **(#614)**
Julia St.	Center St. (West Bd.)
Julia St.	Melinda St. (Both)
Klein Dr.	Cortner Dr. **(#582)**
Klein Dr.	Elvira Dr. (West Bd.)
Knab Rd.	Lizzy Ln. (North Bd.) **(#855)**
Laurel Oak Ln.	Wild Oak Ln. **(#582)**
Ledgestone	Rockledge Trail (Both) **(#731)**
Lincoln St.	Stoerger St. (Both) **(#730)**
N. Lincoln St.	Ridge St. (East Bd.)
N. Lincoln	Weinel (East Bd.)
S. Lincoln	Franklin (West Bd.)
S. Lincoln	Graner St. (Both)
S. Lincoln St.	Melinda St. (West Bd.)
S. Lincoln St.	Stoerger St. (Both)
Little Creek Dr.	Cortner Dr. **(#604)**
Lone Rock	Driftstone (North Bd.) **(#731)**
Lunch Rd.	Eugenia Dr. (West Bd.)
Lunch Rd.	Ridge Dr. (West Bd.)
Lunch Rd.	Sunset Dr. (West Bd.)
Lunch Rd.	Weinel Dr. (West Bd.)

THROUGH STREET	STOP STREET - DIRECTION
Memorial Dr.	Eddie Dr. (South Bd.) **(#568)**
Memorial Dr.	Julia St. (South Bd.) **(#545)**
Memorial Dr.	Park Rd. (North Bd.)
Memorial Dr.	Suzanne Dr. (South Bd.) **(#568)**
Meramec Ct.	Stoneledge Dr. **(#582)**
Old Kaskaskia Rd.	Potomac Dr. (East Bd.)
Palomino Ln.	Wildhorse Rd. (West Bd.) **(#614)**
Pebble Ct.	Stoneledge Dr. **(#582)**
Rockledge Trail	Red Canyon Ct. (West Bd.) **(#731)**
Rockledge Trail	River Rock Ln. (West Bd.) **(#731)**
Sand Rock Rd.	Devin Dr. (North Bd.) **(#946)**
Seasons Ridge	Baywood Ln. (West Bd.) **(#614)**
Seasons Ridge	State Route 159 (East Bd.) **(#614)**
Shingle Oak Ln.	Water Oak Ln. **(#604)**
Smith St.	Breckenridge St. (Both) **(#565)**
Smith St.	Mill St. (Both)
South St.	High St. (South Bd.)
South St.	Smith St. (Both)
Southwoods Manor Dr.	Knab Rd.
Stahl Dr.	Cortner Dr. **(#604)**
Stoerger St.	Julia St. (Both)
Stone Ln.	Fieldview Dr. (West Bd.) **(#731)**
Stone Ln.	Fieldview Dr. (Both) **(#731)**
Stonefield Dr.	Fieldview (North Bd.) **(#731)**
Stonefield Dr.	Route 159 (Main St.) (South Bd.) **(#662)**
Stonefield Dr.	Route 159 (East Bd.) **(#731)**
Stonefield Dr.	Stone Ln. (South Bd.) **(#731)**
Stonevilla Dr.	Stoneledge Dr. (Both) **(#582)**
Suburban Dr.	Hickory St. (Both) **(#545)**
Summer Oak	Knab Rd.
Sun Meadow Dr.	Cortner Dr. **(#604)**
Sun Valley Dr.	Cortner Dr. (Both) **(#604)**
Sun Valley Dr.	Fieldview Dr. (Both) **(#731)**
Sunset Dr.	Bertille Dr. (South Bd.)
Sunset Dr.	Cortner (South Bd.)
Sunset Dr.	Julia (North Bd.)
Sunset Dr.	N. Lincoln St. (North Bd.)
Sunset Dr.	Lunch Rd. (Both) **(#688)**
Tall Timbers Dr.	Boardwalk (South Bd.)
Water Oak Ln.	Wild Oak Ln. **(#604)**
White Stone Dr.	Fieldview Dr. (Both) **(#731)**
Wild Oak Ln.	Knab Rd. **(#604)**
Wildhorse Rd.	Sand Rock Rd. (North Bd.) **(#614)**
Wildhorse Rd.	Sand Rock Rd. (West Bd.) **(#614)**
Willow Oak Ln.	Wild Oak Ln. **(#582)**

II. **TWO AND THREE-WAY STOPS.**

STREET - DIRECTION		STREET - DIRECTION
Cletus St. (East Bd.)	at	Hickory St. (Both) **(#545)**
Cletus St. (Both)	at	Smith St. (South Bd.)
Edmar St. (North Bd.)	at	Jo Mar St. (Both) **(#545)**
Fischer (West Bd.) (Turner Hall Rd.)	at	Lunch Rd. **(#562)**
Franklin St. (East Bd.)	at	Hickory St. (North Bd.)
Lincoln St.	at	Memorial Dr. 3-way
Sand Rock Rd.	at	Wildhorse Rd. (Both) **(#880)**
South St. (Both)	at	Hickory St. (South Bd.)
Stone Villa Dr.	at	Cornerstone Ct. (East Bd.) **(#545)**
Stone Villa Dr.	at	Cornerstone Ct. (Both) **(#793)**
Wildhorse Rd.	at	Sand Rock Rd. **(#880)**

III. **FOUR WAY STOPS.**

Barker St.	at	Hickory St.
Breckenridge St.	at	Smith St.
Buchanan St.	at	Hickory St.
Buchanan St.	at	N. Smith **(#676)**
Cass St.	at	Hickory St.
Fischer St.	at	Lincoln St.
High St.	at	Fischer St. **(#593)**
Laurel Oak Ln.	at	Shingle Oak Ln. **(#545)**
Stoerger St.	at	Julia St.
Stoerger St.	at	St. John's Dr.
White Oak Dr.	at	Shingle Oak Ln. (South Bd.) **(#545)**
N. Lincoln/Brevo/Eugenia	at	N. Lincoln/Brevo/Eugenia **(#669)**

SCHEDULE "B"

ONE-WAY STREETS

In accordance with the provisions of Section 24-3-2 the following are hereby designated as one-way streets, to-wit:

STREET-DIRECTION	LOCATION
Entering off Franklin St. and existing onto South St.	Alley Between Smith St. and Hickory St. **(#429)**

SCHEDULE "C"

YIELD INTERSECTIONS

In accordance with the provisions of Section 24-3-4, the following streets are hereby designated as yield right-of-way intersections, to-wit:

THROUGH STREET/YIELD	YIELD STREET - DIRECTION
Barker St.	High St. (Both)
Cass St.	East St. (North Bd.)
Cortner Dr.	Bertille Dr. (West Bd.)
East St.	Fischer St. (East Bd.)
Elvira Dr. (East Bd.)	Cortner Dr. (South Bd.)
Graner St.	Eddie Dr. (North Bd.)
Graner St.	Suzanne Dr. (North Bd.)
High St.	Fischer St. (Both)
Memorial Dr.	Eddie Dr. (South Bd.)
Memorial Dr.	Suzanne Dr. (South Bd.)

SCHEDULE "D"

SPEED ZONES

In accordance with the provisions of Section 24-4-2(F)(G), the following streets are hereby designated as speed zones, to-wit:

I. **GENERAL.**

STREET - LIMIT		LOCATION
All Village streets are 25 MPH unless otherwise posted.		
Fischer St. (25 MPH)	From	West Village Limits to Main St. **(#335)**
Hickory St. (25 MPH)	From	North Village Limits to South Village Limits **(#335)**
Knab Rd. (35 MPH)		Entire distance
Lincoln St. (25 MPH)	From	Fischer St. to Memorial Dr. **(#335)**
Lunch Rd. (25 MPH)	From	Fischer St. North to Village Limits **(#335)**
Maple St. (25 MPH)	From	East Village Limits to East St. **(#335)**
Park Rd. (15 MPH)		Entire Rd. **(#424)**
St. John's Dr. (25 MPH)	From	Fischer south to Graner
Sand Rod Rd. (35 MPH)		Entire distance

25 MPH signs posted at:

5730 Abilene
4535 Baywood Ln.
Benford Rdige north entrance (100 ft. from center of 159)
1 Cletus
Ledgestone Dr. (112 ft. from center of 159)
2 Potomac
Seasons Ridge south entrance (100 ft. from center of 159)
Stonegate (143 ft. from center of 159)
Suburban Dr. (100 ft. from center of 159)
Wildhorse & Palomino (4405 Palomino)
4426 Wildhorse

II. **SCHOOL ZONE CROSSWALKS.**

Julia St.	and	Stoerger St.
Lincoln St.	and	Stoerger St.
Main St.	and	Breckenridge/Stoerger St.
Main St.	and	South St./Graner
South St.	and	Hickory St.

SCHEDULE "E"

NO PARKING ZONES

In accordance with the provisions of Section 24-6-4(C), the following streets are hereby designated as no parking zones, to-wit:

STREET - SIDE		LOCATION
Breckenridge St. (South)	From	Main St. to Smith St. **(#411)**
Buchanan St. (North)	From	Main St. to 100 feet east **(#563)**
Buchanan St. (South)	From	Main St. to a point 50 feet east **(#546)**
N. East St. (East)	From	E. Fischer St. to Barker St. **(#897)**
Lunch Rd. (East)	From	170 feet South of Village Limits **(#724)**
Lunch Rd. (West)	From	300 feet South of Village Limits **(#724)**
Main St. (East)	From	Buchanan St. to a point 100 feet south (18 N. Main) **(#546)**
Main St. (Rte. 159) (Both)	From	North Village Limits to South Village Limits **(#330)**
Stoeger St. (North)	From	N. Main St. to a point 65 feet west **(#897)**

SCHEDULE "F"

LIMITED PARKING ZONES

In accordance with the provisions of Section 24-6-4(C), the following streets are hereby designated as limited parking zones, to-wit:

I. **PARALLEL PARKING ONLY.**

STREET - SIDE	LOCATION
Main St. (Both)	North Village Limits to South Village Limits **(#330)**

SCHEDULE "H"

HANDICAPPED PARKING ZONES

In accordance with the provisions of Section 24-6-5(E), the following streets and areas are hereby designated as handicapped parking spaces, to-wit:

STREET/LOT (SIDE)	LOCATION
Julia St. (South)	240 ft. North of Melinda and 102 ft. South of Stoerger St. **(#613)**
South St. (South)	106 feet East of Main St. **(#423)**

SCHEDULE "J"

LOAD LIMIT STREETS

In accordance with the provisions of Section 24-6-7, the following streets are hereby designated as load limit or weight-limit zones, to-wit:

STREET - LIMIT	LOCATION

SCHEDULE "K"

TIME LIMIT PARKING

In accordance with the provisions of Section 24-6-1, "Time Limit Parking", the following streets are designated as time limit parking zones, to-wit:

STREET - LIMIT	LOCATION

On the northeast corner of Main St. and Buchanan for a distance of approximately 100 feet east to the first driveway located on the north side of Buchanan St.

CHAPTER 25 - NUISANCES

ARTICLE		*TITLE*	*PAGE*
I	*GENERALLY*		
	Section 25-1-1 -	*Specific Nuisances Enumerated*	*25-1*
	Section 25-1-2 -	*Nuisances Detrimental to Health Generally*	*25-3*
	Section 25-1-3 -	*Notice to Abate*	*25-3*
	Section 25-1-4 -	*Hearing and Appeal*	*25-3*
	Section 25-1-5 -	*Abatement by Village*	*25-4*
	Section 25-1-6 -	*Failure to Comply with Notice*	*25-4*
	Section 25-1-7 -	*Lien*	*25-4*
	Section 25-1-8 -	*Payment*	*25-4*
	Section 25-1-9 -	*Foreclosure of Lien*	*25-4*
II	*WEEDS*		
	Section 25-2-1 -	*Definition*	*25-5*
	Section 25-2-2 -	*Height*	*25-5*
	Section 25-2-3 -	*Notice*	*25-5*
	Section 25-2-4 -	*Service of Notice*	*25-5*
	Section 25-2-5 -	*Hearing and Appeal*	*25-5*
	Section 25-2-6 -	*Lien*	*25-5*
	Section 25-2-7 -	*Payment*	*25-6*
	Section 25-2-8 -	*Foreclosure of Lien*	*25-6*
III	*GARBAGE AND DEBRIS*		
	Section 25-3-1 -	*Accumulation Prohibited*	*25-7*
	Section 25-3-2 -	*Notice to Person*	*25-7*
	Section 25-3-3 -	*Service of Notice*	*25-7*
	Section 25-3-4 -	*Hearing and Appeal*	*25-7*
	Section 25-3-5 -	*Lien*	*25-7*
	Section 25-3-6 -	*Payment*	*25-7*
	Section 25-3-7 -	*Foreclosure of Lien*	*25-8*
IV	*INOPERABLE MOTOR VEHICLE*		
	Section 25-4-1 -	*Definitions*	*25-9*
	Section 25-4-2 -	*Declaration of Nuisance*	*25-9*
	Section 25-4-3 -	*Notice to Owner*	*25-9*
	Section 25-4-4 -	*Hearing and Appeal*	*25-9*
	Section 25-4-5 -	*Lien*	*25-9*
	Section 25-4-6 -	*Payment*	*25-10*
	Section 25-4-7 -	*Foreclosure of Lien*	*25-10*
	Section 25-4-8 -	*Exclusions*	*25-10*
V	*DERELICT VEHICLE, MOTORCYCLE, ATV-UTV, DERELICT TRAILER, CAMPER, WATERCRAFT*		
	Section 25-5-1 -	*Definitions*	*25-11*
	Section 25-5-2 -	*Declaration of Nuisance*	*25-11*

ARTICLE		TITLE	PAGE
V	DERELICT VEHICLE, MOTORCYCLE, ATV-UTV, DERELICT TRAILER, CAMPER, WATERCRAFT (CONTINUED)		
	Section 25-5-3	- Notice to Abate	25-11
	Section 25-5-4	- Hearing and Appeal	25-12
	Section 25-5-5	- Exclusions	25-12
VI	BUILDING AS NUISANCE		
	Section 25-6-1	- Building Condition - Nuisance	25-13
	Section 25-6-2	- Time Limit	25-13
	Section 25-6-3	- Notification	25-13
	Section 25-6-4	- Dangerous and Unsafe Building Defined	25-13
	Section 25-6-5	- Standards for Repair, Vacation or Demolition	25-14
	Section 25-6-6	- Dangerous and Unsafe Buildings – Nuisances	25-14
	Section 25-6-7	- Duties of the Attorney	25-14
	Section 25-6-8	- Liens	25-14
VII	PENALTIES AND SPECIAL ASSESSMENT		
	Section 25-7-1	- Special Assessment	25-15
	Section 25-8-1	- Adoption By Reference	25-15

CHAPTER 25

NUISANCES

ARTICLE I – GENERALLY

25-1-1 SPECIFIC NUISANCES ENUMERATED. It is hereby declared to be a nuisance and to be against the health, peace and comfort of the Village, for any person, firm or corporation within the limits of the Village to permit the following; but the enumeration of the following nuisances shall not be deemed to be exclusive:

(A) **Filth.** To cause or suffer the carcass of any animal or any offal, filth or noisome substance to be collected, deposited or to remain in any place, to the prejudice of others.

(B) **Deposit of Offensive Materials.** To throw or deposit any offal or other offensive matter, or the carcass of any dead animal in any water course, lake, pond, spring, well or common sewer, street or public highway.

(C) **Corruption of Water.** To corrupt or render unwholesome, or impure, the water of any spring, river, stream, pond or lake, well, public or private, to the injury or prejudice of others.

(D) **Highway Encroachment.** To obstruct or encroach upon public highways, private ways, streets, alleys, commons, landing places, and ways to burying places.

(E) **Manufacturing Gunpowder.** To carry on the business of manufacturing gunpowder, nitroglycerine, or other highly explosive substances, or mixing or grinding the materials therefore, in any building within **three hundred (300) feet** of any valuable building erected at the time such business may be commenced.

(F) **Powder Magazines.** To establish powder magazines near incorporated towns, at a point different from that appointed according to law by the corporate authorities of the town, or within **eight hundred (800) feet** of any occupied dwelling house.

(G) **Noxious Odors.** To erect, continue or use any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, offensive smells or otherwise, is offensive or dangerous to the health of individuals, or of the public.

(H) **Unlawful Advertising.** To advertise wares or occupations by painting notices of the same on, or affixing them to fences or other private property, or on rocks or other natural objects without the consent of the owner, or if in the highway or other public place, without permission of the proper authorities.

(I) **Wells Unplugged.** To permit any well drilled for oil, gas, salt water disposal or any other purpose in connection with the production of oil and gas, to remain unplugged after such well is no longer used for the purpose for which it was drilled.

(J) **Bodies of Water.** To create any condition, through the improper maintenance of a swimming pool or wading pool, or by causing any action which alters the condition of a natural body of water, so that it harbors mosquitoes, flies or other animal pests that are offensive, injurious or dangerous to the health of individuals or the public.

(K) **Discarded Materials.** To permit concrete bases, discarded machinery and materials to remain around any oil or gas well or to fail to fill any holes, cellars, slush pits and other excavations made in connection with any such well or to restore the surface of the lands surrounding any such well to its condition before the drilling of any such well, upon abandonment of any such oil or gas well.

(L) **Storing Debris.** To store, dump or permit the accumulation of debris, refuse, garbage, trash, tires, buckets, cans, wheelbarrows, garbage cans or other containers in a manner that may harbor mosquitoes, flies, insects, rodents, nuisance birds or other animal pests that are offensive, injurious or dangerous to the health of individuals or the public.

(M) **Harassment.** To harass, intimidate or threaten any person who is about to sell or lease or has sold or leased a residence or other real property, or is about to buy or lease, or has bought or leased a residence or other real property, when the harassment, intimidation, or threat relates

to a person's attempt to sell, buy or lease a residence, or other real property, or refers to a person's sale, purchase or lease of a residence or other real property.

(N) **Business.** To establish, maintain, and carry on any offensive or unwholesome business or establishment within the limits of the Village or within **one and one-half (1 ½) miles** of the Village limits.

(O) **Filthy Premise Conditions.** To keep or suffer to be kept any chicken coop, cow barn, stable, cellar, vault, drain, privy, sewer or sink upon any premises belonging to or occupied by any person, or any railroad car, building, yard, grounds, and premises belonging to or occupied by any person.

(P) **Expectorate.** To expectorate on any public sidewalk or street, or other public building or floor or walk of any public vehicle or hall.

(Q) **Litter on Streets.** It shall be unlawful for any person to deposit or allow trash, paper, cardboard, wire, dirt, rock, stone, glass, brick, lumber, wood or litter of material objects of any size or description to fall upon the streets of the Village from any moving vehicle, or to be thrown from a moving vehicle, or to throw from a moving vehicle and to remain thereon.

(R) **Accumulation of Junk And Trash.** To deposit or pile up any rags, old rope, paper, iron, brass, copper, tin, aluminum, used lumber, derelict truck trailers, camping trailers or boats, appliances, construction materials, demolition debris, ashes, garbage, refuse, plastic, brush, litter, weeds, slush, lead, glass bottles or broken glass upon any residential home lot, piece or parcel of land or upon any public or private alley, street or public way within the Village.

(S) **Rodents.** To cause or permit any condition or situation to exist that shall attract, harbor, or encourage the infestation of rodents.

(T) **Bringing Nuisances into the Village.** To bring into the Village or keep therein for sale or otherwise, either for food or for any other purpose, any dead or live animal or any matter, substance, or thing which shall be a nuisance or which shall occasion a nuisance in the Village, or which may or shall be dangerous or detrimental to health.

(U) **Offensive Liquids.** To keep nauseous, foul or putrid liquid or substance or any liquid or substance likely to become nauseous, foul, offensive, or putrid, nor permit any such liquid to be discharged, placed, thrown, or to flow from or out of any premise into or upon any adjacent premises or any public street or alley, nor permit the same to be done by any person connected with the premises.

(V) **Dense or Offensive Smoke.** To cause or permit the emission of dense smoke from any fire, chimney, engine, oil burner or any other agency in the Village so as to cause annoyance or discomfort to the residents thereof.

(W) **Scrap Tires, Both Mounted and Dismounted.** To keep any scrap tires, either mounted or dismounted, in open view, or so as to allow such tires to accumulate stagnant water so as to provide a breeding ground for mosquitoes and other pests.

(X) **Accumulation of Debris.** To store, dump or permit the accumulation of debris, refuse, garbage, trash, tires, buckets, cans, wheelbarrows, garbage cans or other containers in a manner that may harbor mosquitoes, flies, insects, rodents, nuisance birds or other animal pests that are offensive, injurious or dangerous to the health of individuals or the public.

(Y) **Skateboard.** A skateboard has its ordinary meaning and includes a board of any material which has wheels mounted or attached to the underside so that it can be propelled or moved by gravitational or human power and to which there is not fixed any device or mechanism to turn or control the wheels.

(1) Riding a skateboard means standing with one foot or both feet touching the skateboard, or crouching, sitting, or lying upon the skateboard while it is in motion.

(Z) **Roller Skates and Roller Blades.** Roller skates and roller-blades shall mean any footwear or device which may be attached to the foot to which wheels are attached, including wheels that are in line and where such wheels may be used to aid the wearer in moving propulsion.

(AA) **Scooters.** A scooter shall have its ordinary meaning and includes a footboard mounted upon or between two or more small wheels and controlled by an upright steering handle.

(BB) **Seizure.** A person in violation of this Section may be cited for an infraction and the skateboard, roller skates, in-line skates, or scooters he or she was riding, operating or utilizing, may be seized as evidence and held until the disposition of the charge.

(CC) **Regulation and Probation.** It shall be unlawful for any person to operate, use, utilize, ride or propel a scooter, skateboard, roller skates, roller-blades or similar devices upon a public street, public parking lot, public sidewalk, or other public property or any area open to the public, except in or on the Village's Skateboard facility located in the Village Park, or upon private property of any person without his or her express consent.

(DD) **Recycling.** It shall be unlawful for any person to litter at a Recycling and Convenience Center. Littering shall include dumping solid waste in a solid waste container and causing said container to overflow or placing on the ground when solid waste containers are full. It shall be unlawful to place unapproved or non-recyclable items at any Recycling and Convenience Center. It shall be unlawful to place items at the Recycling and Convenience Center other than during the specified hours of operation. All costs incurred by the Village in the collection and removal of litter at the Recycling and Convenience Center shall be recoverable from the person who littered or dumped in violation of the ordinance and from the person who generated said litter or unauthorized dumped material.

(EE) **Yard Waste.** It shall be unlawful for any person to litter at a Yard Waste Recycling and Convenience Center. Littering shall include dumping of any and all unapproved items at the Yard Waste Recycling and Convenience Center. Unapproved items shall consist of but are not limited to any plastic, discarded furnishings and/or building materials, or anything other than yard waste. It shall be unlawful to place items at the Yard Waste Recycling and Convenience Center other than during the specified hours of operation. All costs incurred by the Village in the collection and removal of litter at the Yard Waste Recycling and Convenience Center shall be recoverable from the person who littered or dumped in violation of the ordinance and from the person who generated said litter or unauthorized dumped material.

(FF) **Generally.** To commit any act which is a nuisance according to the common law of the land or made such by statute of the State. **(740 ILCS 55/221 – 55/222)**

Nothing in this Section shall be construed to prevent the corporate authorities of this Village from declaring what shall be nuisances, and abating them within the Village limits.

(GG) **Uninhabitable Structures.** To occupy, reside therein, use for human habitation, dwelling, or home any building, object, trailer, vehicle, container, shed, garage, storage unit, mobile or manufactured home, or other structure of any kind or nature constructed of any material or of any size whatsoever, to which the water, electric, or gas services to same does not exist or has been disconnected, discontinued, or terminated or which is not connected to either an approved septic facility or the sewer system of the municipality. **(Ord. No. 950; 9-1-2020)**

25-1-2 NUISANCES DETRIMENTAL TO HEALTH GENERALLY. No building, vehicle, structure, receptacle, yard, lot, premise, or part thereof shall be made, used, kept, maintained or operated in the Village if such use, keeping or maintaining shall be dangerous or detrimental to health.

25-1-3 NOTICE TO ABATE. Whenever the Police Chief or his designated representative finds that a nuisance exists, he shall direct the Village Clerk to mail (certified) to the party on whose property the nuisance exists a written notice ordering that the nuisance be abated within the time specified therein.

(A) A description of what constitutes the nuisance;

(B) The location of the nuisance;

(C) A statement of what condition or state of affairs must be achieved in order for the nuisance to be deemed abated;

(D) A statement suggesting how such abatement might be accomplished.

(E) The date by which a request for a hearing must be filed and a statement of the procedure for so filing;

(F) A statement that the responsible party has a right to appeal the abatement order to the Village Board of Trustees.

(G) A statement indicating that if the nuisance is not abated by the date prescribed and/or if no request for hearing is made within the time prescribed, this Village will abate the nuisance and assess the costs against the property and/or impose a fine.

25-1-4 HEARING AND APPEAL. Any person ordered to abate a nuisance may request a hearing to be conducted before the Mayor and Board of Trustees (Corporate Authorities) to appeal, contest, and/or object to the finding and conclusions contained in the Notice. The request for a hearing shall be made in writing and shall be delivered to the Village Clerk within the time stated in the Notice; otherwise, in the absence of such a request the Village shall presume that the nuisance exists and that said nuisance shall be abated as ordered. The hearing shall not be a formal proceeding, the rules of evidence shall not apply. However, the person or entity to whom the Notice has been sent shall have the right to counsel of his choice and at his expense to present evidence and witnesses on his/her/its behalf and cross-exam witnesses presented by the Village. At the conclusion of the hearing the Board of Trustees shall, after deliberations in executive session, render a decision in writing. If the Board of Trustees finds that the nuisance does exist, they shall order said nuisance be abated within the number of days specified in the original Notice days after the decision is communicated to the requestor. In addition, if nuisance is not abated, the Village shall issue a citation which seeks compliance with the provisions of this Article including a fine or other remedy allowed.

25-1-5 ABATEMENT BY VILLAGE. If the person ordered to abate a nuisance fails to do so, or if the nuisance poses an emergency, this Village may perform the required action to abate. Any Village official who is authorized to abate any nuisance as defined in this Article shall have authority to engage the necessary assistance and to incur the necessary expenses therefor. The official who abates a nuisance shall keep an accurate account of the expenses incurred. The itemized expense shall be filed with the Village Clerk who shall pay such expenses on behalf of this Village. **(65 ILCS 6/11-60-2)**

25-1-6 FAILURE TO COMPLY WITH NOTICE. If the person notified to abate a nuisance shall neglect or refuse to comply with the requirements of such notice by abating such nuisance within the time specified, such person shall be guilty of a violation of this Code. The Village shall not be required to issue another notice where the condition or violation is at first abated, but later resumed and/or repeated.

25-1-7 LIEN. Charges for abatement of said nuisance shall be a lien upon the premises. A bill representing the cost and expense incurred or payable for the service shall be presented to the owner and/or person who is in possession of the property. If this bill is not paid within **thirty (30) days** of submission of the bill, a Notice of Lien of the cost and expenses thereof incurred by the Village shall be recorded in the following manner:

(A) A description of the real estate sufficient for identification thereof;

(B) The amount of money representing the cost and expense was incurred or payable for the service;

(C) The date or dates when said cost and expenses was incurred by the Village;

(D) The lien shall be filed within **sixty (60) days** after the cost and expense is incurred.

25-1-8 PAYMENT. Notice of such lien claim shall be mailed to the owner and/or person in possession of the property. The Village shall be entitled to collect all reasonable attorney fees and recording fees including, but not limited to, the recording of the lien and recording of the release of lien from any person liable for charges. All charges incurred for abatement of the nui9sance, attorney fees, and recording fees including the recording fee to release the lien shall be paid in full prior to the recording of any Release of Lien by the Village. Upon payment of all costs, attorneys' fees and expenses after the Notice of Lien has been filed, the lien shall be released by the Village or person in whose name the lien has been filed and the release shall be filed of record in the same manner as filing the Notice of Lien.

25-1-9 FORECLOSURE OF LIEN. Property subject to a lien for unpaid cost and expense to abate a nuisance shall be sold for non-payment of the same and the proceeds of such sale shall be applied to pay the charges after deducting costs, as in the case in the foreclosure of statutory liens. Such foreclosure shall be in the name of the Village after the lien is in effect for **sixty (60) days**.

(65 ILCS 5/11-60-2 and 720 ILCS 5/47-5; 5/47-10 and 5/47-15)

[See Section 1-1-20 for penalty]

ARTICLE II - WEEDS

25-2-1 DEFINITION. "Weeds" as used in this Code shall include, but not be limited to the following:

Burdock, Rag Weed (giant), Rag Weed (Common), Thistle, Cocklebur, Jimson, Blue Vervain, Common Milk Weed, Wild Carrot, Poison Ivy, Wild Mustard, Rough Pigweed, Lambsquarter, Wild Lettuce, Curled Dock, Smartweeds (all varieties), Poison Hemlock, Wild Hemp, Johnson Grass, grass and all other noxious weeds as defined by the statutes of the State of Illinois.

25-2-2 HEIGHT. It shall be unlawful for anyone to permit any weeds, grass, or plants, other than trees, bushes, flowers or other ornamental plants, to grow to a height exceeding **eight (8) inches** anywhere in the Village. Any such plants, weeds, or grass exceeding such height are hereby declared to be a nuisance.

25-2-3 NOTICE. The Mayor, Code Enforcement Officer or Police Chief or any other person so designated by him may issue a written notice for removal of weeds or grass. Such weeds or grass shall be cut by the owner or occupant within **five (5) days** after such notice has been duly served.

25-2-4 SERVICE OF NOTICE. Service of the notice provided for herein may be effected by handing the same to the owner, occupant or lessee of the premises, or to any member of his household of the age of **fifteen (15) years** or older found on the premises or by mailing such notice to the last known residence address of the owner; provided, that if the premises are unoccupied and the owner's address cannot be obtained, then the notice may be served by posting the same upon the premises.

25-2-5 HEARING AND APPEAL. Any person ordered to abate a nuisance may request a hearing to be conducted before the Mayor and Board of Trustees (Corporate Authorities) to appeal, contest, and/or object to the finding and conclusions contained in the Notice. The request for a hearing shall be made in writing and shall be delivered to the Village Clerk within the time stated in the Notice; otherwise, in the absence of such a request the Village shall presume that the nuisance exists and that said nuisance shall be abated as ordered. The hearing shall not be a formal proceeding, the rules of evidence shall not apply. However, the person or entity to whom the Notice has been sent shall have the right to counsel of his choice and at his expense to present evidence and witnesses on his/her/its behalf and cross-exam witnesses presented by the Village. At the conclusion of the hearing the Board of Trustees shall, after deliberations in executive session, render a decision in writing. If the Board of Trustees finds that the nuisance does exist, they shall order said nuisance be abated within the number of days specified in the original Notice days after the decision is communicated to the requestor. In addition, if nuisance is not abated, the Village shall issue a citation which seeks compliance with the provisions of this Article including a fine or other remedy allowed.

25-2-6 LIEN. Charges for such weed or grass removal shall be a lien upon the premises. A bill representing the cost and expense incurred or payable for the service shall be presented to the owner. If this bill is not paid within **thirty (30) days** of submission of the bill, a notice of lien of the cost and expenses thereof incurred by the Village shall be recorded in the following manner:

(A) A description of the real estate sufficient for identification thereof.

(B) The amount of money representing the cost and expense incurred or payable for the service.

(C) The date or dates when said cost and expense was incurred by the Village and shall be filed within **sixty (60) days** after the cost and expense is incurred.

25-2-7 PAYMENT. Notice of such lien claim shall be mailed to the owner of the premises if his address is known. The Village shall be entitled to collect all reasonable attorney's fees and recording fees including, but not limited to, the recording of the lien and recording of the release of lien, from any person liable for charges for weed or grass removal and any property subject to a lien for charges for weed or grass removal. All charges for weed or grass removal, attorney's fees, and recording fees including the recording fee to release the lien shall be paid in full prior to the recording of any Release of Lien by the Village. Upon payment all costs, attorney's fees and expenses after the Notice of Lien has been filed, the lien shall be released by the Village or person in whose name the lien has been filed and the release shall be filed of record in the same manner as filing Notice of the lien.

25-2-8 FORECLOSURE OF LIEN. Property subject to a lien for unpaid weed cutting charges shall be sold for non-payment of the same and the proceeds of such sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be in the name of the Village after the lien is in effect for **sixty (60) days.**

(65 ILCS 5/11-20-6 and 5/11-20-7)

[See Section 1-1-20 for penalty]

ARTICLE III - GARBAGE AND DEBRIS

25-3-1 ACCUMULATION PROHIBITED. No person shall permit any garbage or trash to accumulate on their premises or private property. It is hereby declared to be a nuisance and it shall be unlawful for the owner or occupant of real estate to refuse or neglect to remove the garbage or debris.

25-3-2 NOTICE TO PERSON. The Chief of Police or a designated representative may issue a written notice for removal of garbage or debris. Such garbage or debris shall be removed by the owner or occupant within **five (5) days** after such notice has been duly served.

25-3-3 SERVICE OF NOTICE. Service of notice provided for herein may be effected by handing of the same to the owner, occupant, or lessee of the premises, or to any member of his household of the age of **fifteen (15) years** or older found on the premises or by mailing such notice to the last known residence address of the owner; provided that if the premises are unoccupied and the owner's address cannot be obtained, then the notice may be served by posting the same upon the premises.

25-3-4 HEARING AND APPEAL. Any person ordered to abate a nuisance may request a hearing to be conducted before the Mayor and Board of Trustees (Corporate Authorities) to appeal, contest, and/or object to the finding and conclusions contained in the Notice. The request for a hearing shall be made in writing and shall be delivered to the Village Clerk within the time stated in the Notice; otherwise, in the absence of such a request the Village shall presume that the nuisance exists and that said nuisance shall be abated as ordered. The hearing shall not be a formal proceeding, the rules of evidence shall not apply. However, the person or entity to whom the Notice has been sent shall have the right to counsel of his choice and at his expense to present evidence and witnesses on his/her/its behalf and cross-exam witnesses presented by the Village. At the conclusion of the hearing the Board of Trustees shall, after deliberations in executive session, render a decision in writing. If the Board of Trustees finds that the nuisance does exist, they shall order said nuisance be abated within the number of days specified in the original Notice days after the decision is communicated to the requestor. In addition, if nuisance is not abated, the Village shall issue a citation which seeks compliance with the provisions of this Article including a fine or other remedy allowed.

25-3-5 LIEN. Charges for such removal shall be a lien upon the premises. A bill representing the cost and expense incurred or payable for the service shall be presented to the owner. If this bill is not paid within **thirty (30) days** of submission of the bill, a notice of lien of the cost and expenses thereof incurred by the Village shall be recorded in the following manner:

(A) A description of the real estate sufficient for identification thereof.

(B) The amount of money representing the cost and expense incurred or payable for the service.

(C) The date or dates when said cost and expense was incurred by the Village and shall be filed within **sixty (60) days** after the cost and expense is incurred.

25-3-6 PAYMENT. Notice of such lien claim shall be mailed to the owner of the premises if his address is known. The Village shall be entitled to collect all reasonable attorney's fees and recording fees including, but not limited to, the recording of the lien and recording of the release of lien, from any person liable for charges for garbage and trash accumulation and removal and any property subject to a lien for charges for garbage and trash accumulation and removal. All charges for charges for

garbage and trash removal, attorney's fees, and recording fees including the recording fee to release the lien shall be paid in full prior to the recording of any Release of Lien by the Village. Upon payment all costs, attorney's fees and expenses after the Notice of Lien has been filed, the lien shall be released by the Village or person in whose name the lien has been filed and the release shall be filed of record in the same manner as filing Notice of the lien.

25-3-7 FORECLOSURE OF LIEN. Property subject to a lien for unpaid charges shall be sold non-payment of the same, and the proceeds of such sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be in the name of the Village, after lien is in effect for **sixty (60) days**. Suit to foreclose this lien shall be commenced within **two (2) years** after the date of filing notice of lien.

(65 ILCS 5/11-20-13 and 720 ILCS 5/47-10)

[See Section 1-1-20 for penalty]

ARTICLE IV - INOPERABLE MOTOR VEHICLE

25-4-1 DEFINITIONS. For the purpose of this Code, the following term(s) shall have the meanings ascribed to them as follows:

"INOPERABLE MOTOR VEHICLES" shall mean any motor vehicle which, for a period of at least **seven (7) days**, the engine, wheels or other parts have been removed, or on which the engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own motor power. All vehicles shall have current registration, have a title, and have current insurance to be considered operable. "Inoperable Motor Vehicle" shall not include a motor vehicle which has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations.

25-4-2 DECLARATION OF NUISANCE. All inoperable motor vehicles, whether on public or private property in view of the general public, are hereby declared to be a nuisance.

25-4-3 NOTICE TO OWNER. The Mayor, the Code Enforcement Officer designated by the Mayor, Police Chief or a designated representative shall notify the owner of the motor vehicle, informing him that he shall dispose of any inoperable vehicles under his control. If the owner fails to dispose of said inoperable vehicle(s) after **seven (7) days** from the issuance of the notice, the Police Chief or a designated representative may authorize a towing service to remove and take possession of the inoperable vehicle or parts thereof.

25-4-4 HEARING AND APPEAL. Any person ordered to abate a nuisance may request a hearing to be conducted before the Mayor and Board of Trustees (Corporate Authorities) to appeal, contest, and/or object to the finding and conclusions contained in the Notice. The request for a hearing shall be made in writing and shall be delivered to the Village Clerk within the time stated in the Notice; otherwise, in the absence of such a request the Village shall presume that the nuisance exists and that said nuisance shall be abated as ordered. The hearing shall not be a formal proceeding, the rules of evidence shall not apply. However, the person or entity to whom the Notice has been sent shall have the right to counsel of his choice and at his expense to present evidence and witnesses on his/her/its behalf and cross-exam witnesses presented by the Village. At the conclusion of the hearing the Board of Trustees shall, after deliberations in executive session, render a decision in writing. If the Board of Trustees finds that the nuisance does exist, they shall order said nuisance be abated within the number of days specified in the original Notice days after the decision is communicated to the requestor. In addition, if nuisance is not abated, the Village shall issue a citation which seeks compliance with the provisions of this Article including a fine or other remedy allowed.

25-4-5 LIEN. Charges for abatement of said nuisance shall be a lien upon the premises. A bill representing the cost and expense incurred or payable for the service shall be presented to the owner and/or person who is in possession of the property. If this bill is not paid within **thirty (30) days** of submission of the bill, a Notice of Lien of the cost and expenses thereof incurred by the village shall be recorded in the following manner:

(A) A description of the real estate sufficient for identification thereof;

(B) The amount of money representing the cost and expense was incurred or payable for the service;

(C) The date or dates when said cost and expenses was incurred by the Village;

(D) The lien shall be filed within **sixty (60) days** after the cost and expense is incurred.

25-4-6 PAYMENT. Notice of such lien claim shall be mailed to the owner and/or person in possession of the property. The Village shall be entitled to collect all reasonable attorney fees and recording fees including, but not limited to, the recording of the lien and recording of the release of lien from any person liable for charges. All charges incurred for abatement of the nuisance, attorney fees, and recording fees including the recording fee to release the lien shall be paid in full prior to the recording of any Release of Lien by the Village. Upon payment of all costs, attorneys' fees and expenses after the Notice of Lien has been filed, the lien shall be released by the Village or person in whose name the lien has been filed and the release shall be filed of record in the same manner as filing the Notice of Lien.

25-4-7 FORECLOSURE OF LIEN. Property subject to a lien for unpaid cost and expense to abate a nuisance shall be sold for non-payment of the same and the proceeds of such sale shall be applied to pay the charges after deducting costs, as in the case in the foreclosure of statutory liens. Such foreclosure shall be in the name of the Village after the lien is in effect for **sixty (60) days**.

25-4-8 EXCLUSIONS. Nothing in this Article shall apply to any motor vehicle that is kept within a building, including historical vehicles, when not in use, to operable historic vehicles over **twenty-five (25) years** of age, or to a motor vehicle on the premises of a licensed business engaged in the wrecking or junking of motor vehicles.

(65 ILCS 5/11-40-3)

ARTICLE V – DERELICT VEHICLE, MOTORCYCLE, ATV-UTV, DERELICT TRAILER, CAMPER, WATERCRAFT

25-5-1 DEFINITIONS. For the purpose of this Code, the following term(s) shall have the following meanings ascribed to them as follows:

(A) ***"Derelict Motorcycle"*** shall mean any motorcycle, motor driven cycle or any part thereof, which for a period of at least **seven (7) days** has been inoperable or is unregistered or is discarded or is not in working order or is in a state of disrepair, regardless of title and irrespective of the location of said motorcycle, including the premises or property of any person claiming to be the owner.

(B) ***"Derelict ATV-UTV"*** shall mean any ATV (all-terrain vehicle) or UTV (utility terrain vehicle) or any part thereof, which for a period of at least **seven (7) days** has been inoperable or is unregistered or is discarded or is not in working order, or is in a state of disrepair, regardless of title, and irrespective of the location of said ATV or UTV, including the premises or property of any person claiming to be the owner.

(C) ***"Derelict Trailer"*** shall mean any trailer, or part thereof, which for a period of at least **seven (7) days** has been inoperable or is unregistered or is discarded or is not in working order or is in a state of disrepair, regardless of title and irrespective of location of said trailer, including the premises or property of any person claiming to be the owner.

(D) ***"Derelict Camper"*** shall mean any camper, motor home, or other mobile vehicle capable of being utilized for sleeping quarters, whether capable of being motor driven under its own power or whether it is required to be towed behind another vehicle, or any part thereof, which for a period of at least **seven (7) days** has been inoperable or is unregistered or is discarded or is not in working order, or is in a state of disrepair, regardless of title and irrespective of location of said camper, including the premises or property of any person claiming to be the owner.

(E) ***"Derelict Watercraft"*** shall mean any watercraft of any kind or nature or any part thereof which for a period of at least **seven (7) days** has been inoperable or is unregistered or is discarded or is not in working order, or is in a state of disrepair, regardless of title and irrespective of location of said watercraft, including the premises or property of any person claiming to be the owner.

(F) ***"Derelict Motor Vehicle"*** shall mean any motor vehicle of any kind or nature or any part thereof which for a period of at least **seven (7) days** has been inoperable or is unregistered or is discarded or is not in working order, or is in a state of disrepair, regardless of title and irrespective of location of said motor vehicle, including the premises or property of any person claiming to be the owner.

25-5-2 DECLARATION OF NUISANCE. All derelict motor vehicles, ATV-UTVs, trailers, campers and watercrafts as defined and described herein, whether stored or parked on public or private property in view of the general public within the Village are hereby declared to be a nuisance.

25-5-3 NOTICE TO ABATE. Whenever the Mayor, Code Enforcement Officer, or the Chief of Police finds that a nuisance exists, he/she shall notify the owner and/or possessor of said nuisance by personal service or by certified mail, that said object specified therein is declared to be a nuisance and that he/she shall abate said nuisance by removing and disposing of same no longer than **seven (7) days** after the date of the service of said notice. If the Notice to Abate sent by certified mail is returned to the Village by the United States Post Office because of its inability to make delivery thereof or the person cannot be served personally, the Village is authorized to give notice by adhering a self-sticking notice on a visible place upon said object. The notice shall inform the owner or possessor that the object to which it is attached shall be removed within **seven (7) days** from the placement of the notice.

25-5-4 HEARING AND APPEAL. The notice shall further state that any person ordered to abate a nuisance may request a hearing to be conducted before the Mayor and Board of Trustees (Corporate Authorities) to appeal, contest, and/or object to the finding and conclusions contained in the Notice. The request for a hearing shall be made in writing and shall be delivered to the Village Clerk within the **seven (7) days** stated in the Notice; otherwise, in the absence of such a request the Village shall presume that the nuisance exists and that said nuisance shall be abated as ordered. The hearing shall be conducted within **fourteen (14) days** after receipt of the objection. The hearing shall not be a formal proceeding, the rules of evidence shall not apply. However, the person or entity to whom the Notice has been sent shall have the right to counsel of his choice and at his expense to present evidence and witnesses on his/her/its behalf and cross-exam witnesses presented by the Village. At the conclusion of the hearing the Board of Trustees shall, after deliberations in executive session, render a decision in writing. If the Board of Trustees finds that the nuisance does exist, they shall order said nuisance be abated within the number of days specified in the original Notice days after the decision is communicated to the requestor. In addition, if nuisance is not abated, the Village shall issue a citation which seeks compliance with the provisions of this Article including a fine or other remedy allowed. In addition, the Chief of Police or other person designated by him to act on his behalf may authorize and direct a towing company or other appropriate party to remove and take possession of said object from any public or private property or premises and dispose of same. Any and all costs incurred or related to the removal, seizure, storage, or disposition of said object shall be the responsibility of the owner or possessor, who shall, within **seven (7) days** after receiving an invoice describing the extent of said costs or expense pay same directly to the Village.

25-5-5 EXCLUSIONS. Nothing in this Article shall apply to any object which is defined and described herein that is kept within a building whereby and as a result of which said object is not in view of the general public.

(Ord. No. 843; 09-03-13)

ARTICLE VI - BUILDING AS NUISANCE

25-6-1 BUILDING CONDITION - NUISANCE. The Building Inspector or his designated representative shall report to the Village Board when any building or structure in the Village is in a dangerous condition and constitutes a nuisance. Hereinafter, all references to Building Inspector shall include "his designated representative".

25-6-2 TIME LIMIT. The owner of such building shall repair or alter it so as to make it safe within **ninety (90) days** from the time the notice is served upon him in the manner provided by law.

25-6-3 NOTIFICATION. The Building Inspector, with the approval of the Village Board, shall place a notice on all "dangerous and unsafe buildings", which notice shall read as follows:

"This building has been found to be a dangerous and unsafe building by the Village officials. This notice shall remain on this building until it is repaired, vacated or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee, or agent of this building, or person or persons in whose name or names such building was last assessed, and all other persons having an interest in said building as shown by the land records of the County Recorder of Deeds. It is unlawful to remove this notice until such notice is complied with."

25-6-4 DANGEROUS AND UNSAFE BUILDING DEFINED. All buildings or structures which have any or all of the following defects shall be deemed "dangerous and unsafe buildings".

(A) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.

(B) Those which, exclusive of the foundation, show **thirty-one percent (31%)** or more of damage or deterioration of the supporting member or members, or **fifty percent (50%)** of damage or deterioration of the non-supporting enclosing or outside walls or covering.

(C) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.

(D) Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the Village.

(E) Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease, so as to cause injury to the health, morals, safety or general welfare of those living therein.

(F) Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of human beings who live or may live therein.

(G) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication.

(H) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

(I) Those which, because of their condition, are unsafe, unsanitary, or dangerous to the health, morals, safety or general welfare of the people of this Village.

(J) Those buildings existing in violation of any provision of the Building Code of this Village, or any provision of the Fire Prevention Code, or any other ordinances of the Village.

(K) Those vacant buildings with unguarded openings shall be deemed to constitute a fire hazard and to be unsafe within the provisions of this Code.

(L) Those buildings which are uncompleted or abandoned.

25-6-5 STANDARDS FOR REPAIR, VACATION OR DEMOLITION. The following standards shall be followed in substance by the Building Inspector in ordering repair, vacation, or demolition:

(A) If the "dangerous and unsafe building" is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered to be vacated.

(B) If the "dangerous and unsafe building" can reasonably be repaired so that it will no longer exist in violation of the terms of this Code, it shall be ordered repaired.

(C) In any case where a "dangerous and unsafe building" if **fifty percent (50%)** damaged or decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this Code, it shall be demolished. In all cases where a "dangerous and unsafe building" is a fire hazard existing or erected in violation of the terms of this Code, or any ordinance of the Village, or statute of the State of Illinois, it shall be demolished. **(See "Non-Conforming Uses" of the Zoning Code)**

25-6-6 DANGEROUS AND UNSAFE BUILDINGS - NUISANCES. All dangerous and unsafe buildings within the terms of this Article are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as hereinbefore or hereinafter provided.

25-6-7 DUTIES OF THE ATTORNEY. The Village Attorney shall apply to the Circuit Court for an order authorizing the demolition, repair, or vacation of dangerous and unsafe buildings or uncompleted or abandoned buildings when notices have not been complied with and when requested to do so by the Building Inspector.

25-6-8 LIENS. The cost of repair, demolition, vacation, or enclosure shall be recoverable from the owner or owners of such real estate and shall be a lien thereon, which lien shall be subordinate to all prior existing liens and encumbrances; provided that within **sixty (60) days** after said cost and expense is incurred, the Village or person performing the service by authority of the Village, in his or its own names, shall file notices of lien in the office of the County Recorder of Deeds. The notice shall consist of a sworn statement setting out:

(A) A description of the real estate sufficient for identification therefor;

(B) The amount of money representing the cost and expense incurred or payable for the service; and

(C) The date or dates when said cost and expense was incurred by the Village.

Upon payment of said cost and expense by the owner of or persons interested in said property after notice of lien has been filed, the lien shall be released by the Village or person in whose name(s) the lien has been filed and said release may be filed of record as in the case of filing notice of lien. The lien may be enforced by proceedings to foreclose as in the case of mortgages or mechanics of lien. Suit to foreclose this lien shall be commenced within **three (3) years** after the date of filing notice of lien.

(See 65 ILCS 5/11-31-1)

[See Section 1-1-20 for General Penalty]

ARTICLE VII - PENALTIES AND SPECIAL ASSESSMENT

25-7-1 SPECIAL ASSESSMENT. In addition to any other method authorized by law, if (i) a property owner is cited with a Code violation under this Chapter, requiring the cutting of grass and weeds, the removal of garbage and debris, the removal of inoperable motor vehicles, or rodent and vermin abatement, (ii) noncompliance is found upon reinspection of the property after the due date for compliance with an order to correct the Code violation or with an order for abatement; (iii) costs for services rendered by the municipality to correct the Code violation remain unpaid at the point in time that they would become a debt due and owing the municipality, as provided in Chapter 65 of the Illinois Compiled Statutes, Section 5/11-31-1.1 et seq., and (iv) a lien has been filed of record by the municipality in the office of the Recorder of Deeds in the county in which the property is located, then those costs may be collected as a special assessment on the property pursuant to **65 ILCS 5/9-2-4.5**. Upon payment of the costs by the owner of record or persons interested in the property, the lien shall be released by the municipality and the release shall be filed of record in the same manner as the filing of notice of the lien.

[See Section 1-1-20 for General Penalty]

ARTICLE VIII – DANGEROUS AND UNSAFE PROPERTIES

25-8-1 ADOPTION BY REFERENCE. The Village of Smithton may demolish, repair, or enclose or cause the demolition, repair, or enclosure of dangerous and unsafe buildings or uncompleted and abandoned buildings within the Village and may remove or cause the removal of garbage, debris and other hazardous, noxious or unhealthy substances or materials from those buildings. Therefore, the Village does hereby adopt by reference the applicable provisions of Chapter 65 of the Illinois Compiled Statutes, Sections 5/11-31-1 and 5/11-31-1.1 governing dangerous and unsafe buildings**. (Ord. No. 948; 8-18-2020)**

VILLAGE OF SMITHTON

NOTICE OF NUISANCE VIOLATION

TO: _____
_____
_____

You are hereby notified that the Police Chief or his representatives has determined that the property owned by you and/or occupied by you, or under your control as the case may be located at ____ _____, within the corporate limits of this Municipality contains an unlawful nuisance(s) as defined by **Chapter 25** of the Revised Code of Ordinances as follows:

_____
_____
_____

You are required pursuant to **Chapter 25, Article I, Section 25-1-3** to abate and remove any nuisance(s) within **five (5) days** from the date of this Notice as follows:

_____
_____
_____

Please be advised that within said **five (5) day** period after service of this Notice upon you, you may request a hearing before the President and Board of Trustees of the Village of Smithton in order for you to contest the findings and conclusions stated herein or request an extension of time within which you shall remediate the condition of your property by removing the items specified and identified herein that constitute a violation of the Village Ordinances. This request shall be in writing and delivered to the Clerk or Deputy Clerk of the Village within said **five (5) days** after you receive said Notice. The hearing shall be scheduled within **thirty (30) days** after the Village receives your request. During the course of said hearing you may be represented by counsel, present evidence on your behalf and cross-examine any witnesses presented by the Village, that the formal rules of evidence shall not apply.

If your appeal or request for extension is denied, you shall then be required to remove all items which the Village contends which constitute a nuisance and violation of Municipal Ordinances within **five (5)** after having received notification of the Board's decision.

If you fail to comply and the nuisance is not abated within the time prescribed the Village of Smithton shall proceed to issue the appropriate citation which may subject you to the penalties prescribed by the Municipal Ordinances and State law as well as institute a suit seeking a judicial order permitting the Village to remove all said items which constitute the nuisance from your premises and dispose of same at your expense, impose a monetary penalty and enjoin the continuation of said nuisance.

The Corporate Authorities shall keep an account of the expense incurred for said abatement charges and if this bill is not paid within **thirty (30) days** after it is presented to you, a lien for the costs and expenses incurred by the Village shall be recorded and the property which is subject to the lien may be sold for non-payment of same.

_____
CHIEF OF POLICE
VILLAGE OF SMITHTON

Dated this _____ day of _____, 20____.

VILLAGE OF SMITHTON

NOTICE OF UNLAWFUL WEED, PLANT, OR GRASS GROWTH

TO: _____
_____
_____

You are hereby notified that the Chief of Police or his representatives has determined that the property owned by you and/or occupied by you, or under your control as the case may be located at ____ _____, within the corporate limits of this Municipality contains unlawful weed, plant, or grass growth as defined by **Chapter 25, Article II**, of the Revised Code of Ordinances, that being said growth that exceeds **eight (8) inches** in height. Any such weeds, plants, or grass are hereby declared to be a nuisance.

You are required to remove all said growth within **five (5) days** from the date of this Notice.

Please be advised that within said **five (5) day** period after service of notice upon you, that you may request a hearing before the President of the Village of Smithton in order for you to contest the findings and conclusions stated herein or request an extension of time within which you shall remediate the condition on your property by cutting and removing all said weeds, plants, or grass that are in violation of Village ordinances. This request shall be in writing and delivered to the Clerk or Deputy Clerk of the Village. The hearing shall be scheduled within **five (5) days** after the Village receives your request and shall be conducted by the Mayor or other person appointed by him. If your appeal or request for extension is denied you are then required to cut and remove all said weeds, plants, or grass within **five (5) days** after having received notification of the Mayor or his agent's decision. Oral notification is sufficient if rendered at the time of the hearing.

If you fail to comply the Village of Smithton shall proceed to issue the appropriate citation which may subject you to the penalties prescribed by the Municipal Ordinances and State law. In addition, the municipal authorities shall proceed to abate said nuisance; that is, cut and remove the offending grass, weeds or plants.

The cost of such growth removal shall be paid by you. Charges for said action, i.e. the cutting or removal of said weeds, plants, or grass including labor shall be a lien upon said premises. A bill for the cost and expenses incurred by the Municipality shall be presented to you and if not paid within **thirty (30) days** of its submission, a Notice of Lien of said cost and expenses incurred by the Village shall be recorded against the property.

Any property subject to said lien may be sold for non-payment of the same and the proceeds of such sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens. You are also subject to penalties as provided by the terms and provisions of the Village code. The cost and expense of restitution, including all labor and material shall also be imposed as a penalty for each violation.

_____
CHIEF OF POLICE
VILLAGE OF SMITHTON

Dated this _____ day of _____, 20____.

VILLAGE OF SMITHTON

NOTICE OF UNLAWFUL GARBAGE AND/OR DEBRIS OR TRASH

TO: _____
_____
_____

You are hereby notified that the Chief of Police has determined that property owned by you and/or occupied by you, or under your control as the case may be located at _____ _____, within the corporate limits of this Municipality contains garbage and/or debris or trash as defined by **Chapter 25, Article III** of the Revised Code of Ordinances of the Village of Smithton. The accumulation of said garbage, debris, or trash on said premises is hereby declared to be a nuisance and unlawful.

You are required to remove all such material within **five (5) days** from the date you receive this Notice.

Please be advised that within said **five (5) day** period after service of this Notice upon you, you may request a hearing before the President and Board of Trustees of the Village of Smithton in order for you to contest the findings and conclusions stated herein or request an extension of time within which you shall remediate the condition of your property by removing said garbage, debris, and trash. This request shall be in writing and delivered to the Clerk or Deputy Clerk of the Village within said **five (5) days** after you receive said Notice. The hearing shall be scheduled within **thirty (30) days** after receipt of your request. During the course of said hearing you may be represented by counsel, present evidence on your behalf, and cross-exam any witnesses presented by the Village, that the formal rules of evidence shall not apply. If your appeal is denied, you are then required to remove all said garbage, debris, or trash within **five (5) days** after having received notification of the Board's decision. If you fail to comply the Village of Smithton shall proceed to issue the appropriate citation, which may subject you to the penalties prescribed by the municipal ordinances and State law as well as institute a suit seeking a judicial order permitting the Village to remove all materials and items in violation of law from your premises and dispose of same at your expense.

The corporate authorities shall keep an account of the expense incurred for said abatement, charges and if this bill is not paid within **thirty (30) days** after it is presented to you, a lien for the costs and expenses thereof incurred by the Village shall be recorded and the property which is subject to the lien may be sold for non-payment of same.

_____
CHIEF OF POLICE
VILLAGE OF SMITHTON

Dated this _____ day of _____, 20_____.

VILLAGE OF SMITHTON
NOTICE OF INOPERABLE VEHICLE

TO: _____
_____
_____

You are hereby notified that the Police Department has determined that an "inoperable vehicle(s)" owned by you and/or stored by you, or under your control as the case may be is located at ___ _____, within the corporate limits of this Municipality. That this constitutes an unlawful nuisance(s) as defined by **Chapte3r 25, Article IV, Section 25-4-1** of the Revised Code of Ordinances.

You are required to abate and remove any and all inoperable vehicles within **seven (7) days** from the date of this Notice.

Please be advised that within said **seven (7) day** period after service of this Notice upon you, you may request a hearing before the President and Board of Trustees of the Village of Smithton in order for you to contest the findings and conclusions stated herein or request an extension of time within which you shall remediate the condition of your property by removing said inoperable vehicle(s) that constitute a violation of the Village Ordinances. This request shall be in writing and delivered to the Clerk or Deputy Clerk of the Village within said **seven (7) days** after you receive said Notice. The hearing shall be scheduled within **thirty (30)** days after the Village receives your request. During the course of said hearing you may be represented by counsel, present evidence on your behalf and cross-examine any witnesses presented by the Village, that the formal rules of evidence shall not apply.

If your contest or request for extension is denied, you shall then be required to remove all the inoperable vehicles which the Village contends constitute a nuisance and a violation of Municipal Ordinances within **seven (7) days** after having received notification of the Board's decision.

If you fail to comply and the nuisance is not abated within the time prescribed, the Village of Smithton shall proceed to issue the appropriate citation which may subject you to the penalties prescribed by the Municipal Ordinances and State law as well as institute a suit seeking a judicial order permitting the Village to removal all said items which constitute the nuisance from your premises and dispose of same at your expense, impose a monetary penalty and enjoin the continuation of said nuisance.

The Corporate Authorities shall keep an account of the expense incurred for said abatement charges and if this bill is not paid within **thirty (30) days** after it is presented to you, a lien for the costs and expenses incurred by the Village shall be recorded and the property which is subject to the lien may be sold for non-payment of same.

_____
CHIEF OF POLICE
VILLAGE OF SMITHTON

Dated this _____ day of _____, 20_____.

VILLAGE OF SMITHTON
NOTICE OF DERELICT

TO: _____
_____
_____

You are hereby notified that the Chief of Police or other person designated by him to act on his behalf, has received a complaint, or a member of the Police Department has personally observed or has reasonable and probable cause to believe and conclude that a derelict _____ owned, stored, housed, or possessed by you or under your control as the case may be, is presently located _____ _____, within the corporate limits of the Village of Smithton, that same is in view of the general public and is an unlawful nuisance(s) as defined by **Chapter 25, Nuisances, Article IV, et seq.** of the Village of Smithton Revised Code of Ordinances. This/these _____ is/are hereby declared to be a nuisance.

Pursuant to said ordinance you are ordered and required to abate said nuisance by removing and disposing of the object(s) described herein within **seven (7) days** after you receive a copy of this Notice.

Please be advised that within said **seven (7) day** period after service of this Notice upon you, you may request a hearing before the Village of Smithton in order for you to contest the findings and conclusions stated herein or request an extension of time within which you shall remediate the condition of your property by removing the items specified and identified herein that constitute a violation of the Village Ordinances. This request shall be in writing and delivered to the Clerk or Deputy Clerk of the Village within **seven (7) days** after you receive said Notice. The hearing shall be scheduled within **thirty (30) days** after the Village received your request before a person appointed by the Mayor. During the course of said hearing you may be represented by counsel, present evidence on your behalf and cross-examine any witnesses presented by the Village, that the formal rules of evidence shall not apply.

If your appeal or request for extension is denied, you shall then be required to remove all items which the Village contends which constitute a nuisance and violation of Municipal Ordinances within **seven (7) days** after having received notification of the decision.

If you fail to comply and the nuisance is not abated within the time prescribed the Village of Smithton shall proceed to issue the appropriate citation which may subject you to the penalties prescribed by the Municipal Ordinances and State law as well as institute a suit seeking a judicial order permitting the Village to remove all said items which constitute the nuisance from your premises and dispose of same at your expense, impose a monetary penalty and enjoin the continuation of said nuisance.

The Corporate Authorities shall keep an account of the expense incurred for said abatement charges and if this bill is not paid within **thirty (30) days** after it is presented to you, a lien for the costs and expenses incurred by the Village shall be recorded and the property which is subject to the lien may be sold for non-payment of same.

_____
CHIEF OF POLICE
VILLAGE OF SMITHTON

Dated this _____ day of _____, 20____.

VILLAGE OF SMITHTON

NOTICE OF DANGEROUS AND/OR UNSAFE BUILDING/STRUCTURE

TO: _____

_____

_____

You, as owner(s) of the property lawfully described below, are hereby notified by the undersigned **Village of Smithton, St. Clair County, Illinois**, that said property has upon it a building/structure which is:

(A) Dangerous and/or unsafe in that said building or structure has become so dilapidated, decayed, unsafe, unsanitary or which so utterly fails to provide the amenities essential to decent living, that it is unfit for human habitation or is likely to cause sickness or disease, so as to cause injury to the health, morals, safety, or general welfare of those living therein now or hereafter; or

(B) Dangerous and/or unsafe in that said building or structure has light, air or sanitation facilities which are inadequate to protect the health, morals, safety, and general welfare of human beings who live or may live therein; or

(C) Dangerous and/or unsafe in that the condition of the building or structure is unsafe, unsanitary, or dangerous to the health, morals, safety, and general welfare of the people of this Village; or

(D) Dangerous and/or unsafe in that the building or structure is uncompleted and/or abandoned; or

(e) Dangerous and/or unsafe pursuant to any of the terms and provisions of the Village of Smithton Code of Ordinances, **Chapter 25, Nuisances, Article V, Building as Nuisance**.

This building has been found to be a dangerous and unsafe building by the Village officials. This Notice shall remain on this building until it is repaired, vacated, or demolished in accordance with the Notice which has been given the owner, occupant, lessee, mortgagee, or agent of this building, or person or persons in whose name or names such building was last assessed, and all other persons having an interest in said building as shown by the land records of the County Recorder of Deeds. It is unlawful to remove this Notice until such notice is complied with.

That said building/structure is hereby declared to be a public nuisance and shall be repaired, vacated, or demolished as provided in the Village of Smithton Code of Ordinances, **Chapter 25, Nuisances, Article V, Building as Nuisance**.

The property is hereby legally described as follows: _____

_____

_____

Unless such building/structure is repaired, put into safe condition or demolished and all debris removed within **ninety (90) days** of the receipt of this Notice, the Village shall apply to the Circuit Court for an order authorizing such action to be taken by the Village with respect to the above described building/structure. Any costs incurred by the Village to restore the buildings to a safe condition or to demolish the building and remove debris shall be recovered from the owners of the above described property pursuant to Chapter 65, Paragraph 5/11-31-1, Illinois Compiled Statutes.

That the said costs incurred by the Village shall be a lien on the property which lien shall be subordinate to all prior existing liens and encumbrances. The Village shall file Notices of Lien in the office of the County Recorder of Deeds. Said lien may be enforced by proceeding to foreclosure as in the case of mortgages or mechanics of lien. A suit to foreclosure this lien shall be commenced within **three (3) years** after the date of filing Notice of Lien.

_____

Dated this _____ day of _____, 20____.

CHAPTER 27 - OFFENSES

ARTICLE			*TITLE*	*PAGE*
I	*DEFINITIONS*			
	Section 27-1-1	-	*Meanings of Words and Phrases*	*27-1*
	Section 27-1-2	-	*Criminal Code Adopted*	*27-1*
II	*GENERALLY*			
	Section 27-2-1	-	*Disturbing Police Officer*	*27-1*
	Section 27-2-2	-	*Impersonation of Officer*	*27-1*
	Section 27-2-3	-	*Disturbing Lawful Assemblies*	*27-1*
	Section 27-2-4	-	*Mob Action*	*27-1*
	Section 27-2-5	-	*Looting by Individuals*	*27-2*
	Section 27-2-6	-	*Disturbing the Peace*	*27-2*
	Section 27-2-7	-	*Admission Fees: Fraudulently Avoiding Payment Of*	*27-3*
	Section 27-2-8	-	*Sale of Cigarettes or Tobacco to Minors*	*27-4*
	Section 27-2-9	-	*Smokeless Tobacco*	*27-4*
	Section 27-2-10	-	*Unlawful Conduct on a Public Way*	*27-4*
	Section 27-2-11	-	*Aid in Escape*	*27-5*
	Section 27-2-12	-	*Escapes*	*27-5*
	Section 27-2-13	-	*False Pretenses*	*27-5*
	Section 27-2-14	-	*Renting Premises for Unlawful Purposes*	*27-5*
	Section 27-2-15	-	*Aid to an Offense*	*27-5*
	Section 27-2-16	-	*Posting Bills*	*27-5*
	Section 27-2-17	-	*Intoxication in Public*	*27-5*
	Section 27-2-18	-	*Begging*	*27-5*
	Section 27-2-19	-	*Concealed Weapons*	*27-6*
	Section 27-2-20	-	*Discharge of Firearms or Bow and Arrow*	*27-6*
	Section 27-2-21	-	*Games in Street*	*27-6*
	Section 27-2-22	-	*Storage of Explosives*	*27-6*
	Section 27-2-23	-	*Throwing Rocks*	*27-6*
	Section 27-2-24	-	*Destruction of Public Property*	*27-6*
	Section 27-2-25	-	*Fortune Telling*	*27-6*
	Section 27-2-26	-	*Abandoned Refrigerators or Iceboxes*	*27-7*
	Section 27-2-27	-	*Halloween Curfew*	*27-7*
	Section 27-2-28	-	*Theft of Recyclables Unlawful*	*27-7*
	Section 27-2-29	-	*Throwing Objects from Motor Vehicles*	*27-7*
	Section 27-2-30	-	*Depositing of Snow and Ice Restricted*	*27-7*
	Section 27-2-31	-	*Protective Covering or Fencing*	*27-7*
	Section 27-2-32	-	*Curfew Hours for Minors*	*27-7*
	Section 27-2-33	-	*Sanctity of Funeral and Memorial Services*	*27-9*
	Section 27-2-34	-	*Use of Upholstered Furniture in Outdoor Locations Prohibited*	*27-9*
	Section 27-2-35	-	*Noise*	*27-10*
	Section 27-2-36	-	*False Report of Theft and Other Losses*	*27-10*
	Section 27-2-37	-	*Harassing and Obscene Communications*	*27-10*
	Section 27-2-38	-	*Mining of Minerals Illegal*	*27-11*
	Section 27-2-39	-	*Tobacco and Electronic Smoking Devices*	*27-12*

ARTICLE		TITLE	PAGE
III		OFFENSES AGAINST PROPERTY	
	Section 27-3-1	- Petty Theft	27-12
	Section 27-3-2	- Criminal Damage to Property	27-13
	Section 27-3-3	- Injury to Utility Wires and Poles	27-13
	Section 27-3-4	- Damage or Destruction of Street Signs Prohibited	27-13
	Section 27-3-5	- Tampering with Public Notice	27-13
	Section 27-3-6	- Criminal Damage to Fire-Fighting Apparatus, Hydrants or Equipment	27-13
	Section 27-3-7	- Skateboards, Etc. Prohibited	27-13
IV		PUBLIC HEALTH, SAFETY AND DECENCY	
	Section 27-4-1	- Disorderly Conduct; Elements of the Offense	27-14
	Section 27-4-2	- Resisting or Obstructing a Peace Officer	27-14
	Section 27-4-3	- Refusing to Aid an Officer	27-15
	Section 27-4-4	- Assembling at Public Places and Businesses	27-15
	Section 27-4-5	- Unlawful Use of Weapons	27-16
	Section 27-4-6	- Unlawful Sale of Firearms	27-16
	Sect6ion 27-4-7	- Excavations	27-17
V		ANTI-LITTER	
	Section 27-5-1	- Definitions	27-18
	Section 27-5-2	- Littering Prohibited	27-18
	Section 27-5-3	- Prevention of Scattering	27-19
	Section 27-5-4	- Receptacles - Upsetting or Tampering	27-19
	Section 27-5-5	- Sidewalks and Alleys Free From Litter	27-19
	Section 27-5-6	- Owner to Maintain Private Premises	27-19
	Section 27-5-7	- Littering from Vehicles	27-19
	Section 27-5-8	- Littering from Aircraft	27-19
	Section 27-5-9	- Litter in Parks	27-19
	Section 27-5-10	- Handbills	27-19
	Section 27-5-11	- Posting Notices Prohibited	27-20
	Section 27-5-12	- Construction Sites	27-20
	Section 27-5-13	- Loading and Unloading Docks	27-20
	Section 27-5-14	- Parking Lots	27-20
VI		TRESPASS	
	Section 27-6-1	- Trespasses Prohibited	27-21
	Section 27-6-2	- Specifically Enumerated Trespasses - Suppression	27-21
VII		PARENTAL RESPONSIBILITY REGULATIONS	
	Section 27-7-1	- Definitions	27-22
	Section 27-7-2	- Parents and Guardians Responsible for Acts	27-22
VIII		TRUANCY AND CURFEW CODE	
	Section 27-8-1	- Definitions	27-23
	Section 27-8-2	- Curfew Restrictions	27-24
	Section 27-8-3	- Truancy Restrictions	27-24

ARTICLE		TITLE	PAGE
VIII	TRUANCY AND CURFEW CODE (CONTINUED)		
	Section 27-8-4	- Establishment Restrictions	27-25
	Section 27-8-5	- Enforcement Restrictions	27-25
	Section 27-8-6	- Penalty	27-26
	Section 27-8-7	- Civil Liability	27-26
IX	OPEN BURNING		
	Section 27-9-1	- Definitions	27-27
	Section 27-9-2	- Burning Prohibited	27-27
	Section 27-9-3	- Restrictions on Burning of Landscape Waste	27-27
X	SKATEBOARDS AND TOY VEHICLES		
	Section 27-10-1	- Definitions	27-28
	Section 27-10-2	- Skateboarding on a Street	27-28
	Section 27-10-3	- Clinging to a Vehicle	27-28
	Section 27-10-4	- Yield Right-of-Way	27-28
	Section 27-10-5	- Skateboarding on Private Property	27-28
	Section 27-10-6	- Skateboarding on Public Property	27-29
	Section 27-10-7	- Skateboarding in the Business District	27-29
	Section 27-10-8	- Damaging Village Property	27-29
	Section 27-10-9	- Skateboard Ramps	27-29
	Section 27-10-10	- Agreement for Impoundment	27-29
XI	ADULT USES REGULATED		
	Section 27-11-1	- Purpose and Additional Findings	27-30
	Section 27-11-2	- Definitions	27-30
	Section 27-11-3	- Prohibition	27-31
	Section 27-11-4	- Limitation	27-31
	Section 27-11-5	- Adult Entertainment Facility	27-31
XII	OBSCENITY		
	Section 27-12-1	- Obscenity	27-32
	Section 27-12-2	- Harmful Material	27-33
	Section 27-12-3	- Tie-In Sales of Obscene Publications to Distributors	27-34
	Section 27-12-4	- Nudity in Public Place	27-34
	Section 27-12-5	- Public Indecency	27-34
XIII	SMOKE FREE AIR CODE		
	Section 27-13-1	- Background	27-35
	Section 27-13-2	- Purpose	27-35
	Section 27-13-3	- Definitions	27-35
	Section 27-13-4	- Prohibition in Enclosed Public Places	27-36
	Section 27-13-5	- Prohibition in Unenclosed Public Places and Outdoor Venues	27-37
	Section 27-13-6	- Prohibition in Places of Employment	27-37

ARTICLE		TITLE	PAGE
XIII	SMOKE FREE AIR CODE (CONTINUD)		
	Section 27-13-7	- Prohibition in Open Air Dining Areas	27-37
	Section 27-13-8	- Prohibition at Public Entrances	27-37
	Section 27-13-9	- Designation of Other No-Smoking Areas	27-37
	Section 27-13-10	- No Retaliation	27-37
	Section 27-13-11	- Signs	27-37
	Section 27-13-12	- Exemptions	27-38
	Section 27-13-13	- Penalties	27-38
XIV	SYNTHETIC DRUGS		
	Section 27-14-1	- Sale, Possession or Delivery of Synthetic Cocaine Prohibited	27-39
	Section 27-14-2	- Sale, Possession or Delivery of Synthetic Cannabis Prohibited	27-40
XV	REGULATION OF RESIDENCES OF REGISTERED SEX OFFENDERS		
	Section 27-15-1	- Definitions	27-42
	Section 27-15-2	- Prohibited Acts	27-42
	Section 27-15-3	- Penalty	27-43
	Section 27-15-4	- Other Provisions	27-43
XVI	DRUG PARAPHERNALIA		
	Section 27-16-1	- Definitions	27-44
	Section 27-16-2	- Possession of Cannabis or Controlled Substance	27-44
	Section 27-16-3	- Possession of Drug Paraphernalia	27-44
	Section 27-16-4	- Exemptions	27-45
	Section 27-16-5	- Penalty	27-45
XVII	CANNABIS BUSINESS ESTABLISHMENTS PROHIBITED		
	Section 27-17-1	- Definitions	27-46
	Section 27-17-2	- Cannabis Business Establishments Prohibited	27-46
	Section 27-17-3	- Public Nuisance Declared	27-47
	Section 27-17-4	- Violations	27-47
XVIII	FIREWORKS REGULATIONS		
	Section 27-18-1	- Regulations	27-48

CHAPTER 27

OFFENSES

ARTICLE I – DEFINITIONS

27-1-1 MEANINGS OF WORDS AND PHRASES. For the purpose of this Chapter the words and phrases of the **Illinois Compiled Statutes, Chapter 720, Sections 2-1 through 2-11; 2-13 through 2-22,** as approved, adopted and amended are hereby adopted by the Village, as fully as if set out herein. **(65 ILCS 5/1-3-2)**

27-1-2 CRIMINAL CODE ADOPTED. The **Illinois Criminal Code, Illinois Compiled Statutes, Chapter 720,** as passed, approved and amended by the Illinois General Assembly is hereby adopted by the Village; the provisions thereof shall be controlling within the corporate limits of the Village; provided, however, the penalties as provided by this Code shall apply. **(65 ILCS 5/1-3-2 and 5/11-1-1)**

ARTICLE II - GENERALLY

27-2-1 DISTURBING POLICE OFFICER. No person shall, by violent conduct, disturb any police officer in the discharge of his duties; nor shall any person assault, strike, or fight with any police officers in the discharge of his/her duties or permit such conduct in or upon any house or premises in the Village owned or possessed by him/her or under his/her management and control. Abusive or vulgar language in the presence of an officer does not constitute a crime unless the language is directed at the officer and provokes a breach of the peace. **(65 ILCS 5/11-1-1)**

27-2-2 IMPERSONATION OF OFFICER. No person in the Village shall falsely represent himself to be an officer of the Village or shall, without being duly authorized by the Village, exercise or attempt to exercise any of the duties, functions or powers of the Village officer, or hinder, obstruct, resist or otherwise interfere with any Village officer in the discharge of the duties of his office, or attempt to prevent any such officer from arresting any person, either by force or by giving notice to such person, or attempt to rescue from such officer any person in his custody, or impersonate any of the members of the Police Force of this Village, or maliciously or with the intention of deceiving any person, wear the uniform of or a uniform similar to that worn by the members of the Police Department, or use any of the signs, signals or devices adopted and used by the Police Department. **(65 ILCS 5/32-5.1)**

27-2-3 DISTURBING LAWFUL ASSEMBLIES. It shall be unlawful for any person to willfully interrupt or disturb any funeral assembly, funeral procession, school, any assembly met for the worship of God or any other assembly met for a lawful purpose by any offensive behavior, or by any disorderly conduct. **(65 ILCS 5/11-5-2)**

27-2-4 MOB ACTION. A person commits mob action when he or she engages in any of the following:

(A) the knowing or reckless use of force or violence disturbing the public peace by **two (2)** or more persons acting together and without authority of law;

(B) the knowing assembly of **two (2)** or more persons with the intent to commit or facilitate the commission of a felony or misdemeanor; or

(C) the knowing assembly of **two (2)** or more persons, without authority of law, for the purpose of doing violence to the person or property of anyone supposed to have been guilty of a violation of the law, or for the purpose of exercising correctional powers or regulative powers over any person by violence.
(720 ILCS 5/25-1)

27-2-5 LOOTING BY INDIVIDUALS. A person commits looting when he or she knowingly without authority of law or the owner enters any home or dwelling or upon any premises of another, or enters any commercial, mercantile, business, or industrial building, plant, or establishment, in which normal security of property is not present by virtue of a hurricane, fire, or vis major of any kind or by virtue of a riot, mob, or other human agency, and obtains or exerts control over property of the owner. **(720 ILCS 5/25-4)**

27-2-6 DISTURBING THE PEACE.

(A) **General Provision.** It shall be unlawful for any person, firm, company, business, corporation, association, civic organization or group, unit of government, community club, educational institution or any other civic or private entity of any kind or nature, or any employee, agent, or representative of any said person or entity, or any person related to any said entity which directs, permits, allows, hires, or causes another person, entity or group to willfully make or continue, or cause to be made or continued any loud, harsh, prolonged, excessive, unnecessary, and/or unusual noise or sound of any kind which disturbs the peace and quiet of any neighborhood or individual residents thereof, which causes discomfort, annoys, disturbs, injures or endangers, the comfort, repose, health, peace, safety or tranquility of any reasonable person or persons of ordinary sensitivity or to disturb the good order of society by the use of vulgar or profane language, or by any disorderly or immoral conduct within the jurisdictional limits of the Village.

(B) **Outside Bands and Sound Amplification Devices.** It shall be unlawful for any person, firm, company, business, corporation, association, civic organization or group, unit of government, community club, educational institution, or any other civic or private entity of any kind or nature, or any employee, agent, or representative of any of the above, or any person related to any said entity as described herein which directs, permits, allows, hires, or causes a live band of any size or kind, including the members of any said live band to play outside of any enclosed structure or building or for same, to play or operate, use, or utilize an amplification device, loudspeaker, public address system, radio compact disc player, disc jockey radio receiving set, musical instruments, phonograph or other machine or device utilized for the enhancing, producing or reproducing or broadcasting of sound, music, or recorded sound, outside of any enclosed structure, building, or dwelling of any kind whether said enclosed building, dwelling, or structure is commercial or residential in nature, in excess of or contrary to the limitations set forth in the terms and provisions specified hereafter in paragraphs (1), (2), (3) and (4).

(1) The operation, use, or utilization of any said devices or machines as hereinabove described, specified, defined, or delineated, or the playing of a live band of any kind or size shall be limited to and shall not exceed **seven (7) times** a year.

(2) The operation, use, or utilization of any said devices or machines as hereinabove described, specified, defined, or delineated or the playing of a live band shall only occur on Friday, Saturday, or Sunday.

(3) The operation, use, or utilization of any said devices or machines as hereinabove described, specified, defined, or delineated or the playing of a live band shall be limited to and only be allowed during the hours of **12:00 P.M. (Noon)** to **12:01 A.M.** on Friday and Saturday, and from **12:00 P.M. (Noon)** to **8:00 P.M.** on Sunday. In addition, the operation, use, or utilization of any said device or the playing of a live band shall be limited to and not exceed a total of **four (4) hours** on any days specified in subparagraphs (1), (2) or (3) herein.

(4) The operation, use or utilization of any said device or machine as hereinabove described, specified, defined, or delineated or the playing of a live band shall also be subject to the limitations, control and prohibitions specified in paragraph (A), General Provision.

(C) **Inside Bands and Sound Amplification Devices.**

(1) It shall be unlawful for any person, firm, company, business, corporation, association, civic organization or group, unit of government, community club, educational institution, or any other civic or private entity of any kind or nature, or any employee, agent, or representative of any of the above or any person related to any said entity as described herein which directs, permits, allows, hires, or cause a live band of any size or kind, including the members of any said live band, to play or operate, use, or utilize an amplification device, loudspeaker, public address system, radio compact disc player, disc jockey, radio receiving set, musical instruments, phonograph or other machine or device utilized for enhancing, producing or reproducing or broadcasting of sound music or recorded sound inside any enclosed structure, building, or dwelling of any kind, whether said enclosed building, dwelling, or structure is commercial or residential in nature at a louder volume than is necessary for the convenient hearing of the persons who are in the room, chamber, building, structure, or dwelling in which said live band or device is played, used, or operated and who are voluntary listeners thereto.

(2) The operation, use, or utilization of any said device or machine as hereinabove described, specified, defined, or delineated or the playing of a live band within a structure, building, or dwelling shall also be subject to the limitations, control, and prohibitions specified in Paragraph (A), General Provision.

(D) **Permits.** Any person, firm, corporation, association, civic organization or group, unit of government, community club, educational institution, or other civic or private entity of any kind or nature may file a written request with the Clerk of the Village seeking a permit to allow, cause or permit a live band to play or allow, cause, operate or use a sound amplification device as hereinabove described and specified outside of an enclosed structure, dwelling, or building of any kind, whether commercial or residential in excess of or in addition to the days and times specified, delineated and identified hereinabove. Said request shall be placed on the agenda of the next Village regular Board meeting which may be denied or granted in whole or in part by the Corporate Authorities of the Village in their sole discretion. The Corporate Authorities may grant the permit upon any conditions or limitations as it deems appropriate. The party or a representative thereof may appear at the meeting where said request is considered to justify same or answer any questions pertaining thereto, and must also supply in advance of the meeting any documentation requested by the Village which it deems relevant or material.

(E) **Penalties.** Any person, firm, company, business, corporation, association, civic organization or group, unit of government, community club, educational institution, or business entity of any kind or nature, or any agent, employee or representative of same who violates any provision of the ordinance shall be subject to a fine no less than **One Hundred Dollars ($100.00)** to no more than **Seven Hundred Fifty Dollars ($750.00)** for each offense. A separate offense shall be deemed to have been committed on each day during or on which a violation occurs or continues. In addition, the Village shall have the power and authority to request injunctive relief from a Court of competent jurisdiction to prevent any additional violations of this Article or any other relief provided by law or equity.

(Ord. No. 932; 03-03-20)

27-2-7 ADMISSION FEES: FRAUDULENTLY AVOIDING PAYMENT OF. It shall be unlawful for any person to fraudulently enter, without payment of the proper admission fee, any theater, ballroom, lecture, concert or other place where admission fees are charged; provided, however, that nothing herein contained shall be deemed to prohibit or restrict the free admission of police officers engaged in the performance of police duties to any place of public entertainment or amusement.

27-2-8 SALE OF CIGARETTES OR TOBACCO TO MINORS.

(A) No person under **twenty-one (21)** years of age shall buy any cigar, cigarette, smokeless tobacco or tobacco in any of its forms. No person shall sell, buy for, distribute samples of or furnish any cigar, cigarette, smokeless tobacco or tobacco in any of its forms, to any minor under **twenty-one (21) years of age.**

(B) No person under **twenty-one (21) years of age** may sell any tobacco product at a retail establishment selling tobacco products. This subsection does not apply to a sales clerk in a family-owned business which can prove that the sales clerk is in fact a son or daughter of the owner.

(C) No person under **twenty-one (21) years of age** in the furtherance or facilitation of obtaining any tobacco product shall display or use a false or forged identification card or transfer, alter, or deface an identification card.

(D) No person under **twenty-one (21) years of age** shall possess any cigar, cigarette, smokeless tobacco, or tobacco in any of its forms.

(E) A person shall not distribute without charge samples of any tobacco product to any other person, regardless of age:

(1) within a retail establishment selling tobacco products, unless the retailer has verified the purchaser's age with a government issued identification;

(2) from a lunch wagon; or

(3) on a public way as a promotion or advertisement of a tobacco manufacturer or tobacco product.

This subsection (E) does not apply to the distribution of a tobacco product sample in any adult-only facility.

(F) Tobacco products listed in this Section may be sold through a vending machine only if such tobacco products are not placed together with any non-tobacco product, other than matches, in the vending machine and the vending machine is in any of the following locations:

(1) places to which persons under **twenty-one (21) years of age** are not permitted access.

(2) places where alcoholic beverages are sold and consumed on the premises and vending machine operation is under the direct supervision of the owner or manager.

(3) places where the vending machine can only be operated by the owner or an employee over age **twenty-one (21)** either directly or through a remote control device if the device is inaccessible to all customers.

(G) The sale or distribution by any person of a tobacco product in this Section, including but not limited to a single or loose cigarette, that is not contained within a sealed container, pack, or package as provided by the manufacturer, which container, pack, or package bears the health warning required by federal law, is prohibited.

(720 ILCS 675/1)

27-2-9 SMOKELESS TOBACCO.

(A) **Definition.** For the purposes of this Section, the term "smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity.

(B) **Sales of Smokeless Tobacco Products to Persons Under Eighteen (18).** No person shall sell any smokeless tobacco product to any person under the age of **eighteen (18).**

(C) **Distribution.** No person shall distribute or cause to be distributed to any person under the age of **eighteen (18)**, without charge or at a nominal cost, any smokeless tobacco product. **(720 ILCS 680-1 et seq.)**

27-2-10 UNLAWFUL CONDUCT ON A PUBLIC WAY.

(A) It shall be unlawful for a pedestrian to stand upon any sidewalk or public way, except as near as reasonably possible to the building line or curb line if such standing interferes with the use of said sidewalk by other pedestrians.

(B) It shall be unlawful to impede or interfere with another person's use of a public way.

27-2-11 AID IN ESCAPE. It shall be unlawful to rescue or attempt to rescue or shall abet or encourage the rescue or escape of any person from the custody of any officer or other person legally having him in charge, or shall molest or interfere with any officer or other person so legally having him in charge, or shall, in any manner, aid, abet or encourage the rescue or the attempt to escape from any person legally committed thereto, or shall supply or attempt to supply any such person with any weapon or with any implement or means whereby an escape might be affected, or with any intoxicating liquors, drugs or other article(s) without the consent of the officer in charge. **(720 ILCS 5/31-7)**

27-2-12 ESCAPES. It shall be unlawful for any person convicted of any offense or in lawful custody to escape or attempt to escape from custody. **(720 ILCS 5/31-6(C))**

27-2-13 FALSE PRETENSES. It shall be unlawful for any person to obtain any food, drink, goods, wares, or merchandise under false pretenses, or to enter public places and call for refreshments or other articles and receive and refuse to pay for same, or to depart without paying for or satisfying the person from whom he received the food, goods, wares, and/or merchandise.

27-2-14 RENTING PREMISES FOR UNLAWFUL PURPOSES. It shall be unlawful for any person to rent, use, or allow to be used, any building or property owned by him, for any purpose whereby riotous or disorderly persons are gathered.

27-2-15 AID TO AN OFFENSE. It shall be unlawful for any person, in any way or manner, to aid, abet, counsel, advise or encourage any other person in the commission of any of the acts mentioned herein or in any manner encourage the commission of such offense hereby defined.

27-2-16 POSTING BILLS. It shall be unlawful for any person to paste, post, paint, print or nail any handbill, sign, poster, advertisement, or notice of any kind on any curbstone, flagstone, or any other portion or part of any sidewalk, or upon any tree, lamppost, utility pole, hydrant, or upon any private wall, door, or gate without the consent, in writing, of the owner of the wall, door or gate; provided, however, that this Section shall not prevent posting by proper Village and County officials of election signs, polling place signs and other signs or placards necessary under the law to the conduct of elections, except they may not be attached to a tree.

27-2-17 INTOXICATION IN PUBLIC. No person shall, in the Village, be found in a state of intoxication or drunk in any street or other public place, or shall be found drunk lying or roving about the streets, alleys, or sidewalks of this Village or the private grounds of any of the inhabitants thereof, or being drunk as aforesaid, shall disturb the peace, order and quiet of the Village, or the peace and quiet of the citizens thereof by loud and unusual noises, disorderly conduct, indecent language or behavior or in any other manner. **(65 ILCS 5/11-5-3)**

27-2-18 BEGGING. No person shall beg or solicit alms within the Village without having obtained permission in writing from the Mayor. **(65 ILCS 5/11-5-4)**

27-2-19 CONCEALED WEAPONS. No person shall, within the Village, carry or wear under his clothes, or concealed about his person, any pistol or hand gun, without being the holder of an Illinois Concealed Carry License. Additionally, no person, shall within the Village, carry or wear under his clothes or conceal about his person any sling-shot, cross knuckles, knuckles of lead, brass or other metal, switchblade knife or razor, bowie knife, dirk knife or dirk, dagger or any other dangerous or deadly weapon. This Section does not apply to the officers or members of the Police Department, nor to any Sheriff or Deputy Sheriff or Constable of this State, nor to any United States Marshal.

27-2-20 DISCHARGE OF FIREARMS OR BOW AND ARROW.

(A) **Discharge of Weapons Prohibited.** It shall be unlawful to shoot, fire or otherwise discharge, any firearm, air gun, bow and arrow, crossbow or other dangerous weapon within the Village limits.

(B) **Exceptions.**

(1) The terms and provisions of paragraph (A) shall not apply to peace officers acting in the line of or in the performance of their official duties.

(2) The terms and provisions of paragraph (A) shall not apply to persons acting in self-defense.

(3) The terms and provisions of paragraph (A) shall not apply to property zoned agricultural, provided that this exception applies only to the owner or occupier of the land.

(4) However, the discharge of any weapon pursuant to the exceptions stated herein, shall at all times be done in accordance with all state and federal laws and regulations.

27-2-21 GAMES IN STREET. No person shall, upon any Village street, fly any kite or play any game of ball or engage in any amusement or practice having a tendency to injure or annoy any person passing in the streets or on the sidewalks.

27-2-22 STORAGE OF EXPLOSIVES.

(A) **Nitroglycerine; Dynamite, Etc.** No person shall have, keep, possess, or store at or in any place within the Village, any nitroglycerine, dynamite or giant powder, or any form or combination of any of them.

(B) **Blasting Powder, Etc.** No person shall keep, possess or store any gun or blasting powder or any gun or explosive cotton at or in any one place in the Village in any quantity exceeding **five (5) pounds. (65 ILCS 5/11-8-4)**

27-2-23 THROWING ROCKS. No person in the Village shall throw or cast any rock or stone or any other missile upon or at any building, tree, or other public or private property, or at any person in any street, avenue, alley or public place.

27-2-24 DESTRUCTION OF PUBLIC PROPERTY. No person in the Village shall deface, destroy, or in any way, injure any public property, or any other apparatus of the Village.

27-2-25 FORTUNE TELLING. No person in the Village shall pursue the calling of a fortune teller or practice fortune telling, soothsaying, or the like and receive payment in any manner therefor.

27-2-26 ABANDONED REFRIGERATORS OR ICEBOXES. It shall be unlawful for any person to abandon or discard in any place accessible to children any refrigerator, icebox or ice chest, of a capacity of **one and one-half (1 1/2) cubic feet** or more, which has an attached lid or door which may be opened or fastened shut by means of an attached latch. The owner, lessee, or manager of such place, who knowingly permits such abandoned or discarded refrigerator, icebox or ice chest to remain there in such condition, shall be guilty of violating this Code. **(430 ILCS 150/0.01 and 150/1)**

27-2-27 HALLOWEEN CURFEW. It shall be illegal for any person to engage in Halloween practice, commonly called **"Trick or Treat",** by calling at the homes or dwelling places within the Village, either masked or unmasked, except on a day designated by the Village Board and no later than **9:00 P.M. (65 ILCS 5/11-1-5)**

27-2-28 THEFT OF RECYCLABLES UNLAWFUL. It shall be unlawful for any person to collect, obtain, possess or pickup any recyclable item(s) from any receptacle or collection point where service is provided by an authorized waste hauler licensed by the municipality or from any specified recycling center within the Village limits unless said person is acting as an agent for the Village or acting as an agent for a waste hauler licensed by the Village.

27-2-29 THROWING OBJECTS FROM MOTOR VEHICLES. Pursuant to the police powers in **65 ILCS 5/11-1-1** it shall be unlawful for any person occupying or driving a motor vehicle, whether moving or not, to shoot, throw, cast, launch or drop any object, liquid or substance at any person, animal or structure, wherein the possibility of harm, injury or damage may occur as a result of these actions.

The driver and/or all passengers shall be, upon conviction, fined in accordance with the provisions of the Village Code and shall be liable for all damage, injury or harm caused by the activity. **(See Section 27-3-2)**

27-2-30 DEPOSITING OF SNOW AND ICE RESTRICTED. No person shall deposit or cause to be deposited any snow and ice on or against a fire hydrant or on any sidewalk, roadway, or loading or unloading areas of a public transportation system, except that snow and ice may be windrowed on curbs incident to the cleaning of sidewalks in business districts. **(65 ILCS 5/11-80-13)**

27-2-31 PROTECTIVE COVERING OR FENCING. Any person, corporation or partnership which either owns, or maintains, or uses, or abandons any open well, cesspool, cistern, quarry, recharging basin, catch basin, sump, excavation for the erection of any building structure or excavation created by the razing or removal of any building structure without covering or surrounding such installation with protective fencing is guilty of a violation of **Section 1-1-20** of this Code. The provisions of this Act shall not apply during the course of repair, construction, removal or filling of any of the structures or conditions herein described while any worker is present at the location thereof either performing services thereon or as a watchman to guard such location. **(430 ILCS 165/1)**

27-2-32 CURFEW HOURS FOR MINORS.

(A) **Definitions.** Whenever used in this Section.

(1) **"Curfew hours"** means:

(a) 11:00 P.M. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 A.M. of the following day; and

(b) 12:01 A.M. until 6:00 A.M. on Saturday; and

(c) 12:01 A.M. until 6:00 A.M. on Sunday.

(2) **"Emergency"** means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(3) **"Establishment"** means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to, any place of amusement or entertainment.

(4) **"Guardian"** means:

(a) A person who, under court order, is the guardian of the person of a minor; or

(b) A public or private agency with whom a minor has been placed by a court.

(5) **"Minor"** means any person under **eighteen (18) years** of age.

(6) **"Operator"** means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

(7) **"Parent"** means a person who is:

(a) A natural parent, adoptive parent, or stepparent of another person; or

(b) At least **twenty-one (21) years** of age and authorized by a parent or guardian to have the care and custody of a minor.

(8) **"Public Place"** means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

(9) **"Remain"** means to:

(a) linger or stay; or

(b) fail to leave premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.

(10) **"Serious bodily injury"** means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

(B) **Offenses.**

(1) A minor commits an offense if he remains in any public place or on the premises of any establishment within the Village during curfew hours.

(2) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the Village during curfew hours.

(3) The owner, operator or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

(C) **Defenses.**

(1) It is a defense to prosecution under subsection (B) that the minor was:

(a) Accompanied by the minor's parent or guardian;

(b) On an errand at the direction of the minor's parent or guardian, without any detour or stop;

(c) In a motor vehicle involved in interstate travel;

(d) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

(e) Involved in an emergency;

(f) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;

(g) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the Village, a civil organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the Village, a civic organization or another similar entity that takes responsibility for the minor;

(h) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or

(i) Married or had been married or is an emancipated minor under the Emancipation or Mature Minors Act, as amended.

(2) It is a defense to prosecution under subsection (B)(3) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(D) **Enforcement.** Before taking any enforcement action under this Section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this Section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in subsection (C) is present. **(65 ILCS 5/11-1-5)**

27-2-33 SANCTITY OF FUNERAL AND MEMORIAL SERVICES. It shall be unlawful for a person to violate any of the following provisions of this Section:

(A) Engaging in any loud protest of signing, chanting, whistling or yelling with, or without, noise amplification including but not limited to bullhorns, auto horns and microphones within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or

(B) Displaying any visual images that convey fighting words, actual or veiled threats against any other person within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or

(C) Blocking access to any facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or

(D) Ending in a directed protest march or picket at any public location within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates. **(720 ILCS 5/26-6)**

27-2-34 USE OF UPHOLSTERED FURNITURE IN OUTDOOR LOCATIONS PROHIBITED.

(A) Upholstered or other furniture designed or manufactured primarily for indoor use shall not be used or allowed to remain:

(1) on unenclosed exterior porches or balconies;

(2) in an open area on private property exposed to outdoor weather conditions.

(B) It shall not be a defense to said prohibition that such furniture is covered by plastic cover, or other tarpaulin, canvas or sheeting.

(C) This prohibition shall not apply to the following:

(1) wood, metal, or plastic furniture;

(2) outdoor patio furniture with weather-resistant cushions;

(3) upholstered furniture designated for prepaid special pickup or delivery by public or private hauler, provided that such remain outdoors for a period not to exceed **seventy-two (72) hours**.

27-2-35 NOISE.

(A) **Prohibited; Enumeration.** The creating of any unreasonably loud, disturbing and unnecessary noise within the Village limits is prohibited. Noise of such character, intensity or duration as to be detrimental to the life or health of any individual or in disturbance of the public peace and welfare is prohibited. The following, among others, are declared to be loud, disturbing and unnecessary noises and noises in violation of this Section, but this enumeration shall not be deemed to be exclusive:

(1) **Blowing Horns.** The sounding of any horn or signal device on any automobile, motorcycle or bus, while not in motion, except as a danger signal if another vehicle is approaching apparently out of control or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(2) **Radios, Etc.** The playing of any radio, music player such as a boom box, tape cassette, disc player*, smart phones, etc. played through exterior speakers, portable speakers (Bluetooth)* or television, audio system or musical instrument or live band in such a manner or with such volume, between the hours of **10:00 P.M.** and **7:00 A.M.** Sunday through Thursday and **11:00 P.M.** and **7:00 A.M.** Friday and Saturday in such a manner as to be plainly audible beyond the boundaries of the premises upon which such equipment is operated or used, shall be prima facie evidence of a violation of this Section.

(B) Penalties. Any person convicted of a violation of any section of this Code shall be fined not less than Seventy-Five Dollars ($75.00) nor more than Seven Hundred Fifty Dollars ($750.00) for anyone (1) offense. (Ord.No.953;12/01/20)

27-2-36 FALSE REPORT OF THEFT AND OTHER LOSSES. It is unlawful for a person to knowingly make a false report of a theft, destruction, damage or conversion of any property to a law enforcement agency or other governmental agency with the intent to defraud an insurer. **(720 ILCS 5/26-1.1)**

27-2-37 HARASSING AND OBSCENE COMMUNICATIONS.

(A) **Definitions.** As used in this Section:

(1) **Electronic communication** means any transfer of signs, signals, writings, images, sounds, data or intelligence of any nature transmitted

in whole or in part by a wire, radio, electromagnetic, photoelectric or photo-optical system. "Electronic communication" includes transmissions through an electronic device including, but not limited to, a telephone, cellular phone, computer, or pager, which communication includes, but is not limited to, e-mail, instant message, text message, or voice mail.

(2) **Family or household member** includes spouses, former spouses, parents, children, stepchildren and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, and persons with disabilities and their personal assistants. For purposes of this Article, neither a casual acquaintanceship nor ordinary fraternization between **two (2)** individuals in business or social contexts shall be deemed to constitute a dating relationship.

(3) **Harass or harassing** means knowing conduct which is not necessary to accomplish a purpose that is reasonable under the circumstances, that would cause a reasonable person emotional distress and does cause emotional distress to another.

(B) **Transmission of Obscene Messages.**

(1) A person commits transmission of obscene messages when he or she sends messages or uses language or terms which are obscene, lewd or immoral with the intent to offend by means of or while using a telephone or telegraph facilities, equipment or sires of any person, firm or corporation engaged in the transmission of news or messages between states or within the State of Illinois.

(2) The trier of fact may infer intent to offend from the use of language or terms which are obscene, lewd or immoral.

(C) **Harassment by Telephone.**

(1) A person commits harassment by telephone when he or she uses telephone communication for any of the following purposes:

(a) making any comment, request, suggestion or proposition which is obscene, lewd, lascivious, filthy or indecent with an intent to offend;

(b) making a telephone call, whether or not conversation ensues, with intent to abuse, threaten or harass any person at the called number;

(c) making or causing the telephone of another repeatedly to ring, with intent to harass any person at the called number;

(d) making repeated telephone calls, during which conversation ensues, solely to harass any person at the called number;

(e) making a telephone call or knowingly inducing a person to make a telephone call for the purpose of harassing another person who is under **thirteen (13) years of age**, regardless of whether the person under **thirteen (13) years of age** consents to the harassment, if the defendant is at least **sixteen (16) years of age** at the time of the commission of the offense; or

(f) knowingly permitting any telephone under one's control to be used for any of the purposes mentioned herein.

(2) Every telephone directory published for distribution to members of the general public shall contain a notice setting forth a summary of the provisions of this Section. The notice shall be printed in type which is no smaller than any other type on the same page and shall be preceded by the word "WARNING". All telephone companies in this State shall

cooperate with law enforcement agencies in using their facilities and personnel to detect and prevent violations of this Article.

(720 ILCS 5/26.5)

27-2-38 MINING OF MINERALS ILLEGAL. It shall be illegal for any person to mine for minerals, including but not limited to the drilling or construction of oil or gas wells, in the Village limits. **(See Section 25-1-1 for regulations pertaining to existing wells.)**

27-2-39 TOBACCO AND ELECTRONIC SMOKING DEVICES.

(A) **Definitions.** For the purpose of this Section, the following words and phrases shall have the meanings respectively ascribed to them:

(1) **Tobacco Products.** Any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco, nicotine gels and dissolvable nicotine products or any electronic smoking device.

(2) **Electronic Smoking Device.** An electronic and/or battery-operated device, the use of which may resemble smoking, which can be used to deliver an inhaled dose of nicotine or other regulated substances. "Electronic smoking device" includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, hookah pen, vape pens or any other product name or descriptor. An electronic smoking device excludes any product approved by the United States Food and Drug Administration as a nontobacco product used for medicinal purposes and is being marketed and sold solely for that approved purpose.

(B) **Purchases by Minors Prohibited.** It shall be unlawful for any person under the age of **twenty-one (21) years** to purchase tobacco products or electronic smoking devices, or to misrepresent their identity or age, or to use any false or altered identification for the purpose of purchasing tobacco products and electronic smoking devices.

(C) **Possession by Minors Prohibited.** It shall be unlawful for any person under the age of **twenty-one (21) years** to possess any tobacco products or electronic smoking devices, provided that the possession by a person under the age of **twenty-one (21) years** under the direct supervision of the parent or guardian of such person in the privacy of the parent's or guardian's home shall not be prohibited.

(D) **Use in Village Park.** It shall be unlawful for any person to smoke tobacco products and electronic smoking devices in the following areas of the Village Park:

(1) Within **twenty-five (25) feet** of any permanent seating facility, any pavilion and the restrooms in the Village Park.

(65 ILCS 5/11-1-1)

ARTICLE III - OFFENSES AGAINST PROPERTY

27-3-1 PETTY THEFT. A person commits theft when he or she knowingly:

(A) obtains or exerts unauthorized control over property of the owner; or

(B) obtains by deception, control over property of the owner; or

(C) obtains by threat, control over property of the owner; or

(D) obtains control over stolen property knowing the property to have been stolen by another or under such circumstances as would reasonably induce him to believe that the property was stolen; or

(E) obtains or exerts control over property in the custody of any law enforcement agency which any law enforcement officer or any individual acting in behalf of a law enforcement agency explicitly represents to the person as being stolen or represents to the person such circumstances as would reasonably induce the person to believe that the property was stolen; and

(1) intends to deprive the owner permanently of the use or benefit of the property; or

(2) knowingly uses, conceals or abandons the property in such a manner as to deprive the owner permanently of such use or benefit; or

(3) uses, conceals or abandons the property, knowing such use, concealment or abandonment probably will deprive the owner permanently of such use or benefit.

(F) It shall be unlawful to commit a theft.

(720 ILCS 5/16-1)

27-3-2 CRIMINAL DAMAGE TO PROPERTY. A person commits criminal damage to property when he or she:

(A) knowingly damages any property of another;

(B) recklessly by means of fire or explosive damages property of another;

(C) knowingly start a fire on the land of another;

(D) knowingly injure a domestic animal of another without his or her consent;

(E) knowingly deposits on the land or in the building of another any stink bomb or any offensive smelling compound and thereby intends to interfere with the use by another of the land or building;

(F) knowingly damages any property, other than as described in paragraph (2) of subsection (a) of Section 20-1, with intent to defraud an insurer;

(G) knowingly shoots a firearm at any portion of a railroad train;

(H) knowingly, without proper authorization, cuts, injures, damages, defaces, destroys, or tampers with any fire hydrant or any public or private fire-fighting equipment or any apparatus appertaining to firefighting equipment; or

(I) intentionally, without proper authorization, opens any fire hydrant.

When the charge of criminal damage to property exceeding a specified value is brought, the extent of the damage is an element of the offense to be resolved by the trier of fact as either exceeding nor not exceeding the specified value.

27-3-3 INJURY TO UTILITY WIRES AND POLES. It shall be unlawful to willfully, maliciously, or negligently break, deface, injure or destroy any telegraph or telephone pole, post or wire, or any electric lightpost, pole, or electric conductor, wire or lamp or any other thing connected with the same or belonging thereto, or any water main, gas main, pipe or hydrant or lamp or lamppost, or anything belonging to or connected therewith or with any of them.

27-3-4 DAMAGE OR DESTRUCTION OF STREET SIGNS PROHIBITED. It shall be unlawful for any person in any manner or form, to deface, disfigure, damage or destroy any of the street signs or parts thereof located in the Village.

27-3-5 TAMPERING WITH PUBLIC NOTICE. It shall be unlawful for a person to knowingly and without lawful authority alter, destroy, deface, remove or conceal any public notice, posted according to law, during the time for which the notice was to remain posted. **(720 ILCS 5/32-9)**

27-3-6 CRIMINAL DAMAGE TO FIRE-FIGHTING APPARATUS, HYDRANTS OR EQUIPMENT. No person shall willfully and maliciously cut, injure, damage, tamper with or destroy or deface any fire hydrant or any fire hose or any fire engine, or other public or private fire-fighting equipment or any apparatus appertaining to such equipment, or to intentionally open any fire hydrant without proper authorization. **(720 ILCS 5/21-1.1)**

27-3-7 SKATEBOARDS, ETC. PROHIBITED. The practice of riding or propelling oneself upon a device commonly known or referred to as a skateboard, roller skates or blade skates, is hereby prohibited upon any publicly-owned property within the Village limits, except the designated areas in the Village Park.

ARTICLE IV - PUBLIC HEALTH, SAFETY AND DECENCY

27-4-1 DISORDERLY CONDUCT; ELEMENTS OF THE OFFENSE. A person commits disorderly conduct when he or she knowingly:

(A) does any act in such an unreasonable manner as to alarm or disturb another and to provoke a breach of the peace;

(B) transmits or causes to be transmitted in any manner to the Fire Department of any city, town, village or fire protection district, a false alarm of fire, knowing at the time of the transmission that there is no reasonable ground for believing that such fire exists;

(C) transmits or causes to be transmitted in any manner to another a false alarm to the effect that a bomb or other explosive of any nature or a container holding poison gas, a deadly biological or chemical contaminant, or radioactive substance is concealed in a place where its explosion or release would endanger human life, knowing at the time of the transmission that there is no reasonable ground for believing that the bomb, explosive or a container holding poison gas, a deadly biological or chemical contaminant, or radioactive substance is concealed in the place;

(D) transmits or causes to be transmitted a threat of destruction of a school building or school property, or a threat of violence, death, or bodily harm directed against persons at a school, school function, or school event, whether or not school is in session;

(E) transmits or causes to be transmitted in any manner to any peace officer, public officer or public employee a report to the effect that an offense will be committed, is being committed, or has been committed, knowing at the time of the transmission that there is no reasonable ground for believing that the offense will be committed, is being committed, or has been committed;

(F) transmits or causes to be transmitted a false report to any public safety agency without the reasonable grounds necessary to believe that transmitting the report is necessary for the safety and welfare of the public; or

(G) calls the number "911" for the purpose of making or transmitting a false alarm or complaint and reporting information when, at the time the call or transmission is made, the person knows there is no reasonable ground for making the call or transmission and further knows that the call or transmission could result in the emergency response of any public safety agency;

(H) transmits or causes to be transmitted a false report to the Department of Children and Family Services under Section 4 of the Abused and Neglected Child Reporting Act;

(I) transmits or causes to be transmitted a false report to the Department of Public Health under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act of 2013, and ID/DD Community Care Act, or the MC/DD Act;

(J) transmits or causes to be transmitted in any manner to the police department or fire department of any municipality or fire protection district, or any privately owned and operated ambulance service, a false request for an ambulance, emergency medical technician-ambulance or emergency medical technician-paramedic knowing at the time there is no reasonable ground for believing that the assistance is required;

(K) transmits or causes to be transmitted a false report under Article II of Public Act 83-1432;

(L) enters upon the property of another and for a lewd or unlawful purpose deliberately looks into a dwelling on the property through any window or other opening in it; or

(M) while acting as a collection agency as defined in the Collection Agency Act or as an employee of such collection agency, and while attempting to collect an alleged debt, makes a telephone call to the alleged debtor which is designed to harass, annoy or intimidate the alleged debtor. **(720 ILCS 5/26-1)**

27-4-2 RESISTING OR OBSTRUCTING A PEACE OFFICER. A person commits an offense when that person knowingly resists or obstructs the performance of any authorized act of one known to the person to be a peace officer within that peace officer's official capacity. **(720 ILCS 5/31-1)**

27-4-3 REFUSING TO AID AN OFFICER. A person who refuses or knowingly fails, upon command, to reasonably aid a person known by him to be a peace officer in the following commits a misdemeanor:

(A) apprehending a person whom the officer is authorized to apprehend; or

(B) preventing the commission by another of any offense.

(720 ILCS 5/31-8)

27-4-4 ASSEMBLING AT PUBLIC PLACES AND BUSINESSES.

(A) **Drive-in Business.** A drive-in business within the meaning of this Code shall be deemed to be any business where meals, sandwiches, cold drinks, beverages, ice cream, food, drink, or consumer services are served directly to or are permitted to be consumed by patrons in or upon automobiles, motorcycles, or other vehicles parked on the premises.

(B) **Declared Public Places.** For the purpose of preserving public peace, health and safety, the entire premises occupied by a drive-in business, together with means of ingress or egress, are hereby declared to be a public place;

(1) No person on the premises of a drive-in business shall race the motor of any motor vehicle, needlessly bring to a sudden start or stop, any motor vehicle, blow any horn of any motor vehicle, or cause to be made any loud or unseemly noise, nuisance or disturbance whereby the quiet and good order of the premises or the neighborhood are disturbed.

(2) The following acts or conduct of any persons entering a drive-in business or premises are hereby declared to be unlawful, and any person found guilty of any such acts shall be guilty of a violation of this Article:

(a) Entering the premises of any drive-in business with any motor vehicle of any description and parking such vehicle and leaving the premises (thereby leaving such vehicle parked and unoccupied), without express consent of the owner or operator of such business, in which event, such motor vehicle shall be subject to a parking citation or may be impounded subject to the usual impounding charges.

(b) Entering the premises in or upon a motor vehicle and using said premises for cruising, racing as a shortcut to another street or to annoy or endanger any person or persons or other vehicle or vehicles lawfully on said premises.

(c) For three (3) or more persons to congregate on the premises and linger or loiter at any location on the premises of any drive-in business, other than in the building or in a legally parked motor vehicle.

(d) For any person who, while on the premises of any drive-in business, in the presence or hearing of another, to curse or abuse such person or use any violently abusive language under circumstances reasonably calculated to provoke a breach of the peace.

(C) **Posting Sign.** It shall be the responsibility of the business operator to post on the premises in a conspicuous location, one (1) or more signs bearing the following legend in letters at least two inches (2") or more in height and readable:

"CRUISING IN OR CONGREGATING AND LOITERING OUTSIDE A MOTOR VEHICLE IS UNLAWFUL. NO UNOCCUPIED MOTOR VEHICLES MAY BE LEFT ON THE PREMISES WITHOUT THE CONSENT OF THE OWNER."
(65 ILCS 5/11-5-2)

27-4-5 UNLAWFUL USE OF WEAPONS.

(A) A person commits the offense of unlawful use of weapons when he knowingly:

(1) Sells, manufactures, purchases, possesses, or carries any bludgeon, black-jack, sling-shot, sand-club, sand-bag, metal knuckles or any knife, commonly referred to as a switchblade knife, which has a blade that opens automatically, by hand pressure applied to a button, spring, or other device in the handle of the knife; or

(2) Carries or possesses with intent to use the same unlawfully against another, a dagger, billy, dangerous knife, dirk, razor, stiletto, broken bottle, or other piece of glass, or any other dangerous or deadly weapon or instrument of like character; or

(3) Carries on or about his person or in any vehicle, a tear gas gun projector or bomb or any object containing noxious liquid gas or substance; or

(4) Carries, concealed in any vehicle or concealed on or about his person, except when on his land or in his own abode or fixed place of business, any pistol, revolver or other firearm; or

(5) Sets a spring gun; or

(6) Possesses any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm; or

(7) Carries or possesses any firearm or other deadly weapon in any place which is licensed to sell intoxicating beverages, or at any public gathering held pursuant to a license issued by any governmental body or any public gathering at which an admission is charged, excluding a place where exhibition of unloaded firearms is conducted; or

(8) Carries or possesses in a vehicle or on or about his person within the corporate limits of a city, village or incorporated town, except when on his land or in his own abode or fixed place of business, any loaded pistol, revolver or other firearm.

(B) The presence in an automobile other than a public omnibus of any weapon, instrument or substance referred to in this Chapter is prima facie evidence that it is in the possession of, and is being carried by all persons occupying such automobile at the time such weapon, instrument or substance is found, except under the following circumstances:

(1) If such weapon, instrument or instrumentality is found upon the person of one of the occupants therein; or

(2) If such weapon, instrument, or substance is found in an automobile operated for hire by a duly licensed driver in the due, lawful and proper pursuit of his trade, then such presumption shall not apply to the driver.

27-4-6 UNLAWFUL SALE OF FIREARMS. A person commits the offense of unlawful sale of firearms when he knowingly:

(A) Sells or gives any firearm of a size which may be concealed upon the person, to any person under the age of **eighteen (18) years**; or

(B) Sells or gives any firearm to a person under **twenty-one (21) years** of age who has been convicted of a misdemeanor, other than a traffic offense or adjudged delinquent; or

(C) Sells or gives any firearm to any narcotic addict; or

(D) Sells or gives any firearm to any person who has been convicted of a felony under the laws of this or any other jurisdiction within **five (5) years** from release from the penitentiary or within **five (5) years** of conviction if penitentiary sentence has not been imposed; or

(E) Sells or gives any firearm to any person who has been a patient in a mental hospital within the past **five (5) years**; or

(F) Sells or gives any firearms to any person who is mentally retarded; or

(G) Delivers any firearm of a size which may be concealed upon the person, incidental to a sale, without withholding delivery of such firearm for at least **seventy-two (72) hours** after application for its purchase has been made, or delivers any rifle, shotgun, or other long gun,

incidental to a sale, without withholding delivery of such rifle, shotgun or other long gun for at least **twenty-four (24) hours** after application for its purchase has been made. However, this paragraph shall not apply to:

(1) The sale of a firearm to a law enforcement officer or a person who desires to purchase a firearm for use in promoting the public interest incident to his employment as a band guard, armed truck guard, or other similar employment; or

(2) A mail order sale of a firearm to a non-resident of Illinois under which the firearm is mailed to a point outside the boundaries of Illinois; or

(3) The sale of a firearm to a non-resident of Illinois while at a firearm showing or display recognized by the Illinois Department of Law Enforcement; or

(4) The sale of a firearm to a dealer licensed under the Federal Firearms Act of the United States.

27-4-7 EXCAVATIONS. It shall be unlawful for any person who owns, maintains, uses, abandons, any open well, cesspool, cistern, quarry, recharging basin, catch basin, sump, excavation for the erection of any building or structure or excavation created by the razing or removal of any building structure without covering or surrounding such installation with protective fencing. This Section shall not apply during the course of repair, construction, removal or filling of any of the structures or conditions herein described while any worker is present at the location thereof either performing services thereon or as a watchman to guard such location. **(See 720 ILCS 605/1)**

ARTICLE V - ANTI-LITTER

27-5-1 DEFINITIONS. For the purpose of this Article, the following terms, phrases, words, and their derivations shall have the meanings given herein:

"AIRCRAFT" is any contrivance now known or hereafter invented, used, or designed for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air powered craft and balloons.

"AUTHORIZED PRIVATE RECEPTACLE" is a container of water-tight construction with a tight-fitting lid or cover capable of preventing the escape of contents within. Such receptacles shall have handles or other means for safe and convenient handling and be of such size or sufficient capacity to hold all litter generated between collection periods and shall be in compliance with the regulations promulgated.

"CONSTRUCTION SITES" means any private or public property upon which repairs to existing buildings, construction of new buildings or demolition of existing structures is taking place.

"HANDBILL" is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed matter of literature which is not delivered by the United States Mail Service, including, but not limited to those which:

(A) advertise for sale any merchandise, product, commodity or thing; or

(B) direct attention to any business or mercantile or commercial establishment, or other activity for the purpose of either directly or indirectly promoting the interest thereof by sales; or

(C) direct attention to or advertise any meeting, theatrical performance, exhibition, or event of any kind for which an admission fee is charged for the purpose of private gain or profit.

"LITTER" is garbage, refuse and rubbish and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

"LOADING AND UNLOADING DOCK" means any dock space or area used by any moving vehicle for the purpose of receiving, shipping and transporting goods, wares, commodities and persons located on or adjacent to any stream, river or land.

"PRIVATE PREMISES" means all property including, but not limited to, vacant land or any land, building or other structure designed or used for residential, commercial, business, industrial, institutional or religious purposes, together with any yard, grounds, walk, driveway, fence, porch, steps, vestibule, mailbox, and other structure(s) appurtenant thereto.

"PUBLIC PLACE" means any and all streets, sidewalks, boulevards, alleys or other public ways, lakes, rivers, watercourses, or fountains and any and all public parks, squares, spaces, grounds, and buildings.

"PUBLIC RECEPTACLES" means any receptacles provided by or authorized by the Village.

"VEHICLE" is every device in, upon or by which any person or property is or may be transported or drawn upon land or water, including devices used exclusively upon stationary rails or tracks.

27-5-2 LITTERING PROHIBITED. No person shall deposit any litter within the Village except in public receptacles, in authorized private receptacles for collection, or in any duly licensed disposal facility.

27-5-3 PREVENTION OF SCATTERING. Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent litter from being carried or deposited by the elements upon any public place or private premises.

27-5-4 RECEPTACLES - UPSETTING OR TAMPERING. No person shall upset or tamper with a public or private receptacle designed or used for the deposit of litter or cause or permit its contents to be deposited or strewn in or upon any public place or private premises.

27-5-5 SIDEWALKS AND ALLEYS FREE FROM LITTER. Persons owning, occupying or in control of any public place or private premises shall keep the sidewalks and alleys adjacent thereto free of litter.

27-5-6 OWNER TO MAINTAIN PRIVATE PREMISES.

(A) The owner or person in control of any private premises shall, at all times, maintain the premises free of litter.

(B) The owner or person in control of private premises shall, if public receptacles are unavailable, maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or private premises.

27-5-7 LITTERING FROM VEHICLES.

(A) No person, while the operator of or passenger in a vehicle, shall deposit litter upon any public place or private premises.

(B) No person shall drive or move any loaded or partly loaded truck or other vehicle within the Village unless such vehicle is so constructed or so loaded as to prevent any part of its load, contents or litter from being blown or deposited upon any public place or private premises. Nor shall any person drive or move any vehicle or truck within the Village, the wheels or tires of which carry onto or deposit in any public place or private premises, mud, dirt, sticky substances, litter or foreign matter of any kind.

27-5-8 LITTERING FROM AIRCRAFT. No person in an aircraft shall throw out, drop or deposit any litter within the Village.

27-5-9 LITTER IN PARKS. No person shall deposit litter in any park within the Village except in receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any other public place or private premises. Where receptacles are not provided, all such litter shall be removed from the park by the person responsible for its presence and properly disposed of elsewhere in a lawful manner.

27-5-10 HANDBILLS.

(A) **Public Places.** No person shall deposit or sell any handbill in or upon any public place, provided, however, that it shall not be unlawful on any public place for any person to hand out or distribute without charge to the receiver, any handbill to any person willing to accept it.

(B) **Private Premises.** No person shall deposit or unlawfully distribute any handbill in or upon private premises or vehicles, except by handing or transmitting any such handbill directly to the occupant of such private premises. Provided, however, that in case of private premises or vehicles which are not posted against the receiving of handbills or similar material, such person, unless requested by anyone upon such premises not to do so, may securely place any such handbill in such a manner as to

prevent such handbill from being deposited by the elements upon any public place or other private premises, except mailboxes, may not be so used when prohibited by federal postal law or regulations.

(C) **Exemptions for Newspapers and Political Literature.** The provisions of this Section shall not apply to the distribution upon private premises only of newspapers or political literature; except that newspapers and political literature shall be placed in such a manner as to prevent their being carried or deposited by the elements upon any public place or other private premises.

(D) **Placing Handbills on Vehicles.** No person shall deposit any handbill in or upon any vehicle unless the occupant of the vehicle is willing to accept it.

(E) **Cleanup.** It shall be the responsibility of any person distributing handbills to maintain the area which they are utilizing free of any litter caused by or related to said handbill distribution.

27-5-11 POSTING NOTICES PROHIBITED. No person shall post or affix any notice, poster, or other paper or device, calculated to attract the attention of the public upon any public place, except as may be authorized or required by law. No person, except the owner or tenant shall post any such notice on private property without the permission of the owner or tenant.

27-5-12 CONSTRUCTION SITES.

(A) Each contractor shall be responsible for the job site so that litter will be prevented from being carried or deposited by the elements upon any public place or other private premises.

(B) Litter or other debris, including dirt and mud, deposited as the result of normal construction process upon any public place or private premises, shall be removed by the contractor.

27-5-13 LOADING AND UNLOADING DOCKS. The person owning, operating, or in control of a loading or unloading dock shall maintain private receptacles for collection of litter, and shall, at all times, maintain the dock area free of litter in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or other private premises.

27-5-14 PARKING LOTS.

(A) **Litter Receptacles Required.** Any public place or private premises containing any provision for parking vehicles shall be equipped with litter receptacles in compliance with this Section. Such premises shall include, but not be limited to such places as shopping centers, outdoor theaters, drive-in restaurants, gasoline service stations, apartment developments, parking lots, and any other place where provision is made for vehicles to stop or park in a designated area for any purpose.

(B) **Number of Receptacles.** All premises having parking lots shall provide in an easily accessible location a minimum of **one (1) refuse container** for every **fifty (50) parking spaces**.

(C) **Specifications.** Litter receptacles shall have tight-fitting lids or tops and shall be weighted or attached to the ground or other fixed structures as necessary to prevent spillage. A minimum container size of **twenty (20) gallons** or **75.7 liters** shall be used.

(D) **Cleanliness.** Premises used for the purpose designated herein shall be kept in a litter-free condition and all litter shall be removed periodically from the receptacles.

(E) **Obligation to Use Receptacles.** It shall be the duty and obligation of all persons using parking areas to use such litter receptacles as hereinabove provided for the purposes intended and it shall be unlawful for any person or persons to deposit any litter upon any such parking lot.

(65 ILCS 5/11-1-1 and 415 ILCS 105/1 et seq.)

ARTICLE VI - TRESPASS

27-6-1 TRESPASSES PROHIBITED. It shall be unlawful for any person, firm, or corporation to commit a trespass within this municipality upon either public or private property.

27-6-2 SPECIFICALLY ENUMERATED TRESPASSES - SUPPRESSION. Without constituting any limitation upon the provisions of **Section 27-6-1** hereof, any of the following acts by any person, firm, or corporation shall be deemed included among those that constitute trespasses in violation of the provisions of **Section 27-6-1,** and appropriate action may be taken hereunder at any time, or from time to time, to prevent or suppress any violation or violations of this Article; the aforesaid enumerated acts so included, being as follows, to-wit:

(A) An entry upon the premises of another, or any part thereof, including any public property, in violation of a notice posted or exhibited at the main entrance to the premises, or at any point of approach or entry or in violation of any notice, warning or protest given orally or in writing, by any owner or occupant thereof; or

(B) the pursuit of a course of conduct or action incidental to the making of an entry upon the land of another in violation of a notice posted or exhibited at the main entrance to the premises or at any point of approach or entry, or in violation of any notice, warning or protest given orally or in writing by any owner or occupant thereof; or

(C) a failure or refusal to depart from the premises of another in case of being requested, either orally or in writing to leave by any owner or occupant thereof; or

(D) an entry into or upon any vehicle, aircraft or watercraft made without the consent of the person having the right to leave any such vehicle, aircraft or watercraft after being requested to leave by the person having such right.

(65 ILCS 5/11-5-2)

ARTICLE VII - PARENTAL RESPONSIBILITY REGULATIONS

27-7-1 DEFINITIONS. For the purpose of this Article, the following definitions shall apply:

"ACTS OF VANDALISM AND SIMILAR OFFENSES" shall include any of the following acts:

(A) Maliciously, recklessly, negligently, or knowingly damaging or destroying or defacing any property within the Village, whether such property is owned by the State, County or governmental body or owned by any private person, firm, partnership, or association; or

(B) maliciously, recklessly, or knowingly, by means of fire or explosive device, damaging, debasing, or destroying any property of another person; or

(C) maliciously, recklessly, negligently or knowingly starting a fire on land of another person without his consent; or

(D) maliciously, recklessly or knowingly depositing on land or in the building of another person, without his consent, any stink bomb or any offensive smelling compound and thereby interfering with the use and occupancy by another of the land or building; or

(E) maliciously, recklessly, or knowingly, and without authority, entering into or obtaining control over any building, house trailer, motor vehicle, aircraft or watercraft or any part thereof of another person without his consent.

"LEGAL GUARDIAN" shall include a foster parent, a person appointed guardian of a person or given custody of a minor by a Circuit Court of this State, but does not include a person appointed guardian only to the estate of a minor, or appointed guardian, or given custody of a minor under the **Illinois Juvenile Court Act.**

"MINOR" shall include a person who is above the age of **seven (7) years**, but not yet **eighteen (18) years** of age.

"PARENT" shall include the lawful father and mother of a minor child whether by birth or adoption.

"PROPERTY" shall include any real estate including improvements thereon and tangible personal property.

27-7-2 PARENTS AND GUARDIANS RESPONSIBLE FOR ACTS. The parent or legal guardian of an unemancipated minor residing with such parent or legal guardian shall be presumed, in the absence of evidence to the contrary to have failed to exercise proper parental responsibility and said minor shall be deemed to have committed the acts described herein with the knowledge and permission of the parent or guardian in violation of this Article upon the occurrence of the events described in (A), (B) and (C) below:

(A) An unemancipated minor residing with said parent or legal guardian shall either be adjudicated to be in violation of any ordinance, law, or statute prohibiting willful and malicious acts causing injury to a person or property, or shall have incurred non-judicial sanctions from another official agency resulting from an admission of guilt of a violation of any ordinance, law, or statute prohibiting willful and malicious acts causing injury to a person or property; and

(B) Said parent or legal guardian shall have received a written notice thereof, either by certified mail, return receipt requested, or by personal service, with a certificate of personal service returned from the Village, following said adjudication or non-judicial sanctions; and

(C) If, at any time within **one (1) year** following receipt of notice set forth in paragraph (B) above, said minor is either adjudicated to be in violation of any ordinance, law, or statute as described in (A) above, or shall have incurred non-judicial sanctions from another official agency resulting from an admission of guilt of violation of any ordinance, law, or statute as described in (A) above.

(740 ILCS 115/1 et seq. and 740 ILCS 115/4)

ARTICLE VIII – TRUANCY AND CURFEW CODE

27-8-1 DEFINITIONS. As used in this Article unless the context requires otherwise the following words and phrases shall mean:

"VILLAGE CURFEW HOURS" means the period of time specified in **Section 27-2-31** of the Chapter.

"COURT" means the 20th Judicial Circuit Court; St. Clair County, Illinois.

"CUSTODIAN" means:

(A) a person who under court order is the custodian of the person of a minor or

(B) a public or private agency with which the court has placed a minor or

(C) a person acting in the role of a parent by reason of a private agreement, arrangement, custom or habit.

"EMERGENCY" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, fire, natural disaster, automobile accident, medical emergency or any situation requiring immediate action to prevent serious bodily injury or loss of life.

"ESTABLISHMENT" means any privately owned place of business to which the public is invited, including but not limited to any place of amusement or entertainment.

"GUARDIAN" means:

(A) parent or

(B) a person who under court order is the guardian of the person of a minor; or

(C) a public or private agency with which the court has placed a minor.

"MINOR" means a person under **eighteen (18) years** of age.

"PARENT" means a person who is a natural parent, adoptive parent, or step-parent of another person.

"PUBLIC PLACE" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, public ways, sidewalks and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

"RESPONSIBLE ADULT" means a person at least **eighteen (18) years** of age, authorized by a parent, guardian or custodian to have the care and custody of a minor.

"SERIOUS BODILY INJURY" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

"TRUANCY CURFEW HOURS" means the period of the day when the school the minor would normally attend is in session, on days when the school the minor would normally attend is in session.

"TRUANT OFFICER" means any officer, appointee, employee or other agency of any school district or any federal, state or local government, entity or any agency thereof performing the duties of a truant officer under the Illinois Compulsory Attendance Statute. **(105 ILCS 5/26-1 et seq.)**

"TRUANCY REVIEW BOARD" means any agency or entity established by any school district or any federal, state or local governmental entity or any counseling or social agency or any combination thereof

recognized by the Village and/or the court as an agency which provides service to improve education performance and/or attendance.

27-8-2 CURFEW RESTRICTIONS.

(A) It is unlawful for any minor to be present in any public place or on the premises of any establishment within the Village during curfew hours.

(B) It is unlawful for any parent or guardian or custodian of a minor to knowingly permit, or by insufficient control to allow, the minor to be present in any public place or on the premises of any establishment within the Village during curfew hours.

(C) It is a defense to prosecution under **Section 27-8-2(A) and (B)** or **Section 27-8-4** (hereinafter) that the minor was:

(1) accompanied by the minor's parent, guardian, custodian or responsible adult;
(2) on an errand at the direction of the minor's parent, guardian, custodian or responsible adult; without any detour or stop;
(3) in a motor vehicle involved in interstate travel with the consent or authorization of a parent, guardian or custodian;
(4) engaged in, going to or returning home from an employment activity without any detour or stop;
(5) involved in an emergency;
(6) on the sidewalk abutting the minor's residence;
(7) engaged in, going to or returning home from official school, religious or other recreational activity supervised by adults, sponsored by a civic organization, or another similar entity that takes responsibility for the minor;
(8) exercising First Amendment rights protected by the United States Constitution; or
(9) emancipated pursuant to law.

27-8-3 TRUANCY RESTRICTIONS.

(A) It is unlawful for any minor who is subject to compulsory education or to compulsory continuation education by statute or court order to be present in any public place or on the premises of any establishment within the Village during truancy curfew hours.

(B) It is unlawful for any parent, custodian or guardian of a minor to knowingly permit, or by insufficient control to allow, the minor to be present in any public place or on the premises of any establishment within the Village during truancy curfew hours.

(C) It is a defense to prosecution under this Section or **Section 27-8-4** that the minor was:

(1) accompanied by a parent, guardian, custodian or responsible adult if engaged in an activity which would constitute an excused absence from the school from which the minor would normally attend;
(2) involved in an emergency;
(3) going to or returning from a medical appointment without any detour or stop;
(4) engaged in, going to or returning home from an employment activity pursuant to a cooperative school vocation program without any detour or stop;
(5) in possession of valid proof that the minor is a student who has permission to leave the school campus;
(6) a bona fide participant in an alternative education or home schooling program;

(7) engaged in or subject to an authorized or excused absence from the school which the minor attends, including but not limited to lunch periods.

27-8-4 ESTABLISHMENT RESTRICTIONS. It is unlawful for any owner, operator or any employee of an establishment to allow a minor to be present or to remain upon the premises of the establishment in violation of **Sections 27-8-2** or **27-8-3** above during curfew or truancy hours.

It is a defense to prosecution, under this subparagraph if the owner, operator or employee of the establishment immediately upon discovery of a minor reasonably believed to be in violation of **Sections 27-8-2** or **27-8-3** notified a law enforcement agency that a minor was present on the premises of the establishment during curfew or truancy hours and refused to leave the establishment after being advised to do so by the owner, operator or employee.

27-8-5 ENFORCEMENT RESTRICTIONS. Every member of the Police Department while on duty is hereby authorized as follows:

(A) For the first offense of any minor violating the provisions of this Code, to issue to the minor a citation, in writing, in the same form as described in paragraph (C) below. For a second offense, the law enforcement officer is authorized to temporarily detain any minor violating the provisions of this Code (regardless of whether a citation is immediately issued) until the parent, custodian or guardian of the minor shall take him or her into custody, but such officer shall immediately upon taking custody of the minor reasonably attempt to communicate with the parent, custodian or guardian of the minor unless subparagraph (E) herein is applicable. A parent, custodian or guardian must take custody of the minor within **one (1) hour** of the time of notice or be subject to a charge of **Twenty-Five Dollars ($25.00)** per hour as hereinafter provided.

(B) Whenever a Police Officer or Truant Officer witnesses or has knowledge based on reasonable grounds of a violation of this Code by any person, such person may be issued a citation. A citation or complaint may be made to a Police Officer or Truant Officer by any person.

(C) A citation issued hereunder this shall be in writing and shall:

(1) state the name of the person being cited and the person's address if known;

(2) set forth the specific section of this Code that was violated, the date of the violation and a brief description of the violation;

(3) be signed by the issuing Police Officer, Truant Officer or complaining party.

In each instance where a citation is issued to a minor for violation of this Code a minor's parent, custodian or guardian shall be provided a copy of the citation notifying the parent, custodian or guardian of the charge made against the minor.

(D) A minor cited for a citation under this Code must attend a court hearing or Truancy Review Board hearing on the citation and must be accompanied at the hearing by his or her parent, custodian, guardian or other adult person having the legal care and custody of the minor. If any such person fails to attend any court hearing with the minor, and unless the interest of justice would otherwise be served, the court may continue the hearing and shall issue a Notice or a Rule to Show Cause to the person directing that said person to appear at the continued hearing with the minor. Failure of the person to thereafter appear shall subject said person to sanctions for contempt of court as determined by the court.

(E) Every member of the Police Department while on duty is hereby authorized to temporarily detain any minor violating the provisions of **Section 27-8-3** of this Code, regardless of whether a citation is issued, and to deliver and surrender the minor to the lawful authorities of the school that the minor would normally attend.

27-8-6 PENALTY.

(A) Any person who violates any provision of this Article shall, upon conviction thereof, be fined as provided in **Section 1-1-20** of this Code. **(See also Section 1-1-20)**

(B) In lieu of or in addition to a fine, a minor may be ordered to attend counseling or to perform **ten (10) hours** of court approved community service during times other than the minor's hours of school attendance and/or the minor's parent, custodian, guardian or other adult having legal care or custody of the minor may be ordered to attend a parenting class or series of parenting classes or other counseling approved by the court or recommended by the Truancy Review Board or to attend any program directly related to improving school attendance and/or performance.

(C) In addition to any penalty imposed pursuant to (A) or (B) above, the minor's parents, custodian, guardian or other adult having legal care or custody of the minor may be ordered to pay all amounts imposed as civil liability under **Section 27-8-7** hereinafter.

27-8-7 CIVIL LIABILITY. If a minor is detained for a period of time in excess of **one (1) hour** which requires the supervision of the minor by personnel of the Police Department, the parent, custodian, guardian or other adult having legal care or custody of the minor shall be jointly and severally liable for the costs therefore. The parent, custodian, guardian or other adult having legal care or custody of the minor who has committed any offense of this Code shall be assessed and billed for the costs; the costs shall be recoverable in any action enforcing any provision of this Code or in a separate civil action. In addition, the failure to pay the costs shall constitute a violation of this Code and subject the violator to the penalties described within **Section 27-8-6** above. In the event any action is filed, the liable party shall be responsible for all court costs and any reasonable attorney's fees incurred by the Village in collecting.

(65 ILCS 5/11-5-9)

ARTICLE IX - OPEN BURNING

27-9-1 DEFINITIONS. Unless the context otherwise requires the words and phrases herein defined are used in this Article in the sense given them in the following definitions:

"AGRICULTURAL WASTE" means any refuse, except garbage and dead animals, generated on a farm or ranch by crop and livestock production practices including such items as bags, cartons, dry bedding, structural materials, and crop residues but excluding landscape waste.

"GARBAGE OR HOUSEHOLD TRASH" means refuse resulting from the handling, processing, preparation, cooking and consumption of food or food products; including plastic containers.

"LANDSCAPE WASTE" means any vegetable or plant refuse, except garbage and agricultural waste. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.

"OPEN BURNING" means the combustion of any matter in such a way that the products of the combustion are emitted to the open air without originating in or passing through equipment for which a permit could be issued under Section 9(b) of the Environmental Protection Act of the State of Illinois.

27-9-2 BURNING PROHIBITED. It shall be unlawful to cause or allow open burning of agricultural waste, construction debris, household trash or garbage.

27-9-3 RESTRICTIONS ON BURNING OF LANDSCAPE WASTE. The open burning of landscape waste shall be permitted only on the following conditions:

(A) Landscape waste shall be burned on the premises on which such waste is generated; and

(B) Landscape waste shall be burned only when atmospheric conditions shall readily dissipate contaminants; and,

(C) Landscape waste shall not be burned if said burning limits or restricts visibility or any vehicular roadway or pedestrian walkway; and

(D) Landscape waste shall only be burned during daylight hours from Monday through Saturday, that all flames and embers shall be extinguished before dusk; and

(E) Landscape waste shall never be burned unless a person or persons at least **eighteen (18) years** of age is present at the site during the entire period said burning occurs; and

(F) Landscape waste shall never be burned on any street, vehicular roadway, sidewalk, or pedestrian walkway; and

(G) The open burning of landscape waste shall immediately terminate, cease, be discontinued and all fires shall be completely extinguished upon receiving notification from the Chief of Police or Fire Chief that atmospheric conditions render said burning hazardous or dangerous.

(In Part Ord. No. 709; 11-07-06)

(415 ILCS 5/1 et seq.)

ARTICLE X – SKATEBOARDS AND TOY VEHICLES

27-10-1 DEFINITIONS. As used in this Article, the following words and phrases shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

(A) **Business District.** The Village business district.

(B) **Skateboard.** A skateboard has its ordinary meaning and includes a board of any material which has wheels mounted or attached to the underside so that it can be propelled or moved by gravitational or human power and to which there is not fixed any device or mechanism to turn or control the wheels. **(Ord. No. 705; 04-18-06)**

(1) Riding a skateboard means standing with one foot or both feet touching the skateboard, or crouching, sitting, or lying upon the skateboard while it is in motion. **(Ord. No. 705; 04-18-06)**

(C) **Toy Vehicles.** Coasters, scooters, roller skates, or any other non-motorized device with wheels or rollers upon which a person may ride. This definition does not apply, so long as they are used for the purposes for which they are intended, to wagons, wheelchairs and strollers or other devices designed and used for the purpose of transporting children, infants, physically challenged, or incapacitated persons, or to bicycles, or to carts or other devices intended and used for transporting merchandise or materials.

(D) **Roller Skates and Roller-Blades.** Roller skates and roller-blades shall mean any footwear or device which may be attached to the foot to which wheels are attached, including wheels that are in line and where such wheels may be used to aid the wearer in moving propulsion. **(Ord. No. 705; 04-18-06)**

(E) **Scooters.** A scooter shall have its ordinary meaning and includes a footboard mounted upon or between two or more small wheels and controlled by an upright steering handle. **(Ord. No. 705; 04-18-06)**

(F) **Seizure.** A person in violation of this Section may be cited for an infraction and the skateboard, roller skates, in-line skates, or scooters he or she was riding, operating or utilizing, may be seized as evidence and held until the disposition of the charge. **(Ord. No. 705; 04-18-06)**

(G) **Penalty.** The penalty for any violation or infraction of the terms and provisions of this Article shall be prescribed in **Section 1-1-20** et seq. **(Ord. No. 705; 04-18-06)**

(H) **Regulation and Probation.** It shall be unlawful for any person to operate, use, utilize, ride or propel a scooter, skateboard, roller skates, roller-blades or other similar devices upon a public street, public parking lot, public sidewalk, or other property or any area open to the public, except in or on the Village's Skateboard facility located in the Village Park, or upon private property of any person without his or her express consent. **(Ord. No. 705; 04-18-06)**

27-10-2 SKATEBOARDING ON A STREET. No person shall operate a skateboard or toy vehicle on a public street if there is a sidewalk adjacent to such street. If no sidewalk exists, skateboards may be ridden on the street providing street riding shall be done as far to the right side of the road as possible, and in the same direction as traffic.

27-10-3 CLINGING TO A VEHICLE. No person operating a skateboard, toy vehicle, or other non-motorized device shall attach himself or herself to any vehicle upon a roadway.

27-10-4 YIELD RIGHT-OF-WAY. Any person operating a skateboard or other toy vehicle must yield right of way to any pedestrian or motor vehicle.

27-10-5 SKATEBOARDING ON PRIVATE PROPERTY.

(A) No person shall operate a skateboard or toy vehicle on the premises of any business, residence, or other private property in violation of a sign complying with this Section.

(B) Areas in which skateboarding or operation of a toy vehicle is prohibited must be indicated by one or more signs which are positioned to provide notice and which contain the words "No Skateboarding" or any other word or combination of words indicating that skateboarding or operation of a toy vehicle is prohibited. Letters on the sign must be clearly legible.

27-10-6 SKATEBOARDING ON PUBLIC PROPERTY. No person shall operate a skateboard or toy vehicle in, upon, or on the grounds of any public property.

27-10-7 SKATEBOARDING IN THE BUSINESS DISTRICT. No person shall operate a skateboard or toy vehicle within the Village's business district.

27-10-8 DAMAGING VILLAGE PROPERTY. No person shall operate a skateboard or toy vehicle on or against any municipal-owned table, bench, structure, tennis court, parking stop, retaining wall, fountain, statue, or other improvement which may suffer damage by such use.

27-10-9 SKATEBOARD RAMPS. No person shall use or place a ramp, jump, or any other device used to force a skateboard or toy vehicle off the pavement on the grounds of the municipal-owned parking lot, park or sidewalk.

27-10-10 AGREEMENT FOR IMPOUNDMENT. In place of any other penalty provided by law, any person violating this Article may, for a first offense, agree to have the skateboard or play vehicle impounded by the Police Department for **one (1) week**.

ARTICLE XI – ADULT USES REGULATED

27-11-1 PURPOSE AND ADDITIONAL FINDINGS.

(A) **Purpose.** It is the purpose of this Article to regulate public nudity in order to promote the health, safety, morals, and general welfare of the citizens of the Village. The provisions of this Article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials.

(B) **Findings.** The Village Board finds:

(1) Public places allowing nudity lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled.

(2) Sexual acts, including masturbation, and oral and anal sex, occur at adult oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, live sex shows or public nudity.

(3) Allowing public nudity creates unhealthy conditions.

(4) Persons frequent certain adult theaters, adult arcades, and other adult oriented businesses for the purpose of engaging in sex within the premises of such adult oriented businesses.

(5) At least **fifty (50)** communicable diseases may be spread by activities occurring in adult oriented businesses involving public nudity, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections.

(6) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States.

(7) The Surgeon General of the United States in his report of **October 22, 1986**, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.

(8) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

(9) Sanitary conditions in some adult oriented businesses and those places allowing public nudity are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities, including nudity, and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

(10) Numerous studies and reports have determined that semen is found in the areas of adult oriented businesses allowing public nudity and where persons view "adult" oriented films.

(11) The findings noted in paragraphs (1) through (10) raise substantial governmental concerns.

(12) Public places allowing nudity have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

(13) The general welfare, health, morals and safety of the citizens of the Village will be promoted by the enactment of this Article.

27-11-2 DEFINITIONS. As used in this Article:

(A) ***"Adult Oriented Business"*** means an establishment as defined in the Village Code.

(B) ***"Entity"*** means any proprietorship, partnership, corporation, association, business trust, joint venture, joint-stock company, or other for profit or not for profit organization.

(C) ***"Nude"*** means the showing of:

(1) Human male or female genitals or pubic area with less than a fully opaque covering; or

(2) Any portion of the anal cleft or cleavage of the male or female buttocks. Attire that is insufficient to comply with this requirement includes, but is not limited to, G-strings, T-backs, thongs, and any other clothing to covering that does not completely and opaquely cover the anal cleft or cleavage of the male or female buttocks; or

(3) The portion of the human female breast directly or laterally below a point immediately above the top of the areola with less than a fully opaque covering; this definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided the areola is not exposed.

(D) ***"Person"*** means any live human being aged **ten (10) years** of age or older.

(E) ***"Place Provided or Set Apart for Nudity"*** means enclosed single sex public restrooms, enclosed single sex functional shower, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctor's offices, portions of hospitals, and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and sphere of privacy constitutionally protected therein. This term shall not be deemed to include places where a person's conduct of being nude is used for his or her profit or where being nude is used for the promotion of business or is otherwise commercially exploited.

(F) ***"Public Place"*** means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public Places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not for profit, whether open to the public at large, or whether entrance is limited by a cover charge or membership requirement), hotels, motels, restaurants, night clubs, country clubs, cabarets, and meeting facilities utilized by any religious, social, fraternal or similar organizations. Premises, or portions thereof, such as homes and hotel rooms, used solely as a private residence, whether permanent or temporary in nature, shall not be deemed to be a public place.

27-11-3 PROHIBITION. It shall be unlawful for any person to knowingly or intentionally appear nude in a public place or in any other place that is readily visible to the public, except a place provided or set apart for nudity. It shall also be unlawful for any person or entity maintaining, owning, or operating any public place to operate and to knowingly, or with reason to know, permit or allow any person to appear nude in such public place, except a place provided or set apart for nudity.

27-11-4 LIMITATION. This Article shall not be deemed to address photographs, movies, video presentations, or any other non-live performance.

27-11-5 ADULT ENTERTAINMENT FACILITY. It is prohibited within a municipality to locate an adult entertainment facility within **one thousand (1,000) feet** of the property boundaries of any school, day care center, cemetery, public park, forest preserve, public housing, and place of religious worship.

For the purposes of this Section, "adult entertainment facility" means:

(A) a striptease club or pornographic movie theatre whose business is the commercial sale, dissemination, or distribution of sexually explicit material, shows, or other exhibitions or

(B) an adult bookstore or adult video store in which **twenty-five percent (25%)** or more of its stock-in-trade, books, magazines, and films for sale, exhibition, or viewing on-premises are sexually explicit material. **(65 ILCS 5/11-5-1.5)**

ARTICLE XII - OBSCENITY

27-12-1 OBSCENITY.

(A) **Elements of the Offense.** A person commits an obscenity offense when, with the knowledge of the nature or content thereof or recklessly failing to exercise reasonable inspection which would have disclosed the nature or content thereof, he:

(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 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 to be obscene, whether or not it is obscene.

(B) **Obscene Defined.** Any material or performance is obscene if:

(1) the average person, applying contemporary adult community standards, would find that, taken as a whole, it appeals to the prurient interest; and

(2) the average person, applying contemporary adult community standards, would find that it depicts or describes, in a patently offensive way, ultimate sexual acts or sadomasochistic sexual acts, whether normal or perverted, actual or simulated, or masturbation, excretory functions or lewd exhibition of the genitals; and

(3) taken as a whole, it lacks serious literary, artistic, political or scientific value.

(C) **Interpretation of Evidence.** Obscenity shall be judged with reference to ordinary adults except that it shall be judged with reference to children or other specially susceptible audiences if it appears from the character of the material or the circumstances of its dissemination to be specially designed for or directed to such an audience.

Where circumstances of production, presentation, sale, dissemination, distribution, or publicity indicate that material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the matter and can justify the conclusion that the matter is lacking in serious literary, artistic, political or scientific value.

In any prosecution for an offense under this Section, evidence shall be admissible to show:

(1) the character of the audience for which the material was designed or to which it was directed;

(2) 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;

(3) the artistic, literary, scientific, educational or other merits of the material, or the absence thereof;

(4) the degree, if any, of public acceptance of the material in this State;

(5) appeal to prurient interest or absence thereof in advertising or other promotion of the material;

(6) purpose of the author, creator, publisher or disseminator.

(D) **Prima Facie Evidence.** The creation, purchase, procurement or possession of a mold, engraved plat or other embodiment or obscenity, specially adapted for reproducing multiple copies, or the possession of more than **three (3) copies** of obscene material shall be prima facie evidence of an intent to disseminate. **(65 ILCS 5/11-5-1)**

27-12-2 HARMFUL MATERIAL.

(A) **Elements of the Offense.** A person who, with knowledge that a person is a child; that is, a person under **eighteen (18) years** of age, or who fails to exercise reasonable care in ascertaining the true age of a child, knowingly distributes to, or sends or causes to be sent to, or exhibits to or offers to distribute or exhibit any harmful material to a child is guilty of a violation of this Code.

(B) **Definitions.**

(1) Material is harmful if, to the average person applying contemporary standards, its predominant appeal, taken as a whole, is to prurient interest; that is, shameful or morbid interest in nudity, sex, or excretion which goes substantially beyond customary limits of candor in description or representation of such matters and is material, the redeeming social importance of which is substantially less than its prurient appeal.

(2) **"Material"** as used in this Code means any writing picture, record or other representation or embodiment.

(3) **"Distribute"** means to transfer possession of material whether with or without consideration.

(4) **"Knowingly"** as used in this Section means having knowledge of the contents of the subject matter or recklessly failing to exercise reasonable inspection which would have disclosed the contents thereof.

(C) **Interpretation of Evidence.** The predominant appeal to prurient interest of the material shall be judged with reference to average children of the same general age of the child to whom such material was offered, distributed, sent or exhibited unless it appears from the nature of the matter or the circumstances of its dissemination, distribution or exhibition that it is designed for specially susceptible groups, in which case, the predominant appeal of the material shall be judged with reference to its intended or probable recipient group.

In prosecutions under this Section where circumstances of production, presentation, sale, dissemination, distribution, or publicity, indicate the material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the material and can justify the conclusion that the redeeming social importance of the material is**,** in fact, substantially less than its prurient appeal.

(D) **Affirmative Defenses.**

(1) Nothing in this Section shall prohibit any public library or any library operated by an accredited institution of higher education from circulating harmful material to any person under **eighteen (18) years** of age, provided such circulation is in aid of a legitimate scientific or educational purpose, and it shall be an affirmative defense in any prosecution for a violation of this Section that the act charged was committed in aid of legitimate scientific or educational purposes.

(2) Nothing in this Section shall prohibit any parent from distributing to his child any harmful material.

(3) Proof that the defendant demanded, was shown and acted in reliance upon any of the following documents as proof of the age of a child shall be a defense to any criminal prosecution under this Section:

(a) A document issued by the federal government or any state, county or municipal government, or subdivision or agency thereof, including, but not limited to a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act or an identification card issued to a member of the armed forces.

(4) In the event an advertisement of harmful material as defined in this Section culminates in the sale or distribution of such harmful material to a child, under circumstances where there was no personal confrontation of the child by the defendant, his employees or agents as where the order or request for such harmful material was transmitted by mail, telephone, or similar means of communication and delivery of such

harmful material to the child was by mail, freight, or similar means of transport, it shall be a defense in any prosecution for a violation of this Section that the advertisement contained the following statement or a statement substantially similar thereto, and that the defendant required the purchaser to certify that he was not under the age of **eighteen (18) years** and that the purchaser falsely stated that he was not under the age of **eighteen (18) years**:

"NOTICE: It is unlawful for any person under eighteen (18) years of age to purchase the matter herein advertised. Any person under eighteen (18) years of age who falsely states that he is not under eighteen (18) years of age for the purpose of obtaining the material advertised herein is guilty of a misdemeanor."

(E) **Child Falsifying Age.** Any person under **eighteen (18) years** of age who falsely states, either orally or in writing that he is not under the age of **eighteen (18) years**, or who presents or offers to any person any evidence of age and identity which is false or not actually his own for the purpose of ordering, obtaining, viewing or otherwise procuring or attempting to procure or view any harmful material is guilty of a misdemeanor. **(65 ILCS 5/11-5-1)**

27-12-3 TIE-IN SALES OF OBSCENE PUBLICATIONS TO DISTRIBUTORS. Any person, firm or corporation, or any agent, officer or employee thereof engaged in the business of distributing books, magazines, periodicals, comic books or other publications to retail dealers who shall refuse to furnish to any retail dealer such quantity of books, magazines, periodicals, comic books or other publications as such retail dealer normally sells because the retail dealer refuses to sell, or offer for sale, any books, magazines, periodicals, comic books or other publications which are obscene, lewd, lascivious, filthy or indecent is guilty of an offense. Each publication sold or delivered in violation of this Section shall constitute a separate offense. **(720 ILCS 5/11-22)**

27-12-4 NUDITY IN PUBLIC PLACE. No person in the Village shall appear in any public place in a state of nudity, or in an indecent or lewd dress, or shall make any indecent exposure of his or her person, or be guilty of any indecent or lewd act or behavior.

27-12-5 PUBLIC INDECENCY. Any person who performs any of the following acts in a public place commits a public indecency:

(A) An act of sexual intercourse; or

(B) An act of deviate sexual conduct; or

(C) A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of the person; or

(D) A lewd fondling or caress of the body of another person of either sex.

ARTICLE XIII – SMOKE FREE AIR CODE

27-13-1 BACKGROUND. Smoking creates the hazard of injury to the personal health of those in the environment of such smoke as well as the potential of damage to property that may result from the incendiary nature of such activity. It has been determined that breathing ambient smoke is a health hazard to both smokers and nonsmokers. Cigarette smoking also produces several substances that are considered hazardous to health including carbon monoxide, hydrogen cyanide, nitrous oxide and formaldehyde. Secondhand smoke (68% of the total smoke produced by a cigarette) affects the health of the bystander, interfering with respiratory tract defenses, often causing nonsmokers to have allergic or irritative reactions, and is a known cause of lung cancer.

Because the hazards of smoking have a potentially harmful effect, material and direct, on the public health, safety, welfare, comfort, and property of residents of the Village, it is necessary and desirable to establish regulations that prohibit smoking in all enclosed public places, in all enclosed places of employment, near entrances to all such public places and places of employment, in and near open air public dining areas, and within certain unenclosed public places including school grounds, parks and recreation areas and outdoor venues.

27-13-2 PURPOSE. This Article may be cited as the "Smoke Free Air Code," the purpose of which is to protect the public health, comfort and environment by prohibiting smoking in all enclosed public places and places of employment, within **fifteen (15) feet** of all public entrances to such places, in open air public dining areas and within **fifteen (15) feet** of such areas, and within certain unenclosed public places including school grounds, parks and recreation areas and outdoor venues in order to ensure that nonsmokers may breathe air free from the hazardous effects of secondhand smoke.

27-13-3 DEFINITIONS. For the purposes of this Article, the following terms shall have the following meanings:

"Business" means any sole proprietorship, partnership, joint venture, corporation, association or other business entity, whether formed for profit or nonprofit purposes. "Business" includes a "club" as defined in this Section.

"Club" means a private not-for-profit association, corporation or other entity consisting of persons who are bona fide paying members and which owns, leases or uses a building or portion thereof, the use of which is restricted primarily to members and their guests.

"Employee" means any person who is employed or retained by a business, and shall include the owner or operator of a sole proprietorship or other similar business entity.

"Employer" means any business that employs one or more employees.

"Enclosed Area" means all space in any structure or building that is enclosed on all sides by any combination of walls, windows, or doorways, extending from floor to the ceiling.

"Open Air Dining Area" means a seating area open to the air that is accessory to a restaurant, hotel, cafeteria, private club or other public place engage din purveying commercial food or beverage service where members of the public, members or guests are invited to sit and receive food and beverage service for a consideration.

"Outdoor Event" means a scheduled outdoor musical, dance, theatrical, dramatic, entertainment or performance event, or a scheduled outdoor community fair, parade, event or market, that is organized, licensed or permitted by the owner of an outdoor venue and to which the public is invited.

"Outdoor Venue" means an outdoor theater, amphitheater, plaza, street or other improved area that is used as a public venue or forum to which members of the general public are invited to listen, view or otherwise participate in an outdoor event that is organized, licensed or permitted by the owner of the venue.

"Place of Employment" means an area under the control of a public or private employer within the Village that employees normally frequent during the course of employment, and includes, without

limitation, common work areas, private offices, auditoriums, classrooms, conference and meeting rooms, cafeterias, elevators, employee lounges, staircases, hallways, restrooms, medical facilities, private clubs, and the interior of a vehicle of public conveyance. "Place of Employment" also includes the home office portion of a private dwelling, but only if the home office is used by more than one employee or is frequented by business invitees.

"Place of Employment" does not include that part of a private dwelling used as a home office by a single employee only who resides in that dwelling.

"Park" means a public park or recreation area that is open to and used by the general public.

"Public Entrance" means the doorway or other entrance to a public place that is open to and intended for use by the general public for ingress and egress to the public place.

"Public entrance" also means a doorway or other entrance for pedestrian ingress and egress to a place of employment; (i) that is open to and intended for use by the general public or business invitee's ingress and egress to the place of employment; (ii) where employees are required or permitted to enter or exit the place of employment.

"Public Place" means an area that is open to and used by the general public, or any area to which the public is invited or in which the public is permitted, including without limitation:

(A) vehicles of public conveyance;

(B) common or public areas (including without limitation lobbies, hallways, reception areas, public restrooms, elevators and staircases) of apartment buildings, condominiums, dormitory buildings, nursing home care facilities, and other multiple family residential structures;

(C) common or public areas (including without limitation lobbies, hallways, reception areas, public restrooms, elevators and staircases) of any building or structure that is accessible to the public including without limitation office, commercial, and industrial buildings, banks and financial institutions, educational institutions, health care facilities such as hospitals, clinics and doctor's offices, museums, libraries, restaurants, polling places, government and Village-owned buildings, food stores, cafeterias, theaters, auditoriums, train and bus stations, hotels, motels, and retail and service establishments.

(D) rooms, chambers, halls, or other locations within which meetings, hearings, or gatherings are held, to which the public is invited or in which the public is permitted, including specifically, but without limitation, any enclosed area under the control of the Village where there is in progress any public meeting.

"Public place" shall not include:

(A) a private dwelling unit, unless said dwelling is also used as a day care facility for children or adults; provided that rooms in nursing homes or long-term care facilities occupied by one or more persons who have requested in writing a room where smoking is permitted shall be considered private dwelling units; or

(B) hotel or motel rooms designated as smoking, provided that no more than **twenty percent (20%)** of the available rooms for rent in any single building shall be designated as smoking rooms.

"School Grounds" mean all public or private outdoor school grounds, but excluding any open areas specifically designated and permitted by the school administration for smoking by adults who are invited to use such area for smoking.

"Smoke" or "Smoking" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other lighted tobacco product in any manner or in any form.

27-13-4 PROHIBITION IN ENCLOSED PUBLIC PLACES.

(A) It is unlawful to smoke in any enclosed area of any public place.

(B) It shall be unlawful for the owner, occupant or lessee, as the case may be, who is in control of a public place to knowingly permit smoking in any enclosed area in a public place.

27-13-5 PROHIBITION IN UNENCLOSED PUBLIC PLACES AND OUTDOOR VENUES.

(A) It is unlawful to smoke in the following unenclosed public places:

(1) The seating areas of all outdoor arenas, stadiums and amphitheaters.

(2) Public parks and recreation areas.

(3) School grounds.

(4) Public sidewalks within **fifteen (15) feet** of a public entrance, but excluding any person who is temporarily in such area for the purpose of walking or traversing through such area.

(5) Public sidewalks within **fifteen (15) feet** of an open air dining area, but excluding any person who is temporarily in such area for the purpose of walking or traversing through such area.

(B) It is unlawful to smoke in or within **fifteen (15) feet** of an outdoor venue during the time that an outdoor event is taking place.

27-13-6 PROHIBITION IN PLACES OF EMPLOYMENT.

(A) It is unlawful to smoke in any enclosed area of any place of employment.

(B) It shall be unlawful for any employer to knowingly permit smoking in any enclosed area of any place of employment.

27-13-7 PROHIBITION IN OPEN AIR DINING AREAS.

(A) It is unlawful to smoke in open air dining area.

(B) It shall be unlawful for the owner, occupant or lessee, as the case may be, in control of an open air dining area to knowingly permit smoking in the area available for open air dining.

(C) it is unlawful to smoke within **fifteen (15) feet** of an open air dining area.

27-13-8 PROHIBITION AT PUBLIC ENTRANCES.

(A) It is unlawful to smoke within **fifteen (15) feet** of a public entrance to a public place or to a place of employment.

(B) It is unlawful for any person or persons to gather or congregate for the purpose of smoking within **fifteen (15) feet** of a public entrance.

27-13-9 DESIGNATION OF OTHER NO-SMOKING AREAS. Nothing in this Article shall be deemed to limit the owner, occupant or lessee of a public place or a place of employment to further prohibit smoking by designating outdoor areas not subject to the restrictions in this Article as a place where smoking is also prohibited, provided that the owner, occupant or lessee shall cause signs to be posted at appropriate locations advising persons that smoking is prohibited within the designated outdoor area.

27-13-10 NO RETALIATION. No person, business or employer shall discharge, refuse to hire, or in any manner retaliate against an employee or customer because that employee or customer reports a violation of this Article or exercises by rights afforded by this Article.

27-13-11 SIGNS.

(A) Each owner, lessor, lessee, employer, or other person in control of a public place shall post conspicuous "No Smoking" signs in the enclosed area of any public place where smoking is prohibited. Such "No Smoking" signs shall have a white field with the words "No Smoking" printed in red letters, **four (4) inches** high with a **one-half (1/2) inch** face, or shall bear the international "No Smoking" symbol, which consists of a pictorial representation of a cigarette enclosed in a circle with a bar

across it. It shall be unlawful for any person to remove, deface or obscure any sign posted pursuant to the provisions of this Article.

(B) Each owner, lessor, lessee, employer or other person in control of a public park or recreation area, or of a school round, shall cause signs to be posted at appropriate locations advising persons that smoking is prohibited within the park, recreation area or school ground.

(C) Each owner, lessor, lessee, management company or other person in control of an outdoor venue shall cause signs to be posted at appropriate locations advising persons that smoking is prohibited within the outdoor venue during outdoor events.

27-13-12 EXEMPTIONS. The prohibition on smoking set forth in Section 6-35 and 6-37 shall not apply to a public place or place of employment of a tobacco dealer that permits customers to sample tobacco products on the premises of the tobacco dealer, provided that smoke generated by smoking on the premises of the tobacco dealer does not infiltrate any other enclosed public place or place of employment. For purposes of this exemption, a tobacco dealer is a retailer whose principal business is the sale at retail of tobacco and tobacco-related products.

27-13-13 PENALTIES.

(A) Any person who smokes in an area where smoking is prohibited under the provisions of this Article shall be guilty of an offense punishable by:

(1) A fine of not less than **Twenty-Five Dollars ($25.00)** for a first violation.

(2) A fine of not less than **Fifty Dollars ($50.00)** for a second violation.

(3) A fine of not less than **One Hundred Dollars ($100.00)** and not more than **Five Hundred Dollars ($500.00)** for a third and subsequent violation(s).

(B) Any person who owns, manages, operates or otherwise controls a public place, a place of employment or an open air dining area that permits smoking in an area where smoking is prohibited under the provisions of this Article, shall be guilty of an offense punishable by a fine of (i) not less than **One Hundred Dollars ($100.00)** for the first violation, (ii) not less than **Two Hundred Fifty Dollars ($250.00)** for the second violations, and (iii) not less than **Five Hundred Dollars ($500.00)** for each additional violation thereafter, unless said additional violation has occurred within **one (1) year** after the first violation, in which case the minimum fine shall be not less than **One Thousand Dollars ($1,000.00)**. The maximum amount of fine to be levied herein shall not exceed **Two Thousand Five Hundred Dollars ($2,500.00)** for each violation.

(C) Each day that any violation of this Article shall continue shall constitute a separate offense.

ARTICLE XIV - SYNTHETIC DRUGS

27-14-1 SALE, POSSESSION OR DELIVERY OF SYNTHETIC COCAINE PROHIBITED.

(A) **Definitions.** The following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

(1) **Synthetic Cocaine, "Bath Salts" or Substances Containing Cocaine** includes but not limited to the names, MDPK, Magic, Super Coke, PV, Ivory Wave, Ocean, Cloud Nine, Charge Plus, White lightning, Scarface, Hurricane, Charlie Red Dove and White Dove. It is an herbal and chemical product which mimics the effects of Cocaine, including but not limited to Methylenedioxypyrovalerone, (a psychoactive drug), or cathinone derivatives.

(2) **Deliver or Delivery.** Actual, constructive or attempted transfer of possession of synthetic cocaine or substance containing cocaine, with or without consideration, whether or not there is an agency relationship.

(3) **Knowledge.** Knows, acts knowingly or with knowledge:

(a) the nature or attendant circumstances of his/her conduct described by the section defining the offense, when he/she is consciously aware that his/her conduct is of such nature or that such circumstances exist, knowledge of a material fact includes awareness of the substantial probability that such fact exists.

(b) the result of his/her conduct, described by the section defining the offense, when he/she is consciously aware that such result is likely to be caused by his/her conduct.

(c) knowledge may be inferred from the surrounding circumstances.

(4) **"Bath salts"** a substance that contains methylenedioxypyrovalerone (MDPV) or contains a norepinephrine-dopamine reuptake inhibitor (NDRI).

(5) **Manufacture.** The production, preparation, propagation, compounding, conversion or processing of synthetic cocaine or a substance containing cocaine, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of synthetic cocaine or a substance containing cocaine or labeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of synthetic cocaine as an incident to lawful research, teaching or chemical analysis and not for sale.

(6) **Person.** Any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.

(7) **Possession.** Possession may be either actual or constructive.

(a) actual possession means exercising physical dominion.

(b) constructive possession may be inferred if the defendant has intent and capacity to maintain control and dominion over the cocaine or substance containing cocaine or drug paraphernalia.

(B) **Possession of Synthetic Cocaine or Substance Containing Cocaine or "Bath Salts" Prohibited.**

(1) **Violation.** No person shall possess any substance containing synthetic cocaine or a substance containing cocaine.

(2) **Penalty.** Any person who pleads guilty or is found guilty by a court of law shall be punished by a minimum fine of not less than **Two Hundred Fifty Dollars ($250.00)** and no more than **Seven Hundred Fifty Dollars ($750.00)**.

(3) **Administrative Fee.** In addition, any person who violates any provision of this Section and is convicted, pleads guilty, receives court supervision or probation by a court of law shall be ordered to pay an administrative fee of **One Hundred Dollars ($100.00)** to be paid to the law enforcement agency for testing of the substance(s) collected.

(4) **Forfeiture.** Any items which may be seized or forfeited pursuant to **720 ILCS 550/12**, may be forfeited in the same manner as described therein for a violation of this Section.

(5) **Exception.** Any person who manufactures, distributes, dispenses, or is in possession of any controlled substance or synthetic cocaine for research purposes shall be exempt from the provisions of this Section.

27-14-2 SALE, POSSESSION OR DELIVERY OF SYNTHETIC CANNABIS PROHIBITED.

(A) **Definitions.** The following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

(1) **Synthetic Cannabis** includes the brand names K2 and Spice. It is an herbal and chemical product which mimics the effects of Cannabis, including but not limited to synthetic cannabinoids, cannabicyclohexanol, JWH-018, JWH-073 and HU-210.

(2) **Deliver or Delivery.** Actual, constructive or attempted transfer of possession of synthetic cannabis, with or without consideration, whether or not there is an agency relationship.

(3) **Knowledge.** Knows, acts knowingly or with knowledge:

(a) the nature or attendant circumstances of his/her conduct, described by the section defining the offense, when he/she is consciously aware that his/her conduct is of such nature or that such circumstances exist, knowledge of a material fact includes awareness of the substantial probability that such fact exists.

(b) the result of his/her conduct, described by the section defining the offense, when he/she is consciously aware that such result is likely to be caused by his/her conduct.

(c) knowledge may be inferred from the surrounding circumstances.

(4) **Manufacture.** The production, preparation, propagation, compounding, conversion or processing of synthetic cannabis, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of synthetic cannabis or labeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of synthetic cannabis as an incident to lawful research, teaching or chemical analysis and not for sale.

(5) **Person.** Any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.

(6) **Possession.** Possession may be either actual or constructive.

(a) actual possession means exercising physical dominion.

(b) constructive possession may be inferred if the defendant has intent and capacity to maintain control and dominion over the cannabis or drug paraphernalia.

(7) **Produce or Production.** Planting, cultivating, tending or harvesting.

(B) **Possession of Synthetic Cannabis Prohibited.**

(1) **Violation.** No person shall possess any substance containing synthetic cannabis.

(2) **Penalty.** Any person who pleads guilty or is found guilty by a court of law shall be punished by a minimum fine of not less than **Two Hundred Fifty Dollars ($250.00)** and no more than **Seven Hundred Fifty Dollars ($750.00)**.

(3) **Administrative Fee.** In addition, any person who violates any provision of this Section and is convicted, pleads guilty, receives court supervision or probation by a court of law shall be ordered to pay an administrative fee of **One Hundred Dollars ($100.00)** to be paid to the law enforcement agency for testing of the substance(s) collected.

(4) **Forfeiture.** Any items which may be seized or forfeited pursuant to **720 ILCS 550/12**, may be forfeited in the same manner as described therein for a violation of this Section.

(5) **Exception.** Any person who manufactures, distributes, dispenses, or is in possession of any controlled substance or synthetic cannabis for research purposes pursuant to **720 ILCS 550/11**, as hereafter amended, shall be exempt from the provisions of this Section.

ARTICLE XV - REGULATION OF RESIDENCES OF REGISTERED SEX OFFENDERS

27-15-1 DEFINITIONS. The following definitions apply to this Section:

(A) A **"Child Sex Offender"** includes any person required to register his or her residence address with any State, or with the federal government, as a result of his or her conviction as a sex offender, where the victim of that sex offense was under the age of **eighteen (18) years** at the time of the offense. A **"Child Sex Offender"** includes, but is not limited to, any person required to register under the Illinois Sex Offender Registration Act, **730 ILCS 150/1 et seq.**, as now or as hereafter amended, where the victim was under the age of **eighteen (18) years** at the time of the offense. A **"Child Sex Offender"** further includes, but is not limited to, any person who has been convicted of any of the following statutory offenses, or convicted of attempting to commit any of the following statutory offenses, as now or hereafter amended, involving a victim under the age of **eighteen (18) years**:

(1) Sexual exploitation of a child **(720 ILCS 5/11-9.1)**;
(2) Predatory criminal sexual assault of a child **(720 ILCS 5/12-14.1)**;
(3) Indecent solicitation of a child **(720 ILCS 5/11-6)**;
(4) Public indecency committed on school property **(720 ILCS 5/11-9)**;
(5) Child luring **(720 ILCS 5/10-5(b)(10))**;
(6) Aiding and abetting child abduction **(720 ILCS 5/10-7 or 720 ILCS 5/10-(b)(10))**;
(7) Soliciting for a juvenile prostitute **(720 ILCS 5/11-15.1)**;
(8) Patronizing a juvenile prostitute **(720 ILCS 5/11-18.1)**;
(9) Exploitation of a child **(720 ILCS 5/11-19.2)**;
(10) Child pornography **(720 ILCS 5/11-20.1)**;
(11) Criminal sexual assault **(720 ILCS 5/12-13)**;
(12) Aggravated criminal sexual assault **(720 ILCS 5/12-14)**;
(13) Aggravated criminal sexual abuse **(720 ILCS 5/12-16)**;
(14) Kidnapping or aggravated kidnapping **(720 ILCS 5/10-1 or 5/10-2)**;
(15) Unlawful restraint or aggravated unlawful restraint **(720 ILCS 5/10-3 or 5/10-3.1)**.

(B) **"School"** means any real property used primarily for educational or child care purposes, including, but not limited to, elementary schools, middle schools, high schools, dance studios, licensed child day care facilities, and pre-schools.

(C) **"Loiter"** shall mean standing or sitting idly, whether or not the person is in a vehicle or remaining in or around property that is from time to time frequented by persons under the age of **eighteen (18) years**.

(D) **"Park"** includes any playground, walking track, athletic field, gymnasium, basketball court, baseball diamond, or other real estate owned or controlled by a school or unit of a local government, that is designated primarily for recreation. The term "Park" shall also include any privately owned recreational area upon which the Village has been authorized by its owner to patrol and enforce the ordinances contained in this Code. The term "Park" shall also include ancillary restrooms and vehicle parking lots designated for use primarily by park patrons or school students and their families.

27-15-2 PROHIBITED ACTS.

(A) It is unlawful for a child sex offender to reside within **one thousand five hundred (1,500) feet** of any of the following:

(1) The real property comprising any school attended by persons under the age of **eighteen (18) years**; or
(2) The real property comprising any park.

(B) It is unlawful for any child sex offender to loiter on any public property, public right-of-way, or area designated for parking of motor vehicles, within **one thousand five hundred (1,500) feet** of any of the following, unless the person loitering is with a child under the age of

eighteen (18) years and the person loitering is a parent, step-parent, aunt, uncle, cousin, sibling, or step-sibling of that child under the age of **eighteen (18) years**;

(1) The real property comprising any school attended by persons under the age of **eighteen (18) years**; or

(2) The real property comprising any park.

(C) It is unlawful for any person, corporation, business, partnership, trust, manager, or other entity, to employ a sex offender within **one thousand five hundred (1,500) feet** of any festival or other event which is open to the public.

(D) It is unlawful for any person, corporation, business, partnership, trust, manager, or other entity, to enter into a lease agreement, or to renew any lease agreement, letting residential real estate to a child sex offender, where the lot line of the residential property is within **one thousand five hundred (1,500) feet** of any of the following:

(1) The real property comprising any school attended by persons under the age of **eighteen (18) years**; or

(2) The real property comprising any park.

27-15-3 PENALTY. Any person found guilty of violating paragraphs (A) or (B) of **Section 27-15-2** shall be subject to a fine between **One Hundred Dollars ($100.00)** and **Seven Hundred Fifty Dollars ($750.00)**, with each day a violation continues constituting a separate offense. Any person, corporation, business, partnership, trust, manager, or other entity guilty of violating paragraphs (C) or (D) of **Section 27-15-2** shall be subject to a fine between **One Hundred Dollars ($100.00)** and **Seven Hundred Fifty Dollars ($750.00)**, revocation of business license, or both. Each day a violation continues shall constitute a separate offense. Any person, corporation, business, partnership, trust, manager or other entity violating paragraphs (C) or (D) of **Section 27-15-2** shall be presumed to have had knowledge of the employee's or tenant's status as a child sex offender, where the employee's or tenant's name, photo, or other identifying information appears on the Illinois State Police statewide sex offender database, as published on the internet on the Illinois State Police World Wide Web home page, per the Sex Offender and Child Murderer Community Notification Law, **730 ILCS 152/101 et seq.**, as now or hereafter amended.

27-15-4 OTHER PROVISIONS.

(A) In the event a court of competent jurisdiction should declare the terms of any portion of this Article invalid or unenforceable, the remainder of this Article shall remain in full force and effect.

(B) All distances designated in this Article shall be measured from the lot line of the park property or school property and from the lot line of the subject residence.

(C) Nothing in this Article prohibits a child sex offender from residing within **one thousand five hundred (1,500) feet** of any property, if that residence is owned or leased by the child sex offender before the effective date of this Article. This Article is intended to apply to and prevent such new residential lease agreements, and renewals of expired residential leases, entered into after the effective date of this Article.

ARTICLE XVI – DRUG PARAPHERNALIA

27-16-1 DEFINITIONS.

(A) ***"Cannabis"*** shall have the meaning ascribed it in Section 3 of the "Illinois Cannabis Control Act" as if that definition were incorporated herein.

(B) ***"Controlled Substance"*** shall have the meaning ascribed to it in Section 102 of the "Illinois Controlled Substance Act" as if that definition were incorporated herein.

(C) ***"Drug Paraphernalia"*** shall mean all equipment, products and materials of any kind which are peculiar to and/or marketed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body cannabis or a controlled substance in violation of the "Cannabis Control Act" or the "Illinois Controlled Substances Act." It includes but is not limited to:

(1) Kits peculiar to and/or marketed for use in manufacturing, compounding, converting, producing, processing or preparing cannabis or a controlled substance;

(2) Isomerization devices peculiar to and marketed for use in increasing the potency of any species of plant which is cannabis or a controlled substance;

(3) Testing equipment peculiar to and marketed for private home use in identifying or in analyzing the strength, effectiveness or purity of cannabis or controlled substances;

(4) Diluents and adulterant peculiar to and marketed for cutting cannabis or a controlled substance by private persons;

(5) Objects peculiar to and/or marketed for use in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, or hashish oil into the human body including, where applicable, the following items:

(a) water pipes;
(b) carburetion tubes and devices;
(c) smoking and carburetion masks;
(d) miniature cocaine spoons and cocaine vials;
(e) carburetor pipes;
(f) electric pipes;
(g) air-driven pipes;
(h) chillums;
(i) bongs;
(j) ice pipes or chillers;

(6) Any item whose purpose, as announced or described by the seller is for use in violation of this act.

27-16-2 POSSESSION OF CANNABIS OR CONTROLLED SUBSTANCE. It shall be unlawful for any person to use, possess, distribute or deliver any cannabis or controlled substance as defined in this Article.

27-16-3 POSSESSION OF DRUG PARAPHERNALIA.

(A) A person who knowingly possesses an item of drug paraphernalia with the intent to use it in ingesting, inhaling or otherwise introducing cannabis or a controlled substance into the human body, or in preparing cannabis or a controlled substance for that use, is guilty of a violation of this Article.

(B) In determining intent under paragraph (A) the trier of fact may take into consideration the proximity of the cannabis or a controlled substance on the drug paraphernalia.

27-16-4 EXEMPTIONS.

(A) Items marketed for use in the preparation, compounding, packaging, labeling, or other use of cannabis or controlled substance as an incident to lawful research, teaching, or chemical analysis and not for sale.

(B) Items marketed for, or historically and customarily used in connection with, the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting or inhaling of tobacco or any other lawful substance.

Items exempt under this Article include, but are not limited to, garden hoes, rakes, sickles, baggies, tobacco pipes and cigarette-rolling papers.

(C) Items listed in **Section 27-16-1** of this Article which are marketed for decorative purposes, when such items have been rendered completely inoperable or incapable of being used for any illicit purpose prohibited by this Article.

In determining whether or not a particular item is exempt under this Section, the trier of fact should consider, in addition to all other logically relevant factors, the following:

(1) The general, usual, customary, and historical use to which the item involved has been put;

(2) Expert evidence concerning the ordinary or customary use of the item and the effect of any peculiarity in the design or engineering of the device upon its functioning;

(3) Any written instruction accompanying the delivery of the item concerning the purposes or uses to which the item can or may be put;

(4) Any oral instructions provided by the seller of the item at the time and place of sale or commercial delivery;

(5) Any national or local advertising concerning the design, purpose or use of the item involved and the entire context in which such advertising occurs;

(6) The manner, place and circumstances in which the items was displayed for sale, as well as any item or items displayed for sale or otherwise exhibited upon the premises where the sale was made;

(7) Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community such as a licensed distributor or dealer of tobacco products;

(8) The existence and scope of legitimate uses for the object in the community.

27-16-5 PENALTY. Any person or entity violating this Article shall be subject to a fine of not more than **Seven Hundred Fifty Dollars ($750.00)** plus court costs.

ARTICLE XVII – CANNABIS BUSINESS ESTABLISHMENTS PROHIBITED

27-17-1 DEFINITIONS. The following words and phrases shall, for the purposes of this Article have the meanings respectively ascribed to them by this Section, as follows:

(A) **Adult-Use Cannabis Business Establishment.** A cultivation center, craft grower, processing organization, infuser organization, dispensing organization or transporting organization.

(B) **Adult-Use Cannabis Craft Grower.** A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, dry, cure and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time to time, and regulations promulgated thereunder.

(C) **Adult-Use Cannabis Cultivation Center.** A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, process, transport and perform necessary activities to provide cannabis and cannabis-infused products to licensed cannabis business establishments, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time to time, and regulations promulgated thereunder.

(D) **Adult-Use Cannabis Dispensing Organization.** A facility operated by an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to acquire cannabis from licensed cannabis business establishments for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia or related supplies to purchasers or to qualified registered medical cannabis patients and caregivers, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time to time, and regulations promulgated thereunder.

(E) **Adult-Use Cannabis Infuser Organization or Infuser.** A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time to time, and regulations promulgated thereunder.

(F) **Adult-Use Cannabis Processing Organization or Processor.** A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time to time, and regulations promulgated thereunder.

(G) **Adult-Use Cannabis Transporting Organization or Transporter.** An organization or business that is licensed by the Illinois Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time to time, and regulations promulgated thereunder.

(H) **Person.** Any person, firm, corporation, association, club, society or other organization, including any owner, manager, proprietor, employee, volunteer or agent.

27-17-2 CANNABIS BUSINESS ESTABLISHMENT PROHIBITED. The following Adult-Use Cannabis Business Establishments are prohibited in the Village. No person shall locate, operate, own, suffer, allow to be operated or aide, abet or assist in the operation within the Village of any of the following:

(A) Adult-Use Cannabis Craft Grower
(B) Adult-Use Cannabis Cultivation Center
(C) Adult-Use Cannabis Dispensing Organization
(D) Adult-Use Cannabis Infuser Organization or Infuser
(E) Adult-Use Cannabis Processing Organization or Processor
(F) Adult-Use Cannabis Transporting Organization or Transporter

27-17-3 PUBLIC NUISANCE DECLARED. Operation of any prohibited Cannabis Business Establishment within the Village in violation of the provisions of this Article is hereby declared a public nuisance and shall be abated pursuant to all available remedies.

27-17-4 VIOLATIONS. Violations of this Article may be enforced in accordance with the general penalty provisions of this Code. **(See Section 1-1-20 for Penalties)**

(Ord. No. 929; 12-17-19)

ARTICLE XVIII – FIREWORKS REGULATIONS

27-18-1 REGULATIONS.

(A) **Definition.** The term "consumer fireworks" shall mean and include any explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or audible effect of a temporary exhibitional nature by explosion, combustion, deflagration or detonation and shall include blank cartridges and toy cannons, in which explosives are used; firecrackers, torpedoes, sky rockets, Roman candles, bombs or other fireworks of like construction and any tablets or other devices containing any explosive substance, or containing combustible substances producing visual effects; further defined as those fireworks that must comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Products Safety Commission, as set forth in 16 C.F.R. Parts 1500 and 1507, and classified as fireworks UN0336 and UN0337 by the United States Department of Transportation under 49 C.F.R. 172.101. The term "consumer fireworks" shall not include snake or glow worm pellets; smoke devices; trick noisemakers known as "party poppers", "snappers", "trick matches", "cigarette loads", and "auto burglar alarms", "sparklers", "toy pistols", "toy canes", "toy guns", or other devices in which paper or plastic caps containing **twenty-five hundredths (.25) grains** or less of explosive compound are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for the explosion; toy pistol paper or plastic caps that contain less than **twenty-five hundredths (.25) grains** of explosive mixture; and recoverage model rockets sold for the express use of modelers and/or exhibitions of rocketry, the sale and use of which shall be permitted at all times.

(B) **Prohibition.** Except as hereinafter provided it shall be unlawful for any person, firm, co-partnership, or corporation to knowingly possess, offer for sale, expose for sale, sell at retail, or use or explode any display fireworks, flame effects, or consumer fireworks.

(C) **Permits.**

(1) **Consumer Fireworks Displays.** The Village Board may authorize the Mayor to grant a permit for the purpose of conducting a public Consumer Fireworks Display provided that all conditions of the application as following are met.

(a) Applications for permits for consumer fireworks displays shall be submitted at least **fifteen (15) days** in advance of the date of the display. The date and time of the intended display shall be indicated on the application. The Village may conduct a criminal background check on any applicant.

(b) In order to apply for a permit to operate a consumer display, an adult shall provide proof of successful completion of a consumer fireworks training course provided by Smithton Fire Protection District.

(c) The site of the proposed display shall be indicated on the application. The Fire Chief of the Smithton Fire Protection District or his/her designee must inspect and approve the display site. Applications for permit shall not be considered without approval of the Fire Chief.

(d) The applicant shall show proof of liability insurance in a sum of not less than **One Million Dollars ($1,000,000.00)** with an insurance company authorized to do business in Illinois.

(e) The applicant shall submit to the Village, a deposit in the amount of **Fifty Dollars ($50.00)**. This deposit will be refundable upon acceptable cleanup of the display site of any and all waste or rubbish resulting from the display.

After a permit is issued, it is not transferable to another person or entity. The holder of said permit may purchase **approved consumer fireworks** from a registered Consumer Fireworks Distributor/Retailer. This classification of fireworks is not all-

inclusive and reference to the approved list published by the Office of the State Fire marshal is required. The Mayor, Chief of Police or the Chief of the Smithton Fire Protection District may revoke the permit or require that the display be rescheduled due to weather or other unforeseen conditions. **(See 425 ILCS 35)**

(2) **Pyrotechnic Displays (Displays Using Professional Grade Fireworks).** The Village Board may authorize the Mayor to grant a permit for the purpose of conducting a public Pyrotechnic Display provided that all conditions of the application as following are met:

(a) Applications for permits for pyrotechnic displays shall be submitted at least **fifteen (15) days** in advance of the date of the display. The date and time of the intended display shall be indicated on the application. The Village may conduct a criminal background check on any applicant.

(b) The pyrotechnic display service shall be provided by a licensed pyrotechnic distributor, and the display shall be conducted by a licensed lead pyrotechnic operator.

(c) The applicant shall show proof of liability insurance in a sum not less than **One Million Dollars ($1,000,000.00)** with an insurance company authorized to do business in Illinois.

(d) The Fire Chi9ef of the Smithton Fire Protection District or his/her designee must inspect the display site and ensure the display can be performed in full compliance with the NFPA standards adopted and amended by the Office of the State Fire Marshal Rules, Part 235, for the type of Pyrotechnic Display to be performed. The Chief of the Smithton Fire Protection District must sign the display permit.

(e) The applicant shall submit to the Village, a deposit in the amount of **Fifty Dollars ($50.00)**. This deposit will be refundable upon acceptable cleanup of the display site of any and all waste or rubbish resulting from the display.

After a permit is issued, it is not transferable to another person or entity. The sale, possession, uses and distribution of display fireworks for display are lawful only for the purpose given by the permit. The Mayor, Chief of Police or the Chief of the Smithton Fire Protection District may revoke the permit or require that the display be rescheduled due to weather or other unforeseen conditions. **(See 425 ILCS 35)**

CHAPTER 28 - PARKS

ARTICLE		*TITLE*	*PAGE*
I	***GENERALLY***		
	Section 28-1-1 -	*Regulations*	*28-1*

CHAPTER 28

PARKS

ARTICLE I – GENERALLY

28-1-1 REGULATIONS. The following rules and regulations shall apply in all Village Parks:

(A) Any person picnicking or visiting in the parks shall properly dispose of all litter by placing it in the litter receptacle indicated for such use.

(B) Fires may be made only in such places as designated by, and with the permission of the Village Board.

(C) There will be no staples used on any of the picnic tables.

(D) Fires may only be started in the proper fire receptacles provided and must be completely extinguished before leaving the fire receptacle unattended.

(E) No person shall remove or damage any piece of equipment, court, special facility, structure or area being a part of recreation and parks property.

(F) No person shall climb on any roof of any building, shelter or structure located on park property.

(G) No firearms, shooting or hunting are permitted on park property.

(H) No peddlers or vendors shall dispose of wares in competition with any concession in the parks within a range of **two (2) blocks** of the parks.

(I) No motor vehicles, vehicles of any kind or horses, are permitted in the parks without permission of the Village Board.

(J) No motor vehicles or vehicles of any kind are to be driven or ridden on park property turf, ball diamonds, or other areas than those designated for the travel of vehicles.

(K) The speed limit of any vehicle in the parks, except emergency vehicles, shall be **fifteen (15) miles per hour** and is to be strictly observed.

(L) Courts, athletic diamonds and fields, shelters and any other special facilities, and/or areas designated as a special area, in the parks are to be used only by reservation through written consent of the Village Board; that all tables and pits shall be available on a first come, first serve basis.

(M) No children under the age of **six (6)** shall be left unattended on park property.

(N) Only residents of the Village shall be granted the right and privilege to reserve pavilions.

(O) A deposit of **Twenty-Five Dollars ($25.00)** for reservation of all pavilions and **Twenty-Five Dollar ($25.00)** fee is required for each day of use by any individual, individuals, group or organization; that said deposit and fee is payable in advance at the time the request for reservation is made, that in the event the cost of repair for any damage or injury to the pavilion or other park facility exceeds the amount of said deposit, the individual, individuals, group or organization posting the deposit shall be responsible for and pay the balance due within **ten (10) days** after receiving a bill therefor. That in the event no damage or injury occurs to the pavilion or other park facility, said deposit shall be returned in full within **ten (10) days**.

(P) Village parks shall be open to the public between the hours of **6:00 A.M.** and **10:00 P.M.** daily. Use of park, a pavilion or any other park facility after 10:00 must be requested in advance, in writing, and shall only be granted by the Village Board and that said permission shall be in writing.

(Q) No group, organization, individual or individuals shall use more than **one (1) pavilion** on or during any single day.

(R) No more than **fifty (50) people** shall use or occupy a small pavilion, no more than **one hundred (100) people** shall use or occupy a large pavilion.

(S) No glass containers, vessels, bottles, jars, glasses or other objects of any kind or nature, whatsoever, shall be brought into or used in any part or location of the park.

(T) No tents of any kind or nature shall be erected on or in any location of the park.
(U) No trapping of animals or wildlife of any kind is permitted.
(V) No swimming in the lake.
(W) No ice skating unless otherwise posted.
(X) No fishing boats on the lake.
(Y) Bank fishing only – per posted regulations and limits.
(Z) Any person violating any provisions of this Chapter shall be subject to a fine of not less than **Seventy-Five Dollars ($75.00).**
(AA) Any person reporting a violation of this Chapter shall be rewarded **One Hundred Dollars ($100.00)** upon the conviction of the accused party.

(Ord. No. 567; 11-16-99)

CHAPTER 30 – PUBLIC SAFETY

ARTICLE		*TITLE*	*PAGE*
I	*CIVIL EMERGENCY*		
	Section 30-1-1	*Definitions*	*30-1*
	Section 30-1-2	*Declaration of Emergency*	*30-1*
	Section 30-1-3	*Curfew*	*30-1*
	Section 30-1-4	*Authority of Mayor to Issue Orders*	*30-1*
	Section 30-1-5	*Effectiveness*	*30-1*
	Section 30-1-6	*Notification*	*30-2*
II	*POLICE DEPARTMENT*		
	Division I – Department Established		
	Section 30-2-1	*Department Established*	*30-3*
	Section 30-2-2	*Office of Chief Created*	*30-3*
	Section 30-2-3	*Duties of Chief*	*30-3*
	Section 30-2-4	*Employment of Patrolmen*	*30-5*
	Section 30-2-5	*Salary*	*30-5*
	Section 30-2-6	*Duties - Sergeant*	*30-6*
	Section 30-2-7	*Duties – Patrol Officers*	*30-6*
	Section 30-2-8	*Mutual Aid Contract*	*30-6*
	Section 30-2-9	*Special Policemen*	*30-7*
	Section 30-2-10	*Legal Processes*	*30-7*
	Section 30-2-11	*Assisting Police Officer*	*30-7*
	Section 30-2-12	*Aiding Fire Department*	*30-7*
	Section 30-2-13	*Failure to Perform*	*30-7*
	Section 30-2-14	*Aiding in Escape*	*30-7*
	Section 30-2-15	*Use of Intoxicating Liquor*	*30-7*
	Section 30-2-16	*Fees*	*30-7*
	Section 30-2-17	*Rules and Regulations*	*30-8*
	Section 30-2-18	*Training*	*30-8*
	Section 30-2-19	*Stolen Property*	*30-8*
	Section 30-2-20	*Part-Time Police Officers*	*30-8*
	Section 30-2-21	*30-2-24 Reserved*	
	Division II – Auxiliary Police		
	Section 30-2-25	*Appointment*	*30-9*
	Section 30-2-26	*Not Members of Police Department*	*30-9*
	Section 30-2-27	*Powers and Duties*	*30-9*
	Section 30-2-28	*Firearms Prohibited*	*30-9*
	Section 30-2-29	*Training*	*30-9*
	Section 30-2-30	*Compensation*	*30-9*
	Section 30-2-31	*30-2-33 Reserved*	
	Division III – Police Code		
	Section 30-2-34	*Rules of Conduct*	*30-10*
	Section 30-2-35	*Disciplinary Measures*	*30-11*

ARTICLE		TITLE	PAGE
III	LOCAL INCIDENT EMERGENCY MANAGEMENT AGENCY (LIEMA)		
	Section 30-3-1	- Policy and Procedures	30-14
	Section 30-3-2	- Limitations	30-14
	Section 30-3-3	- Definitions	30-15
	Section 30-3-4	- Local Incident Emergency Management Agency	30-15
	Section 30-3-5	- Emergency Management Powers of the Mayor	30-16
	Section 30-3-6	- Financing	30-17
	Section 30-3-7	- Local Disaster Emergencies	30-17
	Section 30-3-8	- Testing of Disaster Warning Devices	30-18
	Section 30-3-9	- Mutual Aid Arrangements Between Political Subdivisions	30-18
	Section 30-3-10	- Communications	30-18
	Section 30-3-11	- Immunity	30-18
	Section 30-3-12	- Professions, Trades and Occupations	30-18
	Section 30-3-13	- Appropriations and Levy of Tax	30-19
	Section 30-3-14	- Authority to Accept Services, Gifts, Grants or Loans	30-19
	Section 30-3-15	- Orders, Rules and Regulations	30-19
	Section 30-3-16	- Utilization of Existing Agency, Facilities and Personnel	30-19
	Section 30-3-17	- No Private Liability	30-19
	Section 30-3-18	- Succession	30-20
	Section 30-3-19	- Compensation	30-20
	Section 30-3-20	- Personnel Oath	30-20
	Section 30-3-21	- Emergency Termination or Reduction of Electrical Service	30-20
	Section 30-3-22	- Penalty	30-20
IV	F.O.P. CONTRACT		
	Section 30-4-1	- F.O.P. Contract Adopted by Reference	30-21
	Addendum "A"	- F.O.P. Contract	A-1

CHAPTER 30

PUBLIC SAFETY

ARTICLE I – CIVIL EMERGENCY

30-1-1 DEFINITIONS.

"CIVIL EMERGENCY" is hereby defined to be:

(A) A "riot or unlawful assembly" characterized by the use of actual force or violence or any power to execute by **three (3)** or more persons acting together without authority of law; or

(B) Any "natural disaster" or "man-made calamity", including flood, conflagration, cyclone, tornado, earthquake, or explosion within the corporate limits of the Village resulting in the death or injury of persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

"CURFEW" is hereby defined as a prohibition against any person or persons walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits of the Village excepting officials of any governmental unit and persons officially designated to duty with reference to the civil emergency.

30-1-2 DECLARATION OF EMERGENCY. Whenever an emergency as defined in **Section 30-1-1** exists, the Mayor shall declare the existence by means of a written declaration, setting forth the facts which constitute the emergency.

30-1-3 CURFEW. After proclamation of a civil emergency by the Mayor, he may order a general curfew applicable to such geographical areas of the Village or to the Village as a whole as he deems advisable and applicable during such hours of the day or night as he deems necessary in the interest of the public safety and welfare.

30-1-4 AUTHORITY OF MAYOR TO ISSUE ORDERS. After the proclamation of a civil emergency, the Mayor may also, in the interest of public safety and welfare, make any or all of the following orders.

(A) Order the closing of all retail liquor stores including taverns and private clubs or portions thereof wherein the consumption of intoxicating liquor and beer is permitted.

(B) Order the discontinuance of the sale of alcoholic liquor by any wholesaler or retailer.

(C) Order the discontinuance of selling, distributing or giving away of gasoline or other flammable liquid or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.

(D) Order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever.

(E) Issue such other orders as are imminently necessary for the protection of life and property.

30-1-5 EFFECTIVENESS. The proclamation herein authorized shall be effective for a period of **forty-eight (48) hours** unless sooner terminated by a proclamation of the Mayor indicating that the civil emergency no longer exists. The Mayor shall have the power to reproclaim the existence of a civil emergency at the end of each **forty-eight (48) hour** period during the time the civil emergency exists.

30-1-6 **NOTIFICATION.** Upon issuing the proclamation herein authorized, the Mayor shall notify the news media situated within the Village and shall cause **three (3) copies** of the proclamation declaring the existence of the emergency to be posted at the following places within the Village:

(A) The Village Hall.
(B) The Post Office.
(C) Retail Food Outlets.
(D) Banks.
(E) Library.

(65 ILCS 5/11-1-6)

ARTICLE II - POLICE DEPARTMENT

DIVISION I - DEPARTMENT ESTABLISHED

30-2-1 DEPARTMENT ESTABLISHED. There is hereby established a department of the municipal government of the Village which shall be known as the Police Department. The Police Department shall consist of the Chief of Police and of such number of patrolmen as may be provided from time to time by the Village Board.

30-2-2 OFFICE OF CHIEF CREATED. There is hereby established the office of the Chief of Police. Any individual seeking employment as the Chief of Police must submit an application of employment to the Mayor and the Village Board. The Mayor and Village Board will interview each applicant for full-time employment. The Village Board will vote at a regular meeting to fulfill the Office of Chief of Police. The Office of Chief of Police shall be appointed to a full-time position effective at the first regularly scheduled meeting in May. **(Ord. No. 686; 10-04-05)**

30-2-3 DUTIES OF CHIEF. The Chief of Police for the Village of Smithton, Illinois, is responsible for the following duties:

(A) **Operation of Police Department.**

(1) **Scheduling of Officers.**
- (a) Vacation
- (b) Sick Time
- (c) Holidays
- (d) Special Events
- (e) Training

(2) **Payroll of Officers.**
- (a) Maintain
- (b) Verify
- (c) Forward to Village Clerk

(3) **Reports.**
- (a) Review
- (b) Correct
- (c) Follow-up if necessary

(4) **Investigations.**
- (a) Review Information
- (b) Supervise Investigations
- (c) Forward to State's Attorney for Prosecution
- (d) Maintaining Records/Reports for Future Reference

(5) **Complaints on Officers.**
- (a) Accept
- (b) Review
- (c) Follow-up Investigation
- (d) Disciplinary Action if Necessary

(6) **Equipment.**
- (a) Research
- (b) Purchase (with Board approval)
- (c) Maintain
- (d) Repair
- (e) Replace

(7) **Police Officers.**
- (a) Accept applications
- (b) Maintain applications

(c) Recruit
(d) Background Investigation
(e) Interview
(f) Recommend for Appointments

(8) **Training Police Officers.**
(a) Determine needed training
(b) Schedule training
(c) Maintain records of training

(9) **General Public.**
(a) Provide Information
(b) Gain Information
(c) Assist with needs

(10) **Liaison with Other Agencies.**
(a) Local
(b) County Police Agencies
(c) State
(d) Federal
(e) County Court Division
(f) Other

(11) **Records.**
(a) Maintain reports/records
(b) Maintain statistics
(i) State of Illinois Uniform Crime Reports
(ii) Federal Agency – Requested Information
(iii) Local Statistics

(12) **Local Ordinance Violations.**
(a) Identify
(b) Provide Notice
(c) Enforce Action to remove violation

(13) **Maintain Equipment.**
(a) Village Repeater System
(b) Village Pagers
(c) Village Cellular telephones
(d) Patrol Vehicles

(14) **Maintain Required Documentation of Department and Officers.**
(a) OSHA
(b) Department of Labor
(c) Illinois Law Enforcement Training and Standards Board
(d) Other

(15) **General Orders/Rules of Conduct.**
(a) Develop
(b) Maintain
(c) Review
(d) Enforce

(16) **Evidence.**
(a) Collect
(b) Record
(c) Maintain
(d) Release

(B) **Special Details for Chief of Police (If Certified).**

(1) **Juvenile Officer.**
(a) Investigate all juvenile related cases
(b) Maintain records
(c) Petition juvenile (if necessary)
(d) Oversee in-house community service

(e) Attend update training

(2) **D.A.R.E. (Drug Abuse Resistance Evaluation) Officer.**
- (a) Schedule education program at schools
- (b) Instruct at schools
- (c) Maintain records
- (d) Attend update training

(3) **Crime Prevention.**
- (a) Entertain requests for presentations
- (b) Obtain material
- (c) Present program/information

(4) **Drug/Alcohol Testing Program.**
- (a) Provide liaison with testing personnel
- (b) Schedule random testing
- (c) Schedule requested testing
- (d) Conduct investigation after injury and/or property damage accident
- (e) Provide records to Deputy Clerk

(5) **E.M.A. (Emergency Management Agency).**
- (a) Determine disaster needed equipment/supplies
- (b) Obtain equipment/supplies
- (c) Maintain equipment
- (d) Provide training to other officers, employees, etc.
- (e) Provide shelter location(s)
- (f) Develop disaster plan
- (g) Maintain disaster plan

(6) **Federal/State Grants.**
- (a) Seek when requested by Mayor/Village Board
- (b) Research
- (c) Write
- (d) Submit

(7) **Special Assignments.**
- (a) Mayor's requests
- (b) Village Board's requests
- (c) Outside agency's requests
- (d) Other staff requests
- (e) Other

(8) **Other.** The position of Police Chief shall adhere to the description set forth for the position of patrol officer except in case where the above description supersedes those set for patrol officers.

30-2-4 EMPLOYMENT OF PATROLMEN. Patrolmen shall be hired in accordance with and pursuant to the terms and provisions of **Chapter 12, Section 12-1-2(A)-(H)**. Before entering into performance of their duties, each patrolman shall take the oath and affirmation required by law and execute a bond with the security to be provided by the Village Board in the penal sum of **Two Thousand Dollars ($2,000.00)**, conditioned for the faithful performance of the duties of their respective offices, and the payment by each officer of all monies received by him, according to law and the ordinances of the Village, which bonds shall be filed in the office of the Village Clerk. **(Ord. No. 720; 05-01-07)**

30-2-5 SALARY. The police department shall receive such compensation as may be provided by ordinance or resolution of the Village Board.

30-2-6 DUTIES - SERGEANT. The following shall be the responsibilities for the rank of Sergeant within the Police Department.

(A) **Supervisory.**
- (1) Supervise patrol officers activities within the department in the absence of the Chief of Police.
- (2) Supervise investigations within the department in the absence of the Chief of Police.
- (3) Supervise special assignments at the request of the Chief of Police.

(B) **Provide Assistance.**
- (1) To Chief of Police as requested.
- (2) To others as required in course of employment.

(C) **General Information.**
- (1) The position of Sergeant was created in order to provide individuals within this department a proper chain of command. The Sergeant will serve as Lead Law Enforcement Officer within the Village in the absence of the Chief of Police. The Sergeant will not make decisions regarding personnel, patrol activities, investigations or other activities without consultation when the Chief of Police is available. The Sergeant will not make any change to policy, general orders, or Rules of Conduct without being directed to do so by the Chief of Police. The position of Sergeant will be hired full-time as of **May 1, 2005**.
- (2) The position of Sergeant shall adhere to the description set forth for the position of patrol officer except in case where the above description supersedes those set for patrol officers.

30-2-7 DUTIES – PATROL OFFICERS. The following shall be the responsibilities for all patrol officers within the Police Department.

(A) **Patrol.**
- (1) Patrol the Village in an effort to prevent crime and promote community oriented policing.
- (2) Ordinance violations – shall notify the Chief of Police as to any ordinance violations.
- (3) Traffic enforcement – shall enforce all traffic laws to include State and local laws.
- (4) Protect the life of all individuals.
- (5) Provide preservation of peace.
- (6) Protect property from unlawful damage.

(B) **Reports.**
- (1) Completion of a report for all calls for service, discovery of incidents, etc.
- (2) Forward reports to Chief of Police.
- (3) Correct if necessary.

(C) **Training.**
- (1) Mandatory – shall attend all mandatory training as assigned by the Chief of Police.
- (2) Voluntary – may attend training not required by the department, however, this type of training shall be approved by the Chief of Police.

(D) **Assigned Duties.**
- (1) As assigned by the Chief of Police.
- (2) As assigned by the Sergeant in the absence of the Chief of Police.
- (3) Other duties as assigned.

30-2-8 MUTUAL AID CONTRACT. The Police Department, with the approval of the Village Board, may enter into an agreement to provide police protection to neighboring municipalities.

30-2-9 SPECIAL POLICEMEN. The Mayor may, on special occasions when, in his judgment for public peace and order of the Village shall require, appoint and commission any number of special policemen as may be necessary and shall fix in order of their appointment, the time during which each shall serve all such special policemen, during such time, shall possess the powers and exercise the duties of regular police patrolmen. If the appointment is for more than **ten (10) days** in **one (1) calendar year** shall be subject to the consent of the Village Board in the manner that other appointments to office by the Mayor are subject. Auxiliary policemen shall not carry firearms, except with the permission of the Chief of Police and then only when in uniform and in the performance of their duties.

30-2-10 LEGAL PROCESSES. All police shall have the power and authority to execute Village warrants or other similar legal processes outside the corporate limits of the Village and within such distance therefrom as authorized by law in all cases when any ordinance of the Village Board made pursuant to law shall prescribe a penalty for the violation of any of its provisions by persons residing, acting or doing any business within the limits of the Village.

30-2-11 ASSISTING POLICE OFFICER. Every police officer of the Village may, at any time, call upon any able-bodied person(s) above the age of **eighteen (18) years** to aid him in the arresting, retaking or holding in custody of any person guilty of having committed any unlawful act or charged therewith, or to aid such officer in preventing the commission of any unlawful act.

30-2-12 AIDING FIRE DEPARTMENT. Every police officer shall aid the fire department by giving the alarm in case of fire and in clearing the streets or grounds in the immediate vicinity of any fire so that the firemen shall not be hindered or obstructed in the performance of their duties.

30-2-13 FAILURE TO PERFORM. Any member of the Police Department who shall neglect or refuse to perform any duty required of him by this Code or the rules and regulations of the Department, or who shall be, in the discharge of his official duties, guilty of any fraud, favoritism, extortion, oppressions or willful wrong or injustice, shall be subject to removal from office. **(See Division III – Police Code)**

30-2-14 AIDING IN ESCAPE. It shall be unlawful for any person in this Village to resist or obstruct any member of the Police Force in the discharge of his duty or to endeavor to do so, in any manner, assist any person in the custody of any member of the Police Department to escape or to attempt to escape from such custody or to attempt to rescue any such person in custody.

30-2-15 USE OF INTOXICATING LIQUOR. No member on an active tour of duty or while wearing the official policeman's badge of the Village shall indulge in the use of intoxicating liquor of any kind and intoxication at any time shall be sufficient cause for removal.

30-2-16 FEES. Any member of the Police Department shall appear as witness whenever this is necessary in a prosecution for a violation of an ordinance or of any state or federal law. No such member shall retain any witness fee for service as witness in any action or suit to which the Village is a party; and fees paid for such services shall be turned over to the Chief of Police who shall deposit the same with the Village Treasurer.

30-2-17 RULES AND REGULATIONS. The Chief of Police may make or prescribe such rules and regulations for the conduct and guidance of the members of the Police Department as he shall deem advisable and such rules, when approved by the Mayor, shall be binding on such members.

30-2-18 TRAINING. All police officers, prior to entering upon any of their duties, shall successfully complete a minimum of **forty (40) hours** of training in the use of weapons as established by the Illinois Law Enforcement Training and Standards Board.

In addition, all police officers shall complete a minimum of **four hundred (400) hours** of basic training prior to the completion of their probationary period. This training shall be conducted at an approved training facility governed by the Illinois Law Enforcement Training and Standards Board.

Upon completion of the training courses, officers will provide a copy of the Certificate of Training to the Chief of Police.

30-2-19 STOLEN PROPERTY. The Chief of Police shall be the custodian of all lost and abandoned or stolen property in the Village.

30-2-20 PART-TIME POLICE OFFICERS.

(A) The Village may from time to time and in its sole discretion, hire and employ part-time police officers as the need may arise, and as they deem necessary, all said officers shall be appointed by the Mayor with the advice and consent of the Board of Trustees.

(B) All part-time police officers shall be trained under and pursuant to the terms and provisions of the Intergovernmental Law Enforcement Officers In Service Training Act **(50 ILCS 720/1 et seq.)** in accordance with the procedures for part-time police officers established by the Illinois Law Enforcement Training Standards Board.

(C) All part-time police officers who have not, at the time their employment is initiated, received certification pursuant to the Illinois Police Training Act **(50 ILCS 705/8.2)** shall be directly supervised.

(D) All part-time police officers are at-will employees, the Chief of Police shall in his discretion at any time and without notice and without hearing, dismiss, suspend, refuse or neglect to schedule or take any other disciplinary measures against a part-time police officer without the necessity of filing formal charges, that said persons shall not have any property rights in said employment.

(E) Any person employed as a part-time police officer must meet the following standard:

(1) Must be of good moral character, of temperate habits, of sound health and physically and mentally able to perform assigned duties;
(2) Be at least **twenty-one (21) years** of age;
(3) Pass a medical examination;
(4) Possess a high school diploma or GED Certificate;
(5) Possess a valid State of Illinois driver's license;
(6) Possess no prior felony convictions;
(7) Any individual who has served in the U.S. military must have been honorably discharged.

(F) Part-time police officers shall be members of the regular Police Department except for pension purposes, however, a part-time police officer shall not be assigned, under any circumstances to supervise a direct full-time police officer of the Police Department, nor shall they be utilized as permanent replacements for permanent full-time officers. The number of hours a part-time police officer may work within a calendar year shall be restricted. **(Ord. No. 820; 07-17-12)**

30-2-21 - 30-2-24 RESERVED.

(65 ILCS 5/11-1-2)

DIVISION II – AUXILIARY POLICE

30-2-25 APPOINTMENT. The Mayor is hereby authorized to appoint auxiliary policemen as employees, subject to the advice and consent of the Village Board. Prior to appointment, all proposed auxiliary policemen shall be fingerprinted and their fingerprints shall be checked with the Federal Bureau of Identification, Washington, D.C. for any possible criminal record. No person shall be appointed as an auxiliary policeman if he has been convicted of a felony or other crime involving moral turpitude. All appointees shall be at least **twenty-one (21) years** of age. The appointment of any or all auxiliary policemen may be terminated by the Mayor subject to the advice and consen6t of the Village Board.

30-2-26 NOT MEMBERS OF POLICE DEPARTMENT. Auxiliary policemen shall not be members of the Regular Police Department. Identification symbols worn by such auxiliary policemen shall be different and distinct from those used by the Regular Police Department and shall be selected and chosen by the Chief of Police of this Village. Auxiliary policemen shall, at all times during the performance of their duties, be subject to the direction and control of the Chief of Police.

30-2-27 POWERS AND DUTIES. Auxiliary policemen shall have the following powers and duties when properly assigned and on duty:

(A) To aid or direct traffic in the Municipality.

(B) To aid in control of natural or man-made disasters.

(C) To aid in case of civil disorder.

(D) To perform normal or regular police duties when assigned by the Chief of Police on occasions when it is impractical for members of the regular Police Department to perform normal and regular duties.

(E) To arrest or cause to be arrested with or without process all persons who break the peace or are found violating any municipal ordinance or any criminal law of the State.

(F) To commit arrested persons for examination.

(G) To exercise all other powers as conservators of the peace that the corporate authorities may prescribe.

(H) To serve and execute all warrants for the violation of municipal ordinances, or the State Criminal Law, within the corporate limits of the Village, and also on any property owned and controlled by the Village beyond its corporate limits and for this purpose, to have all the common law and statutory power of sheriffs.

30-2-28 FIREARMS PROHIBITED. Auxiliary policemen shall not carry firearms, except with the permission of the Chief of Police and then only when in uniform and in the performance of their duties.

30-2-29 TRAINING. Auxiliary policemen, before entering upon any of their duties, shall receive a course of training in the use of weapons and other police procedures appropriate for the exercise of the powers conferred upon them under this Code. The training and course of study shall be determined and provided by the Chief of Police.

30-2-30 COMPENSATION. Auxiliary policemen may receive compensation as provided by the Village Board.

30-2-31 - 30-2-33 RESERVED.

(65 ILCS 5/3.1-30-20)

DIVISION III – POLICE CODE

30-2-34 RULES OF CONDUCT. Any member of the Police Department who shall be found guilty of any of the following provisions, by the Chief of Police or the Board of Trustees, shall be subject to disciplinary action as specified in this Division herein:

(A) Violate any law or statute of a State or of the United States.

(B) Violate any ordinance of a county or municipal government.

(C) Willfully mistreat any person.

(D) Violate any of the general orders, special orders, or rules and regulations of the Department which are not inconsistent with these Rules and Regulations.

(E) Negligently or carelessly use any weapon.

(F) Knowingly make a false official report.

(G) Fail to obey a lawful order.

(H) Be insubordinate to, or show disrespect for, a superior in the Department.

(I) Mistreat a member of the Department.

(J) Neglect to perform their duties and/or neglect to perform their duties in an efficient manner.

(K) Engage in any conduct unbecoming to a member of the Department or which tends to reflect discredit on the Department.

(L) Leave their pose of duty without permission or without being properly relieved.

(M) Be absent from duty without leave or appropriate permission.

(N) Willfully destroy or damage any property of the Department, or notices and posted orders issued by the Department or any other Village Official, or failure to report damage promptly to a supervisor.

(O) Use property of the Department without authority.

(P) Receive, solicit, or attempt to solicit money or anything of value for performing or failing to perform any police duty.

(Q) Solicit business, clients, or customers for any business establishment or professional person.

(R) Drink any kind of intoxicating liquor while on duty or while in uniform except when such action is required and properly authorized in the performance of assigned duties.

(S) Use any habit-forming drug or narcotics, except at the direction of a physician.

(T) Associate with any person having known criminal records or connections, except when such action is required and properly authorized in the performance of assigned duties.

(U) Frequent any establishment of unsavory reputation or owned or operated by any person having a known criminal record or connections, except when such action is required or properly authorized in the performance of assigned duty.

(V) Disseminate or release any information concerning essential police matters except when properly authorized to do so.

(W) Use a Village vehicle without the knowledge or permission of their supervisor.

(X) Improperly operate a Village vehicle or permit an unauthorized person to operate a Village vehicle.

(Y) Fail to show respect to the flag of the United States of America or respect for the National Anthem.

(Z) Do any other act or omission contrary to good order and discipline of the Department, or any other conduct prejudicial to the Department.

(AA) Failure to pay all just debts and legal liabilities. No employee shall borrow any money from or otherwise become indebted to another Village employee or official.

(BB) Drawing or displaying of a firearm in any place except for necessary inspection or use. Accidental or intentional firing of a weapon (except on the firing range) shall be reported in writing to the Chief of Police.

(CC) Failure to report all damage to Village vehicles in writing, including the events and circumstances surrounding the cause and nature of the damage.

(DD) Failure to maintain a neat, clean personal appearance consistent with the image of a professional officer. This shall include those times in which the officer is attending Court; which can include, but not be limited to:

(1) Improper display of department uniform.
(2) Failure to carry all necessary police equipment.
(3) Smoking or chewing tobacco, or chewing gum while in uniform and in plain view of the public.
(4) Unnecessary use of loud and/or obscene language.
(5) Leaning on walls, posts, car, etc.
(6) Conducting personal business while on duty.
(7) Sleeping, loafing, or being idle on duty.
(8) Excessive long meal or refreshment breaks.
(9) Failure to respond promptly for police service.
(10) Failure to return promptly to service after finishing handling a call for police service.
(11) Lack of courtesy to an individual.
(12) Gambling, unless to further legitimate police purposes.

(EE) Excessive use of force while making an arrest.

(FF) Recommendation to any suspect or prisoner of the retention of a specific attorney, or law firm. This does not apply to the Public Defender, Legal Aid Society, or Lawyer's Reference Service.

(GG) Failure to maintain a telephone at one's residence, or to immediately notify the Chief of Police, in writing, of any change of address or telephone number.

(HH) Off-duty employment without the knowledge and approval of the Chief of Police.

(II) Insubordination, which can include the failure to obey a lawful order given by a superior, or any disrespectful, mutinous, insolent, or abusive language or action toward a superior, whether in or out of the presence of the superior.

(JJ) Possession of Department property, keys, or equipment without the permission of the Chief of Police.

(KK) Buying, receiving, or selling anything of value from or to any complainant, victim, defendant, witness or other person involved in any case which has come to the attention of, or arose out of, Department employment, except as authorized by the Chief of Police.\

(Ord. No. 548; 07-07-98)

30-2-35 DISCIPLINARY MEASURES.

(A) **Probationary Officers.** The Chief of Police may dismiss, suspend or take any other disciplinary measures against a probationary patrolman with consent of the Mayor and Board of Trustees.

(B) **Part-Time Officers.** The Chief of Police may dismiss, suspend, neglect to schedule or take any other disciplinary measures against a part-time patrolman or other person hired to assist the Police Department on a temporary or part-time basis, without filing charges with the Board of Trustees.

(C) **Full-Time Officers.**

(1) Any patrolman who shall in whole or in part, ignore, neglect or refuse to obey an order, command, directive, rule or regulation, either oral or written, of the Chief of Police, or violate any of the Rules of Conduct promulgated and issued by the Chief of Police shall be subject to the disciplinary measures hereinafter specified.
(2) The Chief of Police may, without filing charges with the Board of Trustees:
    (a) Reprimand the person orally;
    (b) Reprimand the person in writing; or

(c) Suspend the person without pay for a period not to exceed **thirty (30) working days** within any **twelve (12) month** period.

(3) Except as otherwise hereinabove provided, no person shall be suspended or terminated except upon written charges filed with the Clerk of the Village. Said charges shall be in the form of a complaint setting forth a plain and concise statement of the facts upon which the complaint is based. Upon the filing of said charges, the Chief of Police shall suspend the person without pay pending a decision of the Board of Trustees on said charges. The Board of Trustees may, after the charges have been heard and a decision rendered, direct that the person receive his pay for part or all of the suspension period.

(4) **Hearings.**

(a) The charges shall be heard by the Mayor and Board of Trustees in a public hearing.

(b) The person charged shall receive a copy of the complaint and a notice setting forth the date, time and place of the hearing on the charges in the complaint, by personal delivery or registered or certified mail, return receipt requested, to the residence of said person, delivery of the complaint and notice as shown by the return receipt shall constitute service of both.

(c) The hearing shall occur not less than **fourteen (14) days** after the accused receives a copy of the complaint and notice of the hearing.

(d) The accused shall have the right to be represented by counsel, to be hard and present evidence in his own defense, and cross-examine witnesses.

(e) All hearings before the Mayor and Board of Trustees shall be recorded by a reporter.

(f) The record of all hearings will not be transcribed unless requested by the Mayor and Board of Trustees or any party in interest. The cost of the transcript shall be borne by the person requesting it.

(g) All witnesses shall be sworn by the Mayor or other Trustee prior to testifying.

(h) The Mayor and Board of Trustees will first hear the witnesses substantiating the charges which have been made against the person. Therefore, said person against whom said charges have been filed may present the witnesses that he or she desires the Mayor and Board of Trustees hear. All parties shall have the right to cross-examine witnesses presented by the opposite party.

(i) The Mayor shall act as Chairman of the proceedings.

(j) The findings of the Mayor and Board of Trustees shall be decided on evidence presented at the hearing. After the hearing, the Mayor and Board of Trustees shall make its findings and determine its order and shall mail to the party charged by registered or certified mail, return receipt requested, a notice of said finding and order. If the accused be found of any wrongdoing, the Mayor and Board of Trustees may suspend or terminate said accused. If the accused is found not guilty of any wrongdoing, the Mayor and Board of Trustees may order reinstatement with partial or full back-pay.

(k) No hearing shall be continued at the request of any of the parties to the proceeding or their attorneys unless such request is made and received in writing by the Clerk of the Village at least **five (5) days** before the scheduled hearing date.

(Ord. No. 549; 07-07-98)

ARTICLE III – LOCAL INCIDENT EMERGENCY MANAGEMENT AGENCY (LIEMA)

30-3-1 POLICY AND PROCEDURES.

(A) Because of the possibility of the occurrence of disasters of unprecedented size and destructiveness resulting from the explosion in this or in a neighboring municipality of atomic or other means from without, or by means of sabotage or other disloyal actions within, or from fire, flood, earthquake, or other natural or man-made causes, and in order to insure that this municipality will be prepared to and will adequately deal with any such disasters, preserve the lives and property of the people of this municipality and protect the public peace, health and safety in the event of such a disaster, it is found and declared to be necessary:

(1) To create a municipal emergency services and disaster agency;

(2) To confer upon the Mayor the extraordinary power and authority set forth under Article I of this Chapter **(65 ILCS 5/11-1-6)**.

(3) To provide for the rendering of mutual aid to other cities and political subdivisions with respect to the carrying out of emergency services and disaster operations.

The Village by virtue of Ordinance No. 683 pertaining to the establishment of National Incident Management Systems (NIMS) protocol shall be included with the procedures of the Local Incident Emergency Management Agency.

(B) Whenever the Mayor determines after an investigation that a dangerous situation or a potentially dangerous situation exists which could cause death to individuals or serious injury to property or the health and welfare of public, the Mayor may declare that a state of emergency exists. The extraordinary powers may not be exercised until an ordinance shall have been adopted which shall establish standards for the determination by the Mayor of when the state of emergency exists and shall provide that the Mayor may not exercise such extraordinary power and authority except after signing under oath a statement finding that such standards have been met, setting forth facts to substantiate such findings, describing the nature of the emergency and declaring that a state of emergency exists. This statement shall be filed with the Clerk of the municipality as soon as practical. A state of emergency shall expire not later than the adjournment of the first regular meeting of the corporate authorities after the state of emergency is declared. A subsequent state of emergency may be declared if necessary.

(C) It is further declared to be the purpose of this Code and the policy of the municipality that all emergency management programs of this municipality be coordinated to the maximum extent with the comparable functions of the federal and state governments, including their various departments and agencies, of other municipalities and localities and private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster that may occur.

30-3-2 LIMITATIONS. Nothing in this Code shall be construed to:

(A) Interfere with the course or conduct of a private labor dispute, except that actions otherwise authorized by this Code or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;

(B) Interfere with dissemination of news or comment of public affairs; but any communications facility or organization (including but not limited to radio and television stations, wire services, and newspapers) may be requested to transmit or print public service messages furnishing information or instructions in connection with a disaster;

(C) Affect the jurisdiction or responsibilities of police forces, fire fighting forces, units of the armed forces of the United States, or of any personnel thereof, when on active duty; but state and local emergency operations plans shall place reliance upon the forces available for performance of functions related to disaster emergencies;

(D) Limit, modify, or abridge the authority of the Mayor and the Village Board to exercise any other powers vested in them under the constitution, statutes, or common law of this State, independent of or in conjunction with any provisions of this Code.

30-3-3 DEFINITIONS. As used in this Code, unless the context clearly indicates otherwise, the following words and terms shall have the definitions hereinafter ascribed:

(A) **Coordinator** means the staff assistant to the Mayor with the duty of carrying out the requirements of this Code.

(B) **Disaster** means an occurrence or threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including but not limited to fire, flood, earthquake, wind, storm, hazardous materials spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, extended periods of severe and inclement weather, drought, infestation, explosion, critical shortages of essential fuels and energy, riot, or hostile military or paramilitary action.

(C) **Emergency Management** means the efforts of this municipality to develop, plan, analyze, conduct, implement and maintain programs for disaster mitigation.

(D) **Emergency Operations Plan** means the written plan of the municipality describing the organization, mission and functions of the government and supporting services for responding to and recovery from disasters.

(E) **Emergency Services** means the preparation for and the carrying out of such functions, other than functions for which military forces are primarily responsible, as may be necessary or proper to prevent, minimize, repair and alleviate injury and damage resulting from disasters caused by fire, flood, earthquake, or other man-made or natural causes. These functions including, without limitation, fire-fighting services, police services, emergency aviation services, medical and health services, rescue, engineering, warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency assigned functions of plant protection, temporary restoration of public utility services and other functions related to civilian protection, together with all other activities necessary or incidental to protecting life or property.

(F) **Political Subdivision** means any county, city, village, or incorporated town.

30-3-4 LOCAL INCIDENT EMERGENCY MANAGEMENT AGENCY.

(A) There is hereby created an emergency management agency and a coordinator of the emergency management agency, herein called the "coordinator", who shall be the head thereof. The coordinator shall be appointed by the Mayor with the advice and consent of the Village Board. He shall serve at the pleasure of the Mayor.

(B) The Local Incident Emergency Management Agency shall obtain, with Village Board approval, such technical, clerical, stenographic and other administrative personnel, and may make such expenditures within their appropriation therefor as may be necessary to carry out the purpose of this Code.

(C) The coordinator, subject to the appointment of the Mayor and the Village Board, shall be the executive head of the Local Incident Emergency Management Agency, and shall be responsible under the direction of the Village Board for carrying out the program for emergency services and disaster operations of this Municipality. He shall coordinate the activities of all organizations for emergency management operations within this Municipality and shall maintain liaison, and cooperate with, the civil defense and emergency management agencies and organization of the county, other counties and municipalities, and of the federal and state government. In the event of a declared emergency the Mayor shall serve as the direct liaison between the federal, state and county authorities for the purpose of financial, equipment, personal, and all assistance as needed.

In the event of the absence, resignation, death, or inability to serve by the coordinator, the Mayor may designate, an acting coordinator until a new appointment is made and approved as provided in this Code.

(D) The Local Incident Emergency Management Agency shall take an integral part in the development and revision of the local emergency operations plan.

(E) In the development of the emergency operations plan, the Local Incident Emergency Management Agency shall interrelate with business, labor, industry, agriculture, civic and volunteer organizations, and community leaders.

(F) The Local Incident Emergency Management Agency shall:

(1) Determine the requirements of the Municipality for food, clothing and other necessities in the event of an emergency;

(2) Develop an Emergency Operations Plan that meets the standards promulgated by the Illinois Emergency Management Agency;

(3) Biannually review and revise the local Emergency Operations Plan;

(4) Establish a register of persons with types of training and skills in emergency prevention, preparedness, response and recovery;

(5) Establish a register of government and private response resources available for use in a disaster;

(6) Prepare, for issuance to the Mayor and the Village Board, ordinances, proclamations and regulations as necessary or appropriate in coping with disasters.

(7) Cooperate with the federal, state and county government and any public or private agency or entity in achieving any purpose of this Code and in implementing programs for disaster prevention, preparation, response and recovery;

(8) Initiate and coordinate planning for:

(a) The establishment of an emergency operating center;

(b) The implementation of a 911 system.

(9) Do all other things necessary, incidental or appropriate for the implementation of this Code.

30-3-5 EMERGENCY MANAGEMENT POWERS OF THE MAYOR.

(A) The Mayor shall have the general direction of the emergency management agency, and shall be responsible for the carrying out of the provisions of this Code with the assistance of the Local Incident Emergency Management Agency Coordinator.

(B) In performing his duties under this Code, the Mayor is authorized to cooperate with state and federal governments and with other municipalities and political subdivisions in all matters pertaining to emergency management operations defined in this Code.

(C) In performing his duties under this Code, the Mayor is further authorized:

(1) To make, amend and rescind all lawful necessary orders, rules and regulations of the local disaster plan to carry out the provisions of this Code within the limits of the authority conferred upon him.

(2) To cause to be prepared a comprehensive plan and program for the emergency management of this Municipality which plan and program shall be integrated into and coordinated with disaster plans of the state and federal governments and other political subdivisions, and which plan and program may include:

(a) Prevention and minimization of injury and damage caused by disaster;

(b) Prompt and effective response to disaster;

(c) Emergency relief;

(d) Identification of areas particularly vulnerable to disasters;

(e) Recommendations for zoning, building and other land-use controls, safety measures for securing permanent structures and other preventive and preparedness measures designed to eliminate or reduce disasters or their impact;

(f) Assistance to local officials in designing local emergency action plans;

(g) Authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage or loss from flood, conflagration or other disaster;

(h) Organization of municipal manpower and chains of command;

(i) Coordination of local emergency management activities with assistance from the Local Incident Emergency Management Agency Coordinator;

(j) Other necessary matters.

(3) In accordance with such plan and program for the emergency management of this Municipality, and out of funds appropriated for such purposes, to procure and preposition supplies, medicines, materials and equipment to institute training programs and public information programs, and to take all other preparatory steps, including the partial or full mobilization of emergency management organizations in advance of actual disaster to insure the furnishing of adequately trained and equipped forces for disaster operations.

(4) Out of funds appropriated for such purposes, to make such studies and surveys of the industries, resources and facilities in this Municipality as may be necessary to ascertain the capabilities of the Municipality for the emergency management phases of preparedness, response, and recovery, and to plan for the most efficient emergency use thereof.

(D) The Mayor is authorized to designate space in a municipal building, or elsewhere for the emergency services and disaster agency as its office.

30-3-6 FINANCING.

(A) It is the intent of the Village Board and declared to be the policy of the Municipality that every effort shall be made to provide funds for disaster emergencies.

(B) It is the Village Board's intent that the first recourse shall be to funds regularly appropriated to the agency. If the Mayor finds that the demands placed upon these funds in coping with a particular disaster are unreasonably great, and the Governor has proclaimed the Municipality a disaster, he may make application for funds from the state disaster relief fund. If monies available from the fund are insufficient, and if the Mayor finds that other sources of money to cope with the disaster are not available or are insufficient, he shall issue a call for an immediate session of the Village Board for the purpose of enacting ordinances as the Village Board may deem necessary to transfer and expend monies appropriated for other purposes, or borrow monies from the United States Government or other public or private sources. If less than a quorum of the members of the Village Board is capable of convening in session to enact such ordinances for the transfer, expenditure or loan of such monies, the Mayor is authorized to carry out those decisions until such time as a quorum of the Village Board can convene.

(C) Nothing contained in this Section shall be construed to limit the Mayor's authority to apply for, administer and expend grants, gifts, or payments in aid of disaster prevention, preparedness, response or recovery.

30-3-7 LOCAL DISASTER EMERGENCIES.

(A) A local disaster emergency may be declared only by the Mayor or Village Board. If declared by the Mayor, it shall not be continued for a period in excess of **twenty-one (21) days** except by or with the consent of the Village Board. Any order or proclamation declaring, continuing or terminating a local disaster emergency shall be given prompt and general publicity, and shall be filed promptly with the Municipal Clerk.

(B) The effect of a declaration of a local disaster emergency is to activate any and all applicable local emergency operations plans and to authorize the furnishing of aid and assistance thereunder.

(C) During a local disaster emergency, the Mayor may suspend the provisions of any municipal ordinance prescribing procedures for the conduct of municipal business, or the orders, rules and regulations of any municipal agency, if strict compliance with the provisions of any ordinance, rule or

regulation would in any way prevent, hinder or delay necessary action in coping with the emergency, as authorized by **"The Illinois Emergency Management Agency Act"**, provided that, if the Village Board meets at such time, he shall act subject to the directions and restrictions imposed by that body.

30-3-8 TESTING OF DISASTER WARNING DEVICES. The testing of disaster devices including outdoor warning sirens shall be held only on the first Tuesday of each month at **10 o'clock** in the morning.

30-3-9 MUTUAL AID ARRANGEMENTS BETWEEN POLITICAL SUBDIVISIONS. The coordinator for emergency management operations may, in collaboration with other public agencies within his immediate vicinity, develop or cause to be developed mutual aid arrangements with other political subdivisions, municipal corporations or bodies politic within this state for reciprocal disaster response and recovery in case a disaster is too great to be dealt with unassisted. The mutual aid shall not, however, be effective unless and until approved by each of such political subdivisions, municipal corporations or bodies politic as are parties thereto, in the manner provided by law, and unless and until filed with and approved in writing by the state director. Such arrangements shall be consistent with the state and local emergency management operations plan and program, and in the event of such disaster as described in **Section 30-3-3** of this Code, it shall be the duty of each local and department for emergency management operations to render assistance in accordance with the provisions of such mutual aid arrangements.

30-3-10 COMMUNICATIONS. The Local Incident Emergency Management Agency shall ascertain what means exist for rapid and efficient communications in times of disaster emergencies. The agency shall consider the desirability of supplementing these communications resources or of integrating them into a comprehensive system or network. In studying the character and feasibility of any system or its several parts, the agency shall evaluate the possibility of multipurpose use thereof for general municipal and local governmental purposes. The agency shall make recommendations to the Mayor as appropriate.

30-3-11 IMMUNITY. Neither the municipality, the agency or any member thereof or any person acting at their direction, engaged in any emergency management operations or disaster activities, while complying with or attempting to comply with this Code or any rule or regulations promulgated pursuant to this Code is liable for the death of or any injury to persons, or damage to property, as a result of such activity. This Section does not, however, affect the right of any person to receive benefits to which he would otherwise be entitled under this act under the Worker's Compensation Act or the Worker's Occupational Diseases Act, or under any pension law, and this Section does not affect the right of any such person to receive any benefits or compensation under any Act of Congress.

30-3-12 PROFESSIONS, TRADES AND OCCUPATIONS. If such disaster as is described in **Section 30-3-3** occurs in this Municipality and the services of persons who are competent to practice any profession, trade or occupation are required in this Municipality to cope with the disaster situation and it appears that the number of persons licensed or registered in this Municipality to practice such profession, trade or occupation may be insufficient for such purpose, then any persons who are licensed elsewhere to practice any such profession, trade or occupation may, if a member of another political subdivision rendering aid in this Municipality pursuant to the order of the head of that political subdivision and upon the request of the Municipality, or if otherwise requested so to do by the Mayor or the coordinator of this Municipality, during the time the disaster condition continues, practice such profession, trade or occupation in this Municipality without being licensed or registered in this Municipality.

30-3-13 APPROPRIATIONS AND LEVY OF TAX. The Village Board may make appropriations for emergency management operations in the manner provided by law for making appropriations for the ordinary expenses of such political subdivision. The Village Board may also levy for emergency management operations a tax not to exceed **.05%** of the full, fair cash value as equalized or assessed by the Department of Revenue on all taxable property in the Municipality for the current year. However, the amount collectible under such a levy shall in no event exceed **Twenty-Five Cents ($0.25)** per capita. The annual tax shall be in addition to and in excess of the amount authorized to be levied for general corporate purposes.

30-3-14 AUTHORITY TO ACCEPT SERVICES, GIFTS, GRANTS OR LOANS. Whenever the federal or state governments, or any agency or officer thereof, or whenever any person, firm or corporation shall offer to the Municipality services, equipment, supplies, materials or funds by way of gift or grant for purposes of emergency management, the Municipality, acting through the Mayor or through its Village Board, may accept such offer and upon such acceptance the Mayor or the Village Board may authorize any officer of the Municipality to receive such services, equipment, supplies, materials or funds on behalf of the Municipality.

30-3-15 ORDERS, RULES AND REGULATIONS.

(A) The Mayor shall file a copy of every rule, regulation or order and any amendment thereof made by him pursuant to the provisions of this Code in the office of the Municipal Clerk. No such rule, regulation or order, or any amendment thereof, shall be effective until **ten (10) days** after such filing; provided, however, that upon the declaration of such a disaster emergency by the Mayor as is described in **Section 30-3-7**, the provision relating to the effective date of any rule, regulation order or amendment issued pursuant to this Code and during the state of such disaster emergency, is abrogated, and said rule, regulation, order or amendment shall become effective immediately upon being filed with the Municipal Clerk, accompanied by a certificate stating the reason for the emergency.

(B) The Local Incident Emergency Management Agency established pursuant to this Code, and the coordinator thereof, shall execute and enforce such orders, rules and regulations as may be made by the Governor under authority of the Illinois Emergency Management Agency Act. The Local Incident Emergency Management Agency shall have available for inspection at its office all orders, rules and regulations made by the Governor, or under this authority. The State Emergency Management Agency shall furnish such orders, rules and regulations to the agency.

30-3-16 UTILIZATION OF EXISTING AGENCY, FACILITIES AND PERSONNEL. In carrying out the provisions of this Code, the Mayor and the coordinator of the emergency management agency are directed to utilize the services, equipment, supplies and facilities of existing departments, offices and agencies of the Municipality to the maximum extent practicable, and the officers and personnel of all such departments, offices and agencies are directed, upon request, to cooperate with and extend such services and facilities to the coordinator and the emergency management agency.

30-3-17 NO PRIVATE LIABILITY.

(A) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual or impending disaster, or a mock or practice disaster response activity together with his successors in interest, if any, shall not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission, or for negligently causing loss of, or damage to, the property of such person.

(B) Any private person, firm or corporation and employees and agents of such person, firm or corporation in the performance of a contract with, and under the direction of, the

Municipality under the provisions of this Code, shall not be civilly liable for causing death of, or injury to, any person or damage to any property except in the event of willful misconduct.

(C) Any private person, firm or corporation, and any employee or agency of such person, firm or corporation, who renders assistance or advice at the request of the Municipality, shall not be civilly liable for causing the death of, or injury to, any person or damage to any property except in the event of willful misconduct. The immunities provided in Subsection (C) shall not apply to any private person, firm or corporation, or to any employee or agent of such person, firm or corporation whose act or omission caused in whole or in part such actual or impending disaster and who would otherwise be liable therefore.

30-3-18 SUCCESSION. In the event of the death, absence from the Municipality or other disability of the Mayor preventing him from acting under this Code or for any other municipal purpose, and until the office is filled in the manner prescribed by law, the Mayor Pro-Tem appointed by the Village Board shall succeed to the duties and responsibilities of the Mayor.

30-3-19 COMPENSATION. The Emergency Service Coordinator shall be paid a salary of **Seven Thousand Dollars ($7,000.00)** per annum, said sum to be paid on a quarterly basis in **four (4)** equal installments. The Village Board may also, in its discretion, provide other office staff and personnel as may be expressly provided for in this Article. Nothing herein contained shall prohibit any member of the agency from receiving compensation from the State of Illinois Emergency Management Agency under any provisions of that agency. **(Ord. No. 851; 08-05-14)**

30-3-20 PERSONNEL OATH. Each person, whether compensated or non-compensated, who is appointed to serve in any capacity in the municipal Emergency Management Agency, shall, before entering upon his duties, take an oath, in writing, before the coordinator of the municipal Emergency Management Agency before a person authorized to administer oaths in this Municipality, which oath shall be filed with the coordinator of the Emergency Management Agency, and which oath shall be substantially as follows:

> "I, _____ do solemnly swear (or affirm) that I will support and defend and bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of Illinois, and the territory, institutions and facilities thereof, both public and private, against all enemies, foreign and domestic; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I, nor have I been a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence; and that during such time I am affiliated with the Village, I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence."

30-3-21 EMERGENCY TERMINATION OR REDUCTION OF ELECTRICAL SERVICE.

(A) **Declaration of Emergency Condition.** When in the judgment of the Mayor or Village Board, as provided herein in **Section 30-3-7(A)**, a local disaster emergency requires the termination or reduction of electrical service, the Mayor or Village Board shall forthwith declare in writing the existence of the emergency condition and order the termination or reduction.

30-3-22 PENALTY. Any person convicted of violating this Code or any order thereunder shall be punished by a fine of not exceeding **Seven Hundred Fifty Dollars ($750.00)**.

(20 ILCS 3305/1 et seq.)

ARTICLE IV – F.O.P. CONTRACT

30-4-1 F.O.P. CONTRACT ADOPTED BY REFERENCE. The labor contract between the Illinois Fraternal Order of Police Labor Council and the Village of Smithton is hereby included in **Addendum "A"**. **(05-01-2018)**

CHAPTER 32 – STORMWATER CONTROL CODE

ARTICLE		*TITLE*	*PAGE*
I	*PURPOSE AND SCOPE*		
	Section 32-1-1	*- Purpose*	*32-1*
	Section 32-1-2	*- Scope*	*32-1*
II	*ABBREVIATIONS AND DEFINITIONS*		
	Section 32-2-1	*- Abbreviations*	*32-2*
	Section 32-2-2	*- Definitions*	*32-2*
III	*AUTHORITY AND APPROVALS*		
	Section 32-3-1	*- Authority and Approvals*	*32-8*
IV	*GENERAL PROVISION AND JURISDICTION*		
	Section 32-4-1	*- Regulated Development*	*32-9*
	Section 32-4-2	*- Exempted Development*	*32-9*
	Section 32-4-3	*- Fees and Application Review Times*	*32-9*
	Section 32-4-4	*- Permit Terms, Conditions and Extensions*	*32-9*
V	*STORMWATER MANAGEMENT STANDARDS*		
	Section 32-5-1	*- General Requirements*	*32-11*
	Section 32-5-2	*- Water Quality and Volume Controls*	*32-12*
	Section 32-5-3	*- Site Runoff Controls*	*32-13*
	Section 32-5-4	*- Detention Facilities*	*32-14*
	Section 32-5-5	*- Non-Structural BMPs*	*32-16*
	Section 32-5-6	*- Stormwater Conveyance Systems*	*32-16*
	Section 32-5-7	*- Buffer Areas*	*32-19*
	Section 32-5-8	*- Soil Erosion and Sedimentation Control*	*32-21*
	Section 32-5-9	*- Floodplain Management*	*32-24*
	Section 32-5-10	*- Wetland Provisions*	*32-24*
VI	*STORMWATER MANAGEMENT PLANS*		
	Section 32-6-1	*- Review and Approval of Stormwater Management Plans*	*32-28*
	Section 32-6-2	*- Contents of the Stormwater Management Plan*	*32-28*
	Section 32-6-3	*- Preparation of the Stormwater Management Plan*	*32-29*
VII	*OPERATIONS AND MAINTENANCE (O&M)*		
	Section 32-7-1	*- Maintenance Responsibility*	*32-30*
	Section 32-7-2	*- Operation and Maintenance Agreements*	*32-30*
	Section 32-7-3	*- Operation and Maintenance Plan*	*32-30*

ARTICLE			TITLE	PAGE
VIII	VARIANCES AND APPEALS			
	Section 32-8-1	-	Variances	32-32
	Section 32-8-2	-	Appeals	32-33
IX	INSPECTIONS			
	Section 32-9-1	-	Inspection Schedule and Report	32-34
	Section 32-9-2	-	Inspection Requirements During Construction	32-34
X	VIOLATION AND PENALTY			
	Section 32-10-1	-	Violation and Penalty	32-36
XI	DISCLAIMER OF LIABILITY			
	Section 32-11-1	-	Disclaimer of Liability	32-37
XII	SEVERABILITY			
	Section 32-12-1	-	Severability	32-37
XIII	EFFECTIVE DATE			
	Section 32-13-1	-	Effective Date	32-37
	Appendix "A"	-	Water Quality Volume Control Practices Design Specifications	32-38
	Appendix "B"	-	"Waters of the United States" Definition	32-40

CHAPTER 32

STORMWATER CONTROL CODE

ARTICLE I – PURPOSE AND SCOPE

32-1-1 PURPOSE. The purpose of this Chapter is to diminish threats to public health, safety, and welfare caused by increases in stormwater runoff from new development and redevelopment. Excessive stormwater could result in the inundation of damageable properties, erosion and destabilization of downstream channels, the threat to public health and safety, and pollution of valuable stream and lake resources. Increases in stormwater runoff quantity and rate and impairment of quality are caused by development and land improvements and, as such, this Chapter regulates these activities to prevent stormwater adverse impacts caused by new development and redevelopment.

This Chapter is adopted to accomplish the following objectives:

(A) Prevent flood and drainage hazards resulting from new development or redevelopment;

(B) Prevent the creation of unstable conditions susceptible to erosion;

(C) Protect new buildings and major improvements from flood damage due to increased stormwater runoff;

(D) Protect human life and health from the hazards of increased flooding on a watershed basis;

(E) Lessen the burden on taxpayers for flood control projects, repairs to flood-damaged public facilities and utilities, correction of channel erosion problems, and flood rescue and relief operations caused by increased stormwater runoff quantities from new development;

(F) Protect, conserve, and promote the orderly development of land and water resources;

(G) Protect the hydrologic, hydraulic, and other beneficial functions of streams, lakes, wetlands, floodplains and flood-prone areas;

(H) Preserve stream corridors to moderate flooding and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits, and enhance community and economic development;

(I) Prevent additional disruption of governmental services and the economy due to flooding and drainage problems;

(J) Establish requirements and promote regular, planned maintenance of stormwater management facilities.

32-1-2 SCOPE. No person shall develop or redevelop any land for residential, commercial, industrial, institutional, or public uses without providing a stormwater management plan and obtaining a stormwater management permit.

ARTICLE II – ABBREVIATIONS AND DEFINITIONS

32-2-1 ABBREVIATIONS.

CFR	-	Code of Federal Regulations
FEMA	-	Federal Emergency Management Agency
IDNR	-	Illinois Department of Natural Resources
IDOT	-	Illinois Department of Transportation
IDPH	-	Illinois department of Public Health
IEPA	-	Illinois Environmental Protection Agency
IUM	-	Illinois Urban Manual
MS4	-	Municipal Separate Strom Sewer System
MWRD	-	Metropolitan Water Reclamation District of Greater Chicago
NIPC	-	Northeastern Illinois Planning Commission
NRCS	-	Natural Resources Conservation Service (formerly SCS)
OWR	-	Office of Water Resources (IDNR)
SCS	-	Soil Conservation Service (now NRCS)
SWCD	-	Soil and Water Conservation District
SWP3	-	Storm Water Pollution Prevention Plan
USACE	-	U.S. Army Corps of Engineers
USDA	-	U.S. Department of Agriculture
USEPA	-	U.S. Environmental Protection Agency
WOTUS	-	Waters of the United States

32-2-2 DEFINITIONS. The source of the definition is referenced and identified as follows: [1]17 Illinois Administrative Code, Chapter I, Section 3700 (December 31, 2014), [2]17 Illinois Administrative Code, Chapter I, Section 3708, [3]Model Floodplain Ordinance for Communities Within Northeastern Illinois, [4]FEMA, [5]USEPA, [6]NRCS, [7]Title 33 Code of Federal Regulations 328 Definitions (b).

Adverse Impacts: Any deleterious impact on water resources or wetlands affecting their beneficial uses including recreation, aesthetics, aquatic habitat, quality, and quantity.

Agricultural Land: Land predominantly used for agricultural purposes.

Applicant: Any person, firm, corporation, or agency that submits an application for a stormwater permit. The applicant is the current owner of the property or a representative for the owner.

Base Flood[3]: The flood having a **one percent (1%)** chance of being equaled or exceeded in any given year. The base flood is also known as the 100-year frequency flood event.

Base Flood Elevation (BFE)[3]: The elevation of the crest of the base flood in relation to mean sea level.

Basement[3]: That portion of the building having its floor subgrade (below ground level) on all sides.

Best Management Practice (BMP): A measure used to control the adverse stormwater-related effects of development, and includes structural devices (for example, swales, filter strips, infiltration trenches, and site runoff storage basins designed to remove pollutants, reduce runoff rates and volumes, and protect aquatic habitats) and nonstructural approaches, such as public education efforts to prevent the dumping of household chemicals into storm drains.

Building[3]: A walled and roofed structure, including gas or liquid storage tank, that is principally above ground, including manufactured homes, prefabricated buildings, and gas or liquid storage tanks. The term also includes recreational vehicles and travel trailers installed on a site for more than **one hundred eighty (180) days** per year.

Buffer: An area of predominantly deeply rooted native vegetated land adjacent to channels, wetlands, lakes, or ponds for the purpose of stabilizing banks and reducing contaminants, including sediments, in stormwater that flows to such areas.

Bulletin 70: Frequency Distributions and Hydro-climatic Characteristics of Heavy Rainstorms in Illinois, by Floyd Huff and James Angel of the Illinois State Water Survey (1989).

Bulletin 71: Rainfall Frequency Atlas of the Midwest by Floyd Huff and James Angel of the Illinois State Water Survey (1992).

Bypass Flows: Stormwater runoff from upstream properties tributary to a property's drainage system, but not under its control.

Channel[3]: Any river, stream, creek, brook, branch, natural or artificial depression, ponded area, flowage, slough, ditch, conduit, culvert, gully, ravine, wash, or natural or manmade drainage way that has a definite bed and bank or shoreline, in or into which surface or groundwater flows, either perennially or intermittently.

Channel Modification[3]: Alteration of a channel by changing the physical dimensions, slopes, or materials of its bed or banks. Channel modification includes damming, riprapping (or other armoring), widening, deepening, straightening, relocating, lining, and significant removal of native vegetation from the bottom or banks. Channel modification does not include the clearing of dead or dying vegetation, debris, or trash from the channel. Channelization is a severe form of channel modification involving a significant change in the channel cross-section typically involving relocation of the existing channel (e.g., straightening).

Combined Sewer Systems: Sewers that are designed to collect rainwater runoff, domestic sewage, and industrial wastewater in the same pipe. Mostly, combined sewer systems transport their wastewater to a sewage treatment plant, where it is treated and discharged to a water body.

Combined Sewer Overflow: The excess capacity of flow in a combined sewer system, typically occurring during periods of heavy precipitation. Overflow discharges directly to a nearby stream, river, or other water body.

Compensatory Storage[3]: An artificially excavated, hydraulically equivalent volume of storage within the floodplain used to balance the loss of natural flood storage and flow conveyance capacity when artificial fill or structures are placed within the floodplain. The uncompensated loss of natural floodplain storage and conveyance capacity can increase off-site floodwater elevations and flows.

Conduit: Any channel, pipe, sewer, or culvert used for the conveyance or movement of water, whether open or closed.

Conservation Plan: A plan written by an NRCS or environmental planned that identified conservation practices and includes site-specific BMPs for agricultural plowing or tilling activities and animal heavy use areas.

Construction[1]: The placement, erection, or reconstruction of any building or structure, any filling or excavation, the installation of any utility, or the storage of construction materials. Construction includes, but is not limited to, modifications to any land, modifications to an existing building that would change the building's outside dimensions, channel modifications and enclosure, roads, bridges, culverts, levees, bank protection, walls, fences, and any other man-made activity that would modify the physical features of a floodway with respect to the storage or conveyance of flood waters or increase impervious areas. Construction does not include normal maintenance and repair activities or farming operations such as disking and plowing.

Critical Duration Storm[4]: The design storm which provides the highest flood discharges/water surface elevation for the flooding source.

Depressional Storage: The volume contained below a closed contour, the upper elevation of which is determined by the invert of a surface gravity outlet.

Design High Water Elevation: For reservoirs, the operating elevation of the normal summer pool.

Designated Floodway[3]: The channel, including on-stream lakes, and that portion of the floodplain adjacent to a stream or watercourse, generally depicted on the FEMA FIRM map, which is needed to store and convey the existing 1% annual-chance storm event with no more than a 0.1 foot increase in stage due to the loss of flood conveyance or storage, and no more than a **ten percent (10%)** increase in velocities.

Detention Basin: A facility constructed or modified to provide for the temporary storage of stormwater runoff and the controlled release by gravity, through infiltration, or by pump of this runoff at a prescribed rate during and after a flood or storm.

Detention Time: The mean residence time of stormwater in a detention basin.

Development[3]: Any man-made change to real estate, including construction, reconstruction, repair, or placement of a building or any addition to a building, installing a manufactured home on a site, preparing a site for a manufactured home, or installing a travel trailer on a site for more than **one hundred**

eighty (180) days (if the travel trailer or recreational vehicle is on site for more than **one hundred eighty (180) days**, it must be fully licensed and ready for highway use.); drilling, mining, installing utilities, construction of roads, or similar projects; demolition of a structure or redevelopment of a site; clearing of land as an adjunct of construction; construction or erection of levees, walls, fences, dams, or culverts, channel modification; filling, dredging, grading, excavating, paving, or other non-agricultural alterations of the ground surface; storage of materials; deposit of solid or liquid waste, any other activity of man that might change the direction, height, or velocity of flood or surface water, including extensive vegetation removal; and substantial improvement of an existing building. Development does not include routine maintenance of existing buildings and facilities such as re-roofing or re-surfacing of roads when there is no increase in elevation, or gardening, plowing, and similar agricultural practices that do not involve filling, grading, or construction of levees.

Development Site: The specific area of land where regulated activities in the municipality are planned, conducted, or maintained.

Drainage Area: The land area above a given point where precipitation will contribute to runoff flow.

Drainage Plan: See Stormwater Management Plan.

Dry Basin: A detention basin designed to drain completely after temporary storage of stormwater flows and to normally be dry over the majority of its bottom area.

Easement: Grant or reservation by the owner of land for the use of such land by others for a specific purpose or purposes, and which must be included in the conveyance of land affected by such easement.

Erosion[3]: The general process whereby soils are moved by flowing water or wave action.

E&S Plan (Erosion and Sediment Control Plan): See Stormwater Pollution Prevention Plan.

Exemption: Land development activities that are not subject to the stormwater management permit requirements contained in this Chapter.

Field Tile: An agricultural drainage system to remove excess water from soil subsurface through perforated pipes in the ground.

Five-Year (5-yr) Event: A runoff, rainfall, or flood event having a **twenty percent (20%)** chance of occurring in any given year.

Flood[3]: A general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waves or the unusual and rapid accumulation of runoff of surface waters from any source.

Floodplain[3]: That land typically adjacent to a body of water with ground surface elevations at or below the base flood elevation (BFE) (the 100-year frequency flood elevation). Floodplains may also include detached Special Flood Hazard Areas (see definition), ponding areas, etc.

Flood-proofing[3]: Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, and structures and their contents.

Flood Fringe[2]: That portion of the floodplain outside of the regulatory floodway.

Flood Protection Elevation (FPE)3: The elevation of the base flood or 100-year frequency floods plus **one (1) foot** of freeboard at any given location in the Special Flood Hazard Area (SFHA).

Floodway: See Regulatory Floodway.

Freeboard: An increment of height added to the BFE, groundwater table, or 100-year design water surface elevation to provide a factor of safety for uncertainties in calculations, unknown local conditions, wave action, non-stationary climate, and unpredictable effects such as those caused by ice or debris jams.

Green Infrastructure: Any stormwater management technique or practice that reduces runoff volume through preserving, restoring, utilizing, or enhancing the processes of infiltration, evapotranspiration, and reuse. Approaches may include green roofs, naturalized detention facilities, trees and tree boxes, rain gardens, vegetated swales, vegetated buffer, wetlands, infiltration planters, porous and permeable pavements, porous piping systems, dry wells, vegetated median strips, reforestation/revegetation, rain barrels, and cisterns, and protection and enhancement of riparian buffers and floodplains.

Groundwater: Water that is located beneath the ground or pavement surface.

Hydraulics: The science and study of the conveyance of liquid through physical systems, such as pipes and channels.

Hydrograph: A graph showing the flowrate for a given location on a stream or conduit with respect to time.

Hydrology: The science of the behavior of water, including its dynamics, composition, and distribution in the atmosphere, on the surface of the earth and underground.

Hydrophytes: A plant adapted to grow in water.

Hydric Soil[6]: A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

Hydrologic and Hydraulic Calculations[4]: Engineering analysis which determines expected flood flows and flood elevations based on land characteristics and rainfall events.

Hydrologically Disturbed[4]: An area where the land surface has been cleared, grubbed, compacted, or otherwise modified to alter stormwater runoff, volumes, rates, flow direction, or inundation duration.

Illinois Urban Manual: A publication of best management practices commonly used in an urban setting produced by the Association of Illinois Soil and Water Conservation Districts, published October 2013**.** http://www.aiswcd.org/illinois-urban-manual/

Impervious Area: Land cover such as, but not limited to, non-porous asphalt or asphalt sealants, non-porous concrete, roofing materials except planted rooftops designed to reduce runoff, and gravel surfaces used as roadways or parking lots that prevent infiltration.

Infiltration: The passage or movement of water into the soil horizon.

Karst: A type of topography or landscape characterized by features, including but not limited to, surface depressions, sinkholes, rock pinnacles/uneven bedrock surfaces, underground drainage, and caves. Karst is formed on carbonate rocks, such as limestone or dolomite.

Major Drainage System: That portion of a drainage system needed to store and convey flows beyond the capacity of the minor drainage system.

Maximum Extent Practicable: Highest level of runoff volume reduction that is achievable for the development as determined by the applicant and approved by the (*enforcement officer*).

Minor Drainage System: All infrastructure including curb, gutter, culverts, roadside ditches and swales, and storm sewers and subsurface drainage systems intended to convey stormwater runoff less than or equal to the design storm event required by the Chapter.

Mitigation[3]: Measures necessary to minimize the negative effects that stormwater drainage and development activities might have on the public health, safety and welfare. Examples of mitigation include compensatory storage, soil erosion and sedimentation control, and channel restoration.

Natural[3]: When used in reference to channels, those formed by the existing surface topography of the earth prior to man-made changes. A natural stream tends to follow a meandering path; its floodplain is not constrained by levees; the area near the bank has not been cleared, mowed, or cultivated; the stream flows over soil and geologic materials typical of the area with no substantial alteration of the course or cross-section of the stream caused by filling or excavating. A modified channel may regain some natural characteristics over time as the channel meanders and vegetation is re-established. Similarly, a modified channel may be restored to more natural conditions by man through regrading and revegetation.

Open Channel: A conveyance system with a definable bed and banks carrying the discharge from field tiles, surface drainage, and/or storm sewer system, but does not include grassed swales within farm fields under agricultural production which are ephemeral.

One Hundred-Year (100-yr) Event: A rainfall, runoff, or flood event having a **one percent (1%)** chance of occurring in any given year.

Ordinary High Water Mark[3]: The point on the bank or shore up to which the presence and action of surface water is so continuous so as to leave a distinctive mark such as by erosion, destruction, or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.

Overland Flow Path: A design feature of the major stormwater system which carries flows in excess of the minor stormwater system design capacity in an open channel or swale, or as sheet flow or weir flow over a feature designed to withstand the particular erosive forces involved.

Peak Flow: The maximum flow rate of water at a given point in a channel or conduit.

Post-Development: Refers to conditions that reasonably may be expected or anticipated to exist after completion of the land-disturbing activity on a specific site or tract of land.

Primary Gravity Outlet: The outlet structure designed to meet the release rate requirements of this Chapter, the invert (lowest elevation) of which shall be considered the normal water elevation for required stormwater retention.

Property: A parcel of real estate.

Redevelopment: Any human-induced activity or change to an existing developed property (including but not limited to, demolition, grading, paving, excavation, dredging, fill, or mining; alteration, subdivision, change in land use or practice; building; or storage of equipment or materials) undertaken by private or public entities that affects the volume, flow rate, drainage pattern, or composition of the site stormwater runoff on the previously developed land. The term shall not be understood to include maintenance.

Regulatory Floodplain: Lands subject to inundation by the base flood. Floodplains are identified on enumerated panels and index of Flood Insurance Rate Maps (FIRMs) prepared by the FEMA.

Regulatory Floodway[2]: The channel and that portion of the floodplain adjacent to a stream or watercourse as designated by OWR pursuant to Section 18g of the Rivers, Lakes and Stream Act **(615 ILCS 5)** Act, which is needed to store and convey the 100-year frequency flood discharge with not more than 0.1 foot increase in stage due to the loss of flood conveyance or storage, and no more than a **ten percent (10%)** increase in velocity.

Retention/Detention Facility3: A retention facility stores stormwater runoff without a gravity release. A detention facility provides for storage of stormwater runoff and controlled release of this runoff during and after a storm.

Runoff[3]: The water or drainage derived from melting snow or rain falling on the land surface, flowing over the surface of the ground, or collected in channels or conduits.

Sedimentation[3]: The process that deposits soils, debris, and other materials either on other ground surfaces or in bodies of water or watercourses or stormwater drainage systems.

Site: All of the land contemplated to be part of a coordinated development of one or more parcels.

Special Flood Hazard Area (SFHA)[4]: Areas on the FIRMs where floodplain management regulations must be enforced.

Stormwater Drainage System: All means, natural and man-made, used to convey stormwater to, through or from a drainage area to the point of final outlet from a property. The stormwater drainage system includes, but is not limited to, any of the following: conduits and appurtenance features, canals, channels, ditches, streams, culverts, streets, storm sewers, detention basins, swales and pumping stations.

Stormwater: Runoff from the surface of the land resulting from precipitation or snow or ice melt.

Stormwater Management: A system of vegetative, structural, non-structural, and educational measures that control the volume, rate, and pollutants of stormwater.

Stormwater Management Permit (SWM Permit): An approval shall be issued by the (*enforcement officer*) prior to the approval of a building permit. Issuance of a stormwater management permit signifies conformance with provisions of this Chapter.

Stormwater Management Plan (SWM Plan): Set of drawings or other documents submitted as a prerequisite to obtaining a stormwater management approval, which contains all information and specifications of drainage systems and environmental features proposed after the development of a property.

Stormwater Pollution Prevention Plan (SWPPP)[5]: A site-specific, written document that identifies potential sources of stormwater pollution at the construction site, describes practices to reduce pollutants in stormwater discharges from the construction site (reduction of pollutants is often achieved by controlling the volume of stormwater runoff), and identifies procedures the operator will implement to comply with the terms and conditions of a construction general permit.

Storm Sewer: A closed conduit for conveying collected stormwater.

Substantial Improvement[3]: Any reconstruction, rehabilitation, addition, or improvement of a structure taking place (**pick either: "subsequent to the adoption of this ordinance", "during the life of the building", or "during a ten (10) year period")* in which the cumulative percentage of improvements:

- Equals or exceeds **fifty percent (50%)** of the market value of the structure before the improvement or repair is started, or
- Increases the floor area by more than **twenty percent (20%)**.

"Substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred repetitive loss or substantial damage, regardless of the actual repair work done.

The term does not include:

(A) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or

(B) Any alteration of a structure listed on the National Register of Historic Places or the Illinois Register of Historic Places.

Ten-Year (10-yr) Event: A runoff, rainfall, or flood event having a **ten percent (10%)** chance of occurring in any given year.

Time of Concentration: The elapsed time for stormwater to flow from the most hydraulically remote point in a watershed to a particular point of interest in that watershed.

Tributary Watershed: All of the land surface area that contributes runoff to a given point; the area of which is the drainage area.

Two-Year (2-yr) Event: A runoff, rainfall, or flood event having a **fifty percent (50%)** chance of occurring in any given year.

Volume Control Storage: The volume of storage required to detain a specified amount of runoff from the new impervious area of development on the site.

Water Table: The upper limit of a free water surface in a saturated soil or underlying material.

Waters of the United States (WOTUS): For the purpose of this Chapter, the term refers to wetlands and water bodies that are under the U.S. Army Corps of Engineers (USACE) regulatory jurisdiction.

Waters of the U.S. Impact: Waters of the U.S. that are hydrologically disturbed or otherwise adversely affected by flooding, filling, excavation, or drainage which results from implementation of a development activity, or any development activity within the boundary of a delineated wetland. For those areas regulated by the USEPA and the USACE, impacts are defined base don 33 CFR Part 230 – Section 404(b)(1) and 33 CFR Parts 320 through 330 as amended.

Watershed: All land drained by, or contributing water to the same stream, lake, stormwater facility, or draining to a point.

Wet Basin: A detention basin designed to maintain a permanent pool of water after the temporary storage of stormwater runoff.

Wetland[7]: Areas which are inundated or saturated by surface or ground water (hydrology) at a frequency and duration sufficient to support, under normal circumstances, a prevalence of vegetation (hydrophytes) typically adapted for life in saturated soil conditions (hydric soils). Wetlands generally include swamps, marshes, bogs, and similar areas.

Wetland Mitigation Bank: A site where wetlands are restored, established, enhanced, and/or preserved to provide compensatory mitigation for authorized impacts. In general, a mitigation bank sells compensatory mitigation credits (acres) to the co-permittee(s), whose obligation to provide compensatory mitigation is then transferred to the mitigation bank sponsor.

ARTICLE III – AUTHORITY AND APPROVALS

32-3-1 AUTHORITY AND APPROVALS. This Chapter is enacted pursuant to the police powers granted to (county, township) by the Illinois Compiled Statutes (Chapter ___, Section _____). In (county, township), the appropriate (*enforcement officer*) shall be responsible for enforcing this Chapter. One of the primary duties of the (*enforcement officer*) shall be to review all stormwater management applications and issue permits for projects that are in compliance with the provisions of this Chapter. The (*enforcement officer*) shall be responsible for the administration and enforcement of this Chapter.

The requirements of the stormwater regulations shall be implemented, and shall be satisfied completely, prior to final project approval by the (*enforcement officer*). No one shall conduct any development activity, or subdivide, or make any change in the use of land, or construct any stormwater management system or structure, or change the size of an existing structure or system without an approved permit, except those that may be exempt (See **Section 32-4-2**).

Any construction plans, specifications, building permits, or other documents approved by the (*enforcement officer*) shall be in accordance with all applicable state or federal permit requirements of the Illinois Department of Natural Resources (IDNR) and/or U.S. Army Corps of Engineers.

ARTICLE IV – GENERAL PROVISION AND JURISDICTION

32-4-1 REGULATED DEVELOPMENT. No person, firm, corporation, or governmental agency, unless specifically exempted, shall commence any regulated development on any lot or parcel of land without first obtaining a stormwater management permit (SWM permit) from the (*enforcement officer*). A stormwater management permit is required for regulated development, including finalization of a plat, replat, planned development (PD), planned unit development (PUD) or manufactured home park site plan. Development that meets any of the following criteria is considered regulated development:

(A) Any development that results in an additional **five thousand (5,000) square feet** of impervious area from the original effective date of this Chapter; or

(B) Any development which hydrologically disturbs **five thousand (5,000) square feet** or more; or

(C) Any development that results in change in the direction of stormwater runoff from a site; or

(D) Any land-disturbing activity that will affect an area in excess of **five hundred (500) square feet** if the activity is within **twenty-five (25) feet** of a lake, pond, stream, or wetland; or

(E) Any activity resulting in a wetland impact; or

(F) Any development that is located partially or completely in a regulatory floodway; or

(G) Any development that is located partially or completely in a regulatory floodplain; or

(H) Any development that is located in a flood-prone area with **one hundred (100) acres** of tributary drainage area or more.

32-4-2 EXEMPTED DEVELOPMENT. The following regulated activities are specifically exempt from the ordinance standards and preparation of a SWM Permit:

(A) Agricultural activity;

(B) Forest management and timber operations;

(C) Development that disturb less than **five thousand (5,000) square feet** of land area and are more than **twenty-five (25) feet** away from a lake, pond, stream, or wetland;

(D) Conservation practices being installed as part of the implementation of a conservation plan.

The Municipality may deny or revoke any exemption pursuant to the section at any time for any project that the Municipality believes may pose a threat to public health, safety, property, or the environment.

32-4-3 FEES AND APPLICATION REVIEW TIMES.

(A) A non-refundable permit fee will be collected at the time the SWM permit application is submitted. The permit fee will provide for the cost of plan review, administration, and management of the permitting process, and inspection of all projects subject to this Chapter.

(B) A permit fee schedule shall be established by the (municipality) based upon the relative complexity of the project.

(C) Permit applications shall be reviewed within **fifteen (15) business days** of receipt to determine if the application package is complete. A completed application package shall be approved or denied within **forty-five (45) business days** of the latest item submitted.

32-4-4 PERMIT TERMS, CONDITIONS AND EXTENSIONS.

(A) A grading or building permit may not be issued for any parcel or lot unless a stormwater management plan (Article VI) has been approved or exempted by the (municipality) as meeting all requirements of this Chapter.

(B) The term of a stormwater management permit shall be from the issue date to the expiration date, which is **two (2) years** after the issue date, except that the term of a stormwater

management permit for earth extraction and mining operations shall be for the term of the conditional use permit, provided that the term of the conditional use permit does not exceed **ten (10) years**.

(C) Special conditions may be added to a permit by the (*enforcement officer*) to clarify the purpose of authorization granted by the permit. Special conditions may also specify other restrictions and constraints of the authorized work.

(D) If the permitted work is not completed within the term of the permit, the permittee may request, in writing, an extension of time on the permit. The (*enforcement officer*) may extend the permit for an additional **six (6) months**. The (*enforcement officer*) may amend or add special conditions to the permit at the time of the extension. Permit extension requests may not be made prior to **ninety (90) days** of the permit expiration date. More than one extension may be granted for permitted work by the (*enforcement officer*).

(E) A permit may be terminated during its term or a permit extension may be denied for, but not limited to, any of the following reasons:

(1) Noncompliance with any condition of the permit;

(2) The permittee's failure to disclose fully all relevant facts in the application process or the permittee's misrepresentation of any relevant facts at any time;

(3) If the authorized work is suspended or abandoned for a period of **six (6) months** after the time of commencing the work;

(4) Changes in site runoff characteristics upon which an approval or exemption was granted; or

(5) An immediate danger exists downstream in the opinion of the (municipality).

ARTICLE V – STORMWATER MANAGEMENT STANDARDS

32-5-1 GENERAL REQUIREMENTS.

(A) A SWM permit is required for all regulated development unless preparation and submission of the SWM Permit is specifically exempted according to **Section 32-4-2**.

(B) No regulated activities shall commence until the (municipality) issues written approval of a SWM Permit.

(C) The SWM Permit approved by the (*enforcement officer*) is required to be on site throughout the duration of the regulated activity.

(D) For all regulated activities, pre- and post-construction erosion and sediment control measures and stormwater management BMPs shall be designed, implemented, operated, and maintained to meet the purposes and requirements of this Chapter. Various BMPs and their design standards are listed in the Illinois Urban Manual.

(E) Unless prohibited by the (municipality) zoning ordinance or any ordinance which regulates construction and development within the areas of the (municipality), stormwater management facilities located in the floodplain are permitted when designed and constructed in accordance with the floodplain management ordinance and the requirements of this Chapter.

(F) All regulated activities shall include such measures as necessary to:

(1) Protect health, safety, and property;

(2) Meet the water quality goals of this Chapter by implementing measures to:

(a) Protect and/or improve the function of floodplains, wetlands, and wooded areas.

(b) Protect and/or improve native plant communities, including those within the riparian corridor.

(c) Protect and/or improve natural drainageways from erosion.

(d) Minimize thermal impacts to waters of Illinois.

(e) Minimize runoff to impervious surfaces by directing runoff to pervious areas.

(G) Non-structural BMPs shall be utilized to the maximum extent practicable, with a goal to treat at least **twenty-five percent (25%)** of the water quality requirements and volume controls before implementing structural BMPs.

(H) Impervious areas:

(1) The measurement of an impervious area shall include all of the impervious areas in the total proposed development, even if development is to take place in stages or phases.

(2) For development taking place in stages or phases, the entire development plan must be used in determining conformance with this Chapter.

(3) Any areas designed to initially be gravel or crushed stone shall be assumed to be impervious.

(4) For new permeable pavement, designers should use one-half of the measured infiltration rate during design to approximate long-term infiltration rates or similar design standards based on the specifications of pavement used in the design.

(I) The design of all stormwater management facilities over karst shall include an evaluation of measures to minimize adverse effects.

(J) A planting plan is required for all vegetated stormwater BMPs.

(1) Native or naturalized/non-invasive vegetation suitable to the soil and hydrologic conditions of the development site shall be used.

(2) Invasive vegetation may not be included in any planting schedule.

(3) Prior to construction, a tree protection zone shall be delineated at the dripline of the tree canopy. All trees scheduled to remain during construction shall be marked; however, where groups of trees exist, only the trees on the outside edge need to be marked. A **forty-eight (48) inch** high snow fence or **forty-eight (48) inch** high construction fence

mounted on steel posts located **eight (8) feet** on center shall be placed along the tree protection boundary. No construction, storage of material, temporary parking, pollution of soil, or regrading shall occur within the tree protection zone.

(4) All planting shall be performed in conformance with good nursery and landscape practice. Plant materials shall conform to the standards recommended by the American Association of Nurseryman, Inc. in the American Standard of Nursery Stock.

(K) A minimum **ten (10) foot** wide access easement shall be provided for all proposed stormwater facilities with tributary areas equal to or greater than **one thousand (1,000) square feet** and not located within a public right-of-way. Easements shall provide for ingress and egress to a public right-of-way.

(L) Drainage easements shall be provided where the conveyance, treatment, or storage of stormwater, either existing or proposed, is identified on the SWM permit. Drainage easements shall be provided to contain and convey the 100-year frequency flood.

(M) The (municipality) may require additional stormwater control measures for stormwater discharges to special management areas including, but not limited to:

(1) Water bodies listed as "impaired" on Illinois's Clean Water Act 303(d)/305(b) Integrated list.

(2) Any water body or watershed with an approved Total Maximum Daily Load (TMDL).

(3) Critical areas with sensitive resources (e.g., karst areas, carbonate or other groundwater recharge areas highly vulnerable to contamination, drainage areas to water supply reservoirs, source water protection zones, etc.)

(N) A plan for the ongoing maintenance of all stormwater management system components, including wetlands and buffer areas, is required prior to plan approval. The plan shall include:

(1) Maintenance tasks.

(2) The party responsible for performing the maintenance tasks.

(3) A description of all permanent public or private access maintenance easements and overland flow paths, and compensatory storage areas.

(4) A description of dedicated sources of funding for the required maintenance.

32-5-2 WATER QUALITY AND VOLUME CONTROLS. The standards of this Section shall apply to all regulated development that increases impervious areas. Public road developments that result in less than **one and one-half (1.5) acres** of a new impervious area or less than the rate of **one and one-half (1.5) acres** of an impervious area per linear mile shall meet the water quality and buffer standards to the extent that is practicable due to limited site conditions.

The development shall provide water quality treatment for runoff from increased impervious areas to minimize impacts of post-development stormwater runoff on water quality. The development shall provide volume control for runoff to meet the requirements of **Section 32-5-3**. The SWM plan shall include a description of the water quality protection and volume control measures incorporated into the site design. Volume control practices may be incorporated into the water quality control practices.

(A) The first inch of runoff from the new impervious area of development on the site shall be the water quality control storage.

(B) Volume control practices shall provide water quality treatment of the water quality control storage. Water quality and volume control practices shall be designed according to the following hierarchy. Appendix A outlines design specifications for the following control practices for water quality.

(1) Preservation of natural resource features of the development site (e.g., floodplains, wetlands, prairies, and woodlands);

(2) Preservation of the existing natural streams, channels, and drainageways;

(3) Minimizing impervious surfaces (e.g., narrowing road width, minimizing driveway length and width, clustering homes and shared driveways) created at the site, while maintaining compliancy with other community ordinances (i.e., fire vehicle access, etc.);

(4) The use of native, deep-rooted landscaping as an alternative to turf grass;
(5) the use of open vegetated channels, filter strips, and infiltration (basins, trenches, floodplain restoration, etc.) to convey, filter, and infiltrate stormwater runoff and minimize the usage of minor stormwater systems;
(6) Preservation of the natural infiltration and storage characteristics of the site (e.g., disconnection of impervious cover, on-lot bio-retention facilities, rooftop detention, parking lot detention);
(7) Structural measures that provide water quality and volume control (stormwater wetlands, wet detention facilities, sedimentation traps, etc.);
(8) Structural measures that provide only quantity control and conveyance;
(9) Other methods as may be found in the Illinois Urban Manual.

(C) All volume reductions plus volume control practices from proposed BMPs shall equal or exceed the required control volume (1" x new impervious area).

32-5-3 <u>SITE RUNOFF CONTROLS.</u> Site runoff control for large storms, up to the 100-year event, is essential to protect against immediate downstream erosion and flooding.

(A) Post-development discharge rates shall not exceed the exiting conditions discharge rates for the 2-, 10-, 25-, 50- and 100-year critical duration storm events. If it is shown that the peak rates of discharge indicated by the post-development analysis are less than or equal to the peak rates of discharge indicated by the existing conditions analysis for 2-, 10, 25-, 50-, and 100-year critical duration storms, then the requirements of this Section have been met. Otherwise, the applicant shall provide additional controls as necessary to satisfy the peak rate of discharge requirement. Peak runoff rates shall be based on the critical duration storm.

(B) Any concentrated stormwater discharges leaving a site must be conveyed into an existing channel, storm sewer, or overland flow path with adequate downstream stormwater capacity and will not result in increased erosion, flood damage, or other drainage hazard.

Demonstration of this shall include a comparison of existing and post-development velocity, discharge, and hydrograph at the location where stormwater leaves the site. Post-development velocity, peak discharge, and runoff volume shall be less than **one hundred ten percent (110%)** of the existing conditions of velocity, peak discharge and volume for the 100-year critical duration storm.

(C) Where a single pipe outlet or orifice plate is to be used to control discharge, it shall have a minimum diameter of **twelve (12) inches**. If this minimum size permits release rates greater than those specified in this Section, alternative outlet designs shall be utilized which incorporate self-cleaning flow restrictors. The minimum area for the flow restrictor is **12.56 square inches** (equivalent to a **four (4) inch** circular pipe). The outlet pipe and control devices shall be designed to minimize maintenance requirements and prevent tampering.

(D) The design of stormwater management systems shall not result in any transfer of water between watersheds unless no reasonable alternative exists as determined by the (*<u>enforcement officer</u>*).

(E) Concentrated stormwater discharge shall not be connected to an existing field tile or any other drainage tile system unless the applicant submits a maintenance agreement, recorded easement, and a report that indicates the existing system, from the connections to the discharge point in an open channel, has adequate hydraulic capacity and structural integrity. The recorded easement and maintenance agreement must extend from the connection to the discharge point in an open channel. The recorded easement and maintenance agreement must be approved by the (municipal engineer) prior to issuance of a stormwater management permit.

(F) **<u>Calculation Methodology.</u>**
(1) TR-20, WinTR-20, HEC-1, HEC-HMS, or a (municipality)-approved hydrograph producing a hydrologic model shall be used for the following:
(a) To determine peak runoff rates for areas with a drainage area of **one hundred (100) acres** or greater; and,
(b) To confirm the stormwater storage requirements for stormwater facilities that have a drainage area of **ten (10) acres** or more.

(2) TR-55 may be used to calculate discharges for areas that drain less than **one hundred (100) acres**. TR-55 with a pond-routing program such as TR-20 or HEC-1 may be used to confirm stormwater storage requirements.

(3) The Rational Method may be used to calculate discharges for drainage areas of less than **twenty (20) acres** and the storm sewer design. The Rational Method or the Modified Rational Formula shall not be used to determine detention storage requirements.

(4) Climatic Sectional rainfall data with appropriate application of the areal to point ratio as presented in the Illinois State Water Survey Bulletin 70 shall be used for all hydrologic analysis.

(5) Rainfall should be distributed using the appropriate Illinois State Water Survey Circular 173 Huff rainfall distribution (Huff, 1990), except that SCS Type II distribution is acceptable with TR-55.

(6) Runoff calculations for all offsite tributary land shall be based on either the anticipated future land use conditions or existing land use conditions. Anticipated future land use conditions will be based on future land use and existing offsite storage facilities. Existing land use conditions will be based on existing land use and existing offsite storage facilities.

32-5-4 DETENTION FACILITIES.

(A) Detention, along with green infrastructure, non-structural and structural BMPs, are recommended for projects involving more than **one (1) acre** of new impervious area. Green infrastructure and non-structural BMPs are required to control stormwater runoff for projects with less than **one (1) acre** of new impervious area.

(B) The area of development shall be used to calculate the detention volume and allowable release rate from a detention facility.

(C) The allowable release rate for a storage facility shall not exceed **0.04 cfs** per acre for the 2-year, critical duration storm and **0.15 cfs** per acre for the 100-year, critical duration storm.

(D) All stormwater infiltration, retention, and detention facilities shall be provided with an emergency overflow structure or path capable of passing the inflow from a critical duration 100-year storm without damages to any structures on adjacent land. The emergency overflow structure shall have an invert elevation at or above the design high water elevation. A minimum freeboard of **one (1) foot** shall be provided above the design high water elevation. The freeboard should be measured from the design high water elevation to the top of the berm. The overflow path shall not be located on top of the outlet pipe.

(E) Single pipe outlets shall have a minimum inside diameter of **twelve (12) inches**. Control devices such as perforated risers, weirs, and orifices may be used to meet restricted release rates. The minimum area for the control device is **12.56 square inches** (equivalent to a **four (4) inch** circular pipe). The outlet pipe and control devices shall minimize maintenance requirements and prevent tampering.

(F) In no cases shall the restricted release rate exceed that described in the Site Runoff Controls **(Section 32-5-3)** above, for the entire area of the facility.

(G) Online detention facilities shall meet the following requirements:

(1) Online detention shall not be permissible on perennial streams. This shall include, but not be limited to, all streams designated as Hydrographic Category perennial in the NHD Flowline feature class in the of the National Hydrography Dataset (NHD) database.

(2) Online detention shall not be permissible with an off-site to on-site drainage area ratio greater than 10:1.

(3) Online detention shall not be permissible if the drainage area is greater than **six hundred forty (640) acres**.

(4) The required online detention volume shall be calculated based on the hydrologically disturbed area of the ownership parcel and release rates, which shall not exceed **0.04 cfs** per acre for the 2-year, critical duration storm and **0.15 cfs** per acre for the 100-year, critical duration storm. The control structure shall be designed based on the total tributary area (on-

site and off-site) and release rates which shall not exceed **0.04 cfs** per acre for the 2-year, critical duration storm and **0.15 cfs** per acre for the 100-year, critical duration storm at the impoundment elevations established by the required detention volumes. The (*enforcement officer*) may modify the control structure design standard if warranted by on-site or off-site conditions.

(5) A stable overflow structure capable of passing the 100-year, critical duration offsite flow rate shall be provided. The offsite flow-rates shall be calculated assuming existing conditions or future conditions with detention required per this Chapter, whichever is greater.

(6) All permitting requirements of USACE, IEPA, and IDNR/OWR shall be met.

(7) Online detention volume shall be in addition to the existing floodplain storage.

(H) **Inlet and Outlet Orientation.** To the extent feasible, the distance between detention inlets and outlets should be maximized. If possible, they should be at opposite ends of the basin. There shall be no low flow bypass between the inlet and outlet, and paved low flow channels shall not be used.

(I) **Side Slopes.** The side slopes at the shoreline of wet and wetland detention basins (from at least **six (6) inches** below to at least **six (6) inches** above normal water level) shall be no steeper than 10:1 to prevent shoreline erosion due to wave action and fluctuating water levels. Above shoreline areas, or in dry bottom portions, the maximum side slope shall be 4:1.

(J) A **twenty (20) foot** minimum setback shall be required from all property lines and roadways to the normal pool elevation.

(K) **Safety Shelf.** A safety shelf with a minimum **eight (8) foot** width and no slope shall be constructed no more than **one (1) foot** below normal water level.

(L) **Bank Erosion Protection.** The shoreline of wet detention basins shall be protected from erosion. The preferred method of shoreline stabilization is native wetland and wet prairie vegetation with a deep root system to stabilize the soils.

(M) Off-site flow may be diverted around a proposed detention facility provided that the other applicable standards regarding regulatory floodplain or flood-prone areas are met.

(N) Any development involving the construction, modification, or removal of a dam as defined in 17 Ill. Admin. Code Part 3702 (Rules for Construction of Dams) shall obtain an IDNR/OWR Dam Safety permit or a letter stating no permit is required prior to the start of such activity.

(O) Berms for stormwater infiltration, retention, and detention facilities shall not be constructed in a regulatory floodplain or a flood-prone area unless approved by the municipality's Chief Engineer or the (*enforcement officer*). If a berm is constructed in a regulatory floodplain or a flood-prone area, the development must meet the requirements of the floodplain ordinance. The volume inside the stormwater facility shall not be considered available for compensatory storage unless the volume is in addition to the required detention volume and is available at the appropriate storage interval.

(P) Detention facilities may connect to existing drain tiles or storm sewers only if the applicant submits a maintenance agreement, recorded easement, and a report that indicates the existing system from the connection to the discharge point in an open channel has adequate hydraulic capacity and structural integrity. The recorded easement and maintenance agreement must extend from the connection to the discharge point in an open channel. The recorded easement and maintenance agreement must be approved by the (*enforcement officer*) prior to issuance of a stormwater management permit.

(Q) Infiltration basins may be used as detention facilities subject to the following:

(1) The basin must be designed to dewater within **seventy-two (72) hours** following the end of the 100-year critical duration storm event.

(2) The underlying soils must have an infiltration rate of at least **one-half (0.5) inch** per hour as determined by an engineer.

(3) Pretreatment facilities musts be provided to prevent obstruction.

(4) The basin must be at least **two hundred (200) feet** away from any water supply wells or maximum setback zone if established.

(5) Runoff from the areas that have water quality concerns or are subject to frequent winter deicing must not be routed to the infiltration facility.

(6) The bottom of the infiltration basin must be at least **four (4) feet** above the seasonal high groundwater elevation.

(R) Drainage into, or detention within, wetlands classified as Waters of the United States (WOTUS) may be allowed, subject to obtaining regulatory permitting or written clearance from the USACE. In addition to the other requirements for this Chapter, the following requirements shall be met for all development whose drainage flows into the WOTUS.

(1) The water quality standards of **Section 32-5-2**.

(2) The 2-year discharge rate to the WOTUS shall not exceed **0.04 cfs/acre** (the 2-year detention volume must be provided upstream of the WOTUS).

(3) The existing depressional storage of the WOTUS shall be maintained. The volume of detention storage provided to meet the discharge rate requirements shall be in addition to the existing depressional storage.

(4) The site drainage patterns shall not be altered to substantially decrease or increase the area tributary to the WOTUS.

32-5-5 NON-STRUCTURAL BMPs.

(A) Infiltration BMPs shall be spread out, made as shallow as practicable, and located to maximize use of natural on-site infiltration features while still meeting the other requirements of this Chapter.

(B) Infiltration BMPs intended to receive runoff from developed areas shall be selected based on suitability of soils and development site conditions and shall be constructed on soils that have the following characteristics:

(1) A minimum depth of **twenty-four (24) inches** between the bottom of the facility and the infiltration horizon, unless it is demonstrated to the satisfaction of the (municipality) that the selected BMP has design criteria which allow for a smaller separation.

(2) A stabilized infiltration rate sufficient to accept the additional stormwater load and drain completely as determined by field tests conducted by the applicant's professional designer. The stabilized infiltration rate is to be determined in the same location and within the same soil horizon as the bottom of the infiltration facility.

(C) Areas proposed for infiltration BMPs shall be protected from sedimentation and compaction during the construction phase to maintain maximum infiltration capacity. Staging of earthmoving activities and selection of construction equipment should consider this protection.

(D) Infiltration BMPs shall not be constructed nor receive runoff from disturbed areas until the entire contributory drainage area to the infiltration BMP has achieved final stabilization.

(E) Roof drains and sump pumps shall be tributary to infiltration or vegetative BMPs. Use of catchment facilities for the purpose of reuse is also permitted.

32-5-6 STORMWATER CONVEYANCE SYSTEMS.

(A) **Storm Sewers and Swales.**

(1) The 10-year critical duration storm shall be used as a minimum for the design of storm sewers, storm inlets, and minor swales. Storm sewer design shall be sized on the assumption that they will flow full or practically full under the design discharge but will not be placed under the pressure head. Hydraulic grade line calculations shall be performed that demonstrate that sewer rims are not inundated at the design storm.

(2) Storm sewers and swales shall not connect to sanitary sewers.

(3) Storm sewers and swales may connect to existing drain tiles or storm sewers only if the applicant submits a maintenance agreement, recorded easements, and a report that indicates the existing system from the connection to the discharge point in an open channel has adequate hydraulic capacity and structural integrity. The recorded easement and maintenance agreement must extend from the connection to the discharge

point in an open channel. The recorded easement and maintenance agreement must be approved by the (*enforcement* officer) prior to issuance of a stormwater management permit.

(4) Field tile systems disturbed during development must be reconnected by those responsible for their disturbance unless the approved drainage plan includes provisions for the system. All abandoned field tiles on the site shall be removed in their entirety.

(5) All storm sewers and minor swales shall be located in a public road right-of-way, a maintenance easement, or a covenant running with the land of sufficient size to maintain and reconstruct the conveyance system.

(6) Design practices intended to minimize erosion shall be provided at the inlets and outlets for all pipes, transitions, and channels.

(7) The minimum storm sewer size shall be **twelve (12) inches** for the first pipe reach (except when using pipe as a releasing control device for upstream pipe detention) and greater than or equal to the preceding reach for all subsequent reaches unless approved by the (*enforcement officer*).

(8) The minimum design velocity for a storm sewer shall be **two and one-half (2.5) feet** per second. The maximum design velocity for a storm sewer shall be **eight (8) feet** per second.

(B) **Overland Flow Paths.**

(1) All areas of development must provide an overland flow path that will pass the 100-year flood flow (including offsite tributary flow) without damage to structures or property. If the drainage area is less than **twenty (20) acres**, the storm sewer pipe and inlet may be sized for the 100-year flow instead of providing an overland flow path.

(2) The overland flow path shall be protected from any development, such as fencing, landscaping, storage sheds, or other obstructions which could impair its function by impeding flow. This protection shall be established through a properly recorded covenant running with the land, restricting the use of the overland flow path area.

(3) The overland flow path shall be placed over natural grade, not overtop a pipe.

(4) Structures adjacent to an overland flow path shall have the following lowest opening elevation for the following tributary areas:

(a) **One-half (1/2) foot** above the BFE for tributary areas of **twenty (20) acres** or less.

(b) **One (1) foot** above the BFE for tributary areas of **twenty (20) acres** or greater.

(C) **Streams and Channels.** If the proposed activity involves a channel modification, it shall be demonstrated that:

(1) There are no practicable alternatives to the activity that would accomplish its purpose with less impact to the natural conditions of the body of water affected. Possible alternatives include levees, bank stabilization, flood-proofing of existing structures, removal of structures from the floodplain, clearing the channel, high flow channel, or the establishment of a stream side buffer strip or green belt. Channel modification is acceptable if the purpose is to restore natural conditions and improve water quality and fish and wildlife habitat;

(2) Water quality, habitat, and other natural functions would be improved by the modification and no significant habitat area may be destroyed, or the impacts are offset by the replacement of an equivalent degree of natural resource values;

(3) Migration of fish and other aquatic organisms will not be adversely impacted, sediment bedload transport (a critical component of stream geomorphology and function) will not be impaired, temporary or

permanent accumulation of sediment will not result, and increases in stream water temperatures will not occur;

(4) The activity has been planned and designed to maintain the carrying capacity of an altered or relocated watercourse and will be constructed in a way which will minimize its adverse impacts on the natural conditions of the body of water affected, consistent with the following criteria:

(a) The physical characteristics of the modified channel shall match as closely as possible to those of the existing channel in length, cross-section, slope, and sinuosity. If the existing channel has been previously modified, restoration of more natural physical conditions should be incorporated into a channel modification design, where practical.

(b) Hydraulically effective transitions shall be provided at both the upstream and downstream ends of the project, designed such that they will prevent erosion.

(c) One-sided construction of a channel shall be used when feasible. For example, removal of streamside (riparian) vegetation should be limited to one side of the channel, where possible, to preserve the shading and stabilization effects of the vegetation.

(d) Clearing of stabilization vegetation shall be limited to that which is essential for construction of the channel.

(e) Channel banks shall be constructed with a side slope no steeper than 3:1 horizontal to vertical, wherever practicable.

(f) All disturbed areas associated with the modifications shall be seeded or otherwise stabilized as soon as possible upon completion of construction to control erosion during normal and flood flows. An erosion blanket or an equivalent material shall be required to stabilize disturbed channel banks prior to establishment of the vegetative cover. Permanent stabilization shall be installed as soon as practical but not later than **ten (10) days** after the channel construction is complete.

(g) Temporary erosion control shall be installed prior to excavation associated with a channel modification and musts be maintained throughout the construction period. The temporary erosion control shall be removed upon written notification from the (*enforcement officer*).

(h) If the existing channel contains considerable bottom diversity such as deep pools, riffles, and other similar features, such features shall be provided in the new channel. Spawning and nesting areas and flow characteristics compatible with fish habitat shall also be established, where appropriate.

(i) New or relocated channels should be built in the dry. All items of construction, including vegetation, should be completed prior to diversion of water into the new channel.

(j) There shall be no increases in stage or velocity as the channel enters or leaves the project or unless necessitated by a public flood control project.

(k) Unless the modification is for a public flood control project, there shall be no reduction in the volume of floodwater storage outside the floodway as a result of the modification (i.e., no floodplain fill).

(l) A channel maintenance easement is required along all channels draining **one hundred (100) acres** or more. The minimum width of the maintenance easement shall be **twenty-five (25) feet** centered on the channel or the distance between the tops of banks plus **twenty (20) feet**, whichever is greater.

32-5-7 BUFFER AREAS. Buffer areas shall be required for all areas defined as Waters of the United States (WOTUS). The buffer area for all WOTUS shall extend landward from the ordinary high-water mark. The buffer area for jurisdictional or mitigated wetlands shall extend from the edge of the delineated wetland. A property may contain a buffer area that originates from WOTUS on another property. Buffer areas are divided into two types, linear buffers and water body buffers.

(A) Linear buffers shall be designated along both sides of all channels meeting the definition of WOTUS:

(1) When the channel has a watershed greater than **twenty (20) acres**, the minimum buffer shall be **thirty (30) feet** on each side of the channel.

(2) Channels with an Index of Biotic Integrity (IBI) greater than **thirty-five (35)** shall have a minimum buffer width of **one hundred (100) feet** on each side of the channel. (Initial IBI based on IDNR, IEPA data, or site-specific assessment, whichever is most current.)

(B) Water body buffers shall encompass all non-linear bodies of water meeting the definition of WOTUS including wetlands, lakes, and ponds.

(1) For all water bodies with a total surface area of **one-tenth (0.10) acre** but less than **one (1) acre**, a minimum buffer width of **thirty (30) feet** shall be established.

(2) For all water bodies with a total surface area greater than **one (1) acre** but less than **two and one-half (2.5) acres**, a minimum buffer width of **forty (40) feet** shall be established.

(3) For all water bodies with a total surface area of **two and one-half (2.5) acres**, a minimum buffer width of **fifty (50) feet** shall be established.

(C) **Additional Buffer Requirements.**

(1) Areas having state or federal threatened and endangered species present or for Illinois Natural Area Inventory Sites, buffer widths shall be modified upon approval of the (*enforcement officer*), to meet the terms and conditions specified during consultation with the IDNR or United States Fish and Wildlife Service pursuant to state and federal laws and regulations.

(2) All roadside drainage ditches, existing excavated detention facilities, borrow pits, quarries, and improvements to existing public road developments or alignments are exempt from buffer requirements.

(3) Filling WOTUS to meet buffer requirements of this Chapter or any other applicable regulatory program shall not be allowed.

(D) Buffer areas shall be located within special easements or covenants with adjacent stormwater facilities, ponds, lakes, or channels that are under the control of a local unit of government, homeowners association, not-for-profit land trust, or other entity acceptable to the (*enforcement officer*). Any site development activity that requires the use of buffers shall:

(1) Depict the surveyed location extent of any required buffers on the site plan.

(2) Provide a written characterization of the current condition of the buffer area(s), including the existing plant community(s) present; a specific list of plant species present characterized individually as native or non-native; any plant community management requirements to control non-native or invasive plant species; soil erosion and sediment control practices required to control any existing or potential channel, streambank, or shoreline stabilization problems; and provide representative photographs of the buffer area(s).

(3) Include a copy of the recorded conservation easement/covenant language to be enacted for the buffer area(s). This document shall include the identification of the entity that will regulate the conservation easement/ covenant.

(4) Identify the source of any funding mechanism used to implement future land management activities proposed for the buffer area(s).

(E) Buffer areas not occupied by trails, water-dependent structures, or other permissible use, shall be vegetated to **one hundred percent (100%)** cover using the following criteria:

(1) Existing communities of desirable, native plant species within proposed buffer areas shall be protected from any development impacts. Buffer areas hydrologically disturbed shall be revegetated using the Native Plant Guide for Streams and Stormwater Facilities in Northeastern Illinois, (NRCS, et al., as amended) as a guideline.

(2) Buffer areas shall withstand erosive forces due to wave action, streamflow, and changes in water level. Deep-rooted vegetation and gradual slopes are preferred for shoreline stabilization. Abrupt structural measures such as seawalls, gabion baskets, concrete blocks, retaining walls, or rip-rap armoring shall be avoided.

(3) Mowing of buffer areas will only be allowed if timed to control the seed production of undesirable species, the growth of invasive, woody species, or to replicate the benefits of controlled burn management. The cut surface of any vegetation located within a buffer area can be no less than **eight (8) inches** in height above the ground surface, unless a site-specific buffer management plan is approved by the (*enforcement officer*).

(4) Any maintenance requiring the selective application of herbicides shall use registered herbicides approved for use in or near aquatic environments in accordance with the manufacturer's guidelines, and shall only be applied by an herbicide applicator registered with the Illinois Department of Agriculture.

(F) All buffer areas shall be maintained free from development including disturbance of the soil, dumping or filling, erection of structures, and placement of impervious surfaces except as follows:

(1) Passive recreation (e.g., birdwatching, picnicking).

(2) Pedestrian, bicycle, or equestrian trails running parallel to the axis of the buffer. The trail shall be no wider than **twelve (12) feet** and the runoff from such facilities is diverted away from the WOTUS or enters the buffer area as sheet flow. Permeable surfaces are required, unless site runoff characteristics at specific locations warrant a non-erodible surface.

(3) Pedestrian, bicycle, or equestrian trails running perpendicular to the axis of the buffer. The trial shall be no wider than **six (6) feet**. Only one such access path is allowed every **one hundred (100) linear feet** of WOTUS shoreline. Permeable surfaces are required, unless site runoff characteristics at specific locations warrant a non-erodible surface.

(4) Minor structures relating to parks and recreation and accessory structures are less than **three hundred (300) square feet**. Except for the case of water-dependent facilities, a minimum buffer width of **ten (10) feet** shall be maintained between the proposed structure and the buffered water body.

(5) Utility structures and maintenance of utilities including drainage facilities. However, new, on-site waste disposal systems, such as septic systems, shall not be constructed within buffer areas.

(6) Anchoring and placement of boat docks, ramps, and piers.

(7) A sand beach or canoe launch area.

(8) Unimproved access through buffer areas for maintenance purposes.

(9) Water quality management systems designed to: restore wetland hydrology to adjacent buffer areas, provide water quality filtering, contribute to aquatic habitat restoration, or other environmental benefits. A buffer of native vegetation shall be established between designed normal and high water levels around constructed water quality treatment basins.

(10) Detention facilities.

(G) The provision of additional buffer width extending outward from the edge of the stormwater detention area located within a water body buffer may be required by the (*enforcement officer*). Proposed stormwater management features that require a buffer may not be located in such a way that the

newly created buffer area boundaries extend into an adjoining property unless a written agreement and recorded buffer easement is platted on the adjoining property prior to construction.

(H) In the event the implementation of the buffer requirements of this Chapter preclude an otherwise legally buildable parcel from being developed, the (*enforcement officer*) may allow the minimal amount of variance from the buffer requirements in order to restore the parcel to a buildable condition. The (*enforcement officer*) may require a "fee-in-lieu-of" payment or other arrangement to mitigate the environmental impacts of the loss of buffer area.

32-5-8 SOIL EROSION AND SEDIMENTATION CONTROL.

(A) Soil erosion and sediment control-related measures are required to be constructed and maintained for any land disturbance activity permitted under **Section 32-4-1**. The following requirements shall be met:

(1) Soil disturbance shall be conducted in such a manner as to minimize erosion. Areas of the development site that are not to be graded shall be protected from construction traffic or other disturbance until final seeding is performed. Soil stabilization measures shall consider the time of year, site conditions, and the use of temporary or permanent measures.

(2) Properties and channels adjoining development sites shall be protected from erosion and sedimentation. At points where concentrated flow leaves a development site, energy dissipation devices shall be placed at discharge locations and along the length of any outfall channel as necessary to provide a non-erosive velocity of flow from the structure to the watercourse so that the natural physical and biological characteristics and functions are maintained and protected.

(3) Soil erosion and sediment control features shall be constructed prior to the commencement of hydrologic disturbance of upland areas.

(4) Disturbed areas shall be stabilized with temporary or permanent measures within **fourteen (14) calendar days** following the end of active hydrologic disturbance, or redisturbance, consistent with the following criteria or using an appropriate measure as approved by the (*enforcement officer*).

(a) Appropriate temporary or permanent stabilization measures shall include seeding, mulching, sodding, and/or non-vegetative measures.

(b) Areas of embankments having slopes greater than or equal to 3H:1V shall be stabilized with staked-in-place sod, mat, or blanket in combination with seeding.

(c) Erosion control blankets shall be required on all interior detention basin side slopes between the normal water level and high water level.

(d) The **fourteen (14) day** stabilization requirement may be precluded by snow cover or where construction activity will resume within **twenty-one (21) days** from when the active hydrologic disturbance ceased, then stabilization measures do not have to be initiated on that portion of the site by the **fourteenth (14th) day** after construction activity temporarily ceased, given that portion of the site has appropriate soil erosion and sediment controls.

(5) Land disturbance activities in streams shall be avoided, where possible. If disturbance activities are unavoidable, the following requirements shall be met:

(a) Where stream construction crossings are necessary, temporary crossings shall be constructed of non-erosive material.

(b) The time and area of disturbance of a stream shall be kept to a minimum. The stream, including bed and banks, shall be

restabilized within **forty-eight (48) hours** after channel disturbance is completed or interrupted.

(6) Soil erosion and sediment control measures shall be appropriate with regard to the amount of tributary drainage area as follows:

(a) Disturbed areas draining greater than **five thousand (5,000) square feet** but less than **one (1) acre** shall, at a minimum, be protected by a filter barrier (including filter fences, which at a minimum, meet the applicable sections of the *AASHTO Standard Specification 288-00*, or equivalent control measures) to control all off-site runoff. Vegetated filter strips, with a minimum width of **twenty-five (25) feet**, in the direction of flow, may be used as an alternative only where runoff in sheet flow is expected.

(b) Disturbed areas draining more than **one (1)** but fewer than **five (5) acres** shall, at a minimum, be protected by a sediment trap or equivalent control measure at a point downslope of the disturbed area.

(c) Disturbed areas draining more than **five (5) acres** or more, shall, at a minimum, be protected by a sediment basin with a perforated filtered riser pipe or equivalent control measures at a point downslope of the disturbed area.

(d) Sediment basins shall have both a permanent pool (dead storage) and additional volume (live storage) with each volume equal to the runoff amount of a **two (2) year**, **twenty-four (24) hour** event over the onsite hydrologically disturbed tributary drainage area to the sediment basin. The available sediment volume below normal water level, in addition to the dead storage volume shall be sized to store the estimated sediment load generated from the site over the duration of the construction period. For construction periods exceeding **one (1) year**, the **one (1) year** sediment load and a sediment removal schedule may be submitted. If the detention basin for the proposed development condition of the site is used for the sediment basin, the above volume requirements will be explicitly met. Until the site is finally stabilized, the basin permanent pool of water shall meet the above volume requirements and have a filtered perforated riser protecting the outflow pipe.

(7) All storm sewers that are or will be functioning during construction shall be protected by an appropriate sediment control measure and cleaned once the site has been stabilized.

(8) If dewatering services are used, adjoining properties and discharge locations shall be protected from erosion. Discharges shall be routed through an effective sediment control measure (e.g., sediment trap, sediment basin, or other appropriate measures).

(9) All temporary soil erosion and sediment control measures shall be removed within **thirty (30) days** after final site stabilization is achieved or after the temporary measures are no longer needed. Trapped sediment and other disturbed soil areas shall be permanently stabilized.

(10) A stabilized mat of aggregate underlain with filter cloth (or other appropriate measures) shall be located at any point where traffic will be entering or leaving a construction site of a major development to or from a public right-of-way, street, alley, or parking area. Any sediment or soil reaching an improved public right-of-way, street, alley, or parking area shall be removed by scraping or street cleaning as accumulations warrant and transported to a controlled sediment disposal area. The (*enforcement officer*) may require additional stabilized construction entrance methods.

(11) Earthen embankments shall be constructed with side slopes no steeper than 3H:1V.

(12) Stormwater conveyance channels, including ditches, swales, and diversions, and the outlet of all channels and pipes shall be designed and constructed to withstand the expected flow velocity from the **ten (10) year** frequency storm without erosion. All constructed or modified channels shall be stabilized within **forty-eight (48) hours**.

(13) Temporary diversions shall be constructed, as necessary, to direct all runoff from hydrologically disturbed areas to the appropriate sediment trap or basin.

(14) Soil stockpiles shall not be located in a flood-prone area or a designated buffer protecting Waters of the United States. Soil stockpiles are defined as having greater than **one hundred (100) cubic yards** of soil and will remain in place for more than **seven (7) days**. Soil stockpile locations shall be shown on the soil erosion and sediment control plan and shall have the appropriate measures to prevent erosion of the stockpile.

(15) **Handbooks.** Standards and specifications contained in the *Illinois Urban Manual*, as amended, and the planning procedures sections of the *Illinois Procedures and Standards for Urban Soil Erosion and Sedimentation Control*, as amended, are referenced in this Chapter as guidance for presenting soil erosion and sediment control plan specifications and delineating procedures and methods of operation under site development for soil erosion and sediment control. In the event of conflict between provisions of said manuals and this Chapter, this Chapter shall govern.

(16) The applicant shall provide adequate receptacles for the deposition of all construction material debris generated during the development process. The applicant shall not cause or permit the dumping, depositing, dropping, throwing, discarding or leaving of construction material debris upon or into any development site, channel, or Waters of the U.S. The applicant shall maintain the development site free of construction material debris.

(B) **Maintenance.** All temporary measures and permanent erosion and sediment control must be maintained in an effective working condition as identified by required inspections. This includes, but is not limited to, the following:

(1) Repair, replace, or maintain erosion and sediment control structures after a singular or cumulative rainfall event(s) of **one-half (0.5) inch** or more over a **twenty-four (24) hour** period.

(2) Make adjustments to the sedimentation and erosion control plan and methods, as needed, to accomplish the intended purpose.

(C) **Inspections.** Plans for upgrading, stripping, excavating, and filling work bearing the stamp of approval of the (*enforcement officer*) shall be maintained at the site during the progress of the work. The permittee shall inspect and maintain on-site records of such inspections at the intervals specified below.

(1) Upon completion of installation of sediment and runoff control measures (including perimeter controls and diversions), prior to proceeding with any other earth disturbance or grading.

(2) After rough grading.

(3) After final grading, and

(4) Weekly and after each rainfall event of **one-half (0.5) inch** or more over a **twenty-four (24) hour** period.

Any necessary repairs to soil erosion and sediment control measures shall be made and reported in the on-site inspection records. Copies of the inspection records shall be submitted to the (*enforcement officer*) in a monthly inspection report.

(D) **Notifications.** To facilitate inspections by the (*enforcement officer*) and to ensure compliance with the approved erosion and sediment control plan, the grading or building permit, and this

Chapter, the permittee shall notify the (*enforcement officer*) within **two (2) working days** of the completion of the construction stages specified below:

For Intermediate and Major Development:

(1) Upon completion of installation of sediment and runoff control (controls and diversions), prior to proceeding with any other earth disturbance or grading.
(2) After stripping and clearing.
(3) After rough grading.
(4) After final grading.
(5) After seeding and landscaping deadlines, and
(6) After final stabilization and landscaping, prior to removal of sediment controls.

If stripping, clearing, grading, and/or landscaping are to be done in phases or areas, the permittee shall give notice at the completion of each of the above work stages in each phase or area.

(E) **Special Precautions.**

(1) If at any stage of the grading of any development site the (*enforcement officer*) determines by inspection that the nature of the site is such that further work authorized by an existing permit is likely to imperil any property, public way, stream, lake, wetland, or drainage structure, the (*enforcement officer*) may require, as a condition of allowing the work to be done, that such reasonable special precautions be taken as is considered advisable to avoid the likelihood of such peril. "Special Precautions" may include, but shall not be limited to, a more level exposed slope, construction of additional drainage facilities, berms, terracing, compaction, or cribbing, installation of plant materials for erosion control, and
(2) Recommendations of a soil scientist and/or engineering geologist, which may outline requirements for further work.
(3) Where it appears that storm damage may occur due to incomplete grading at the site, work may be stopped and the permittee required to install temporary structures or take such other measures as may be required to protect adjoining property or the public safety. On large development or where unusual site conditions prevail, the (*enforcement officer*) may specify the start and end dates for grading operations or may require that the operations be conducted in specific stages so as to ensure completion of protective measures or devices prior to the advent of seasonal rains.

32-5-9 FLOODPLAIN MANAGEMENT. Please see the Floodplain Chapter for your Village, if applicable. Contact IDNR/OWR or the (*enforcement officer*) for clarification and/or questions.

32-5-10 WETLAND PROVISIONS. In order to protect wetland, lake, and stream resources, wetland impacts to WOTUS are prohibited by this Stormwater Management Code, unless no feasible alternatives exist and all applicable regulatory approvals or clearances are granted prior to the onset of the regulated development.

(A) Areas subject to this Chapter include:

(1) Waters of the United States (WOTUS). Wetland impacts to WOTUS on or adjacent to a development site will require regulatory approval or clearance from the USACE, the IDNR/OWR, and the IEPA.
(2) Buffer Areas (as defined in Section 506) to WOTUS required by the USACE and/or this Chapter.

(B) Areas not subject to this Chapter include wetland restoration activities requiring minor earthmoving or grading in buffer areas. These activities are exempt upon receiving written approval from the (*enforcement officer*) prior to the onset of the activity.

(C) **Applicability.** A stormwater management permit is required for any development:

(1) that proposes wetland impact(s) within an area(s) defined as Waters of the United States; or

(2) within buffer area(s) adjacent to Waters of the United States required by the regulatory authority of the USACE; or

(3) that proposes wetland impact(s) with a total and cumulative impact area of **0.10 acre** in size or greater,

(4) within buffer area(s) required by this Chapter.

(D) **Requirements for Wetland Delineation.**

(1) A wetland specialist shall identify the boundaries, extent, function, and quality of all possible wetland areas on the development site and prepare a Wetland Determination Report. The presence and extent of jurisdictional wetland areas shall be determined using an on-site wetland procedure in accordance with the current Federal wetland delineation methodology. Farmed wetlands will be determined using the National Food Security Act Manual or by contacting the Natural Resources Conservation Service (NRCS).

(2) **Wetland Determination Report.** The following are minimum requirements for the Wetland Determination Report:

(a) A plan showing the exact location and extent of all wetlands within the development boundaries. The boundary of the wetland(s) shall be flagged in the field and surveyed;

(b) An aerial photograph map delineating the identified wetland(s) and the development boundary, as well as the estimated location and extent of any off-site wetland(s) contiguous to, or extending off-site from, the development parcel. The map should be at an appropriate scale (for most projects, a scale of **one (1) inch** to **one hundred (100)** or **two hundred (200) feet**, not to exceed **one (1) inch** to **four hundred (400) feet**);

(c) The most recent copy of the following maps, delineating the development boundary:

(i) National Hydrography Dataset;

(ii) NRCS Wetland Inventory map;

(iii) FEMA floodplain map; and

(iv) County soil survey.

(d) USACE wetland delineation data sheets with representative color photographs provided for each wetland;

(e) A written description of the wetland(s) that includes a Floristic Quality Assessment, as determined by methodology contained in the publication *Plants of the Chicago Region* (Swink & Wilhelm 4th Edition, The Indiana Academy of Science, Lisle, Illinois 1994). Floristic quality assessments shall be conducted during the local growing season between May 15 and October 1. Non-growing season assessments may be considered for sites with apparent plant community monocultures or low floristic diversity potential; however, the (*enforcement officer*) reserves the right to require additional sampling during the growing season prior to issuing a permit.

(f) A functional assessment for each wetland using the Modified Michigan Department of Natural Resources Method or the Ludwig wildlife habitat evaluation methodology. Other functional assessment methods are allowed but shall be approved prior to submittal.

(E) **Wetland Mitigation Requirements.** In order to further the goal of "no net-loss" of the Village's wetland resources, all permitted wetland impacts shall be mitigated at the ratio specified by this Chapter. The objective shall be to replace the impacted wetland functions where they can be most successfully protected and maintained in perpetuity.

(1) Mitigation for impacts shall provide for the replacement of the wetland environment lost to development at a rate of 3:1 (i.e., creation acreage to impact acreage):
   (a) Upon receipt of an approved permit authorizing a wetland impact, up to **0.10 acre** may be filled without providing mitigation. All other regulatory aspects of this Chapter (such as drainage, compensatory storage, etc.) will be complied with before the exemption is granted.
   (b) The **0.10 acre** mitigation exemption may only be exercised one time per approved ordinance permit.
   (c) The (*enforcement officer*) may deny the mitigation exemption.

(2) On-site wetland mitigation is preferred, but only if the applicant can document that it can expand the extent or improve the quality of other existing, undisturbed on-site or adjacent wetlands.

(3) The mitigated wetland(s) shall be designed to duplicate or improve the hydrologic, biologic, botanic, and wildlife features of the original wetland(s) impacted.

(4) Creation of wetlands for the mitigation of wetland impacts shall take place only within areas not currently composed of jurisdictional WOTUS.

(5) Preference for the ownership of wetland mitigation sites is as follows:
   (a) Land owned and managed by a governmental entity, not-for-profit land trust, or other appropriate non-governmental organization for conservation purposes.
   (b) Wetland mitigation bank approved by the USACE and/or the (*enforcement officer*).
   (c) Privately owned sites with appropriate deed restrictions, covenants, or easements with a dedicated funding source in place to fund and protect the mitigation site in perpetuity.

(6) To the extent practicable, all wetland mitigation shall be provided at a suitable location as close to the wetland impact site as possible. Whenever possible, wetland mitigation shall take place within the same sub-watershed or watershed.

(7) As geographic distance increases between wetland impact site and mitigation site, the (*enforcement officer*) may impose a mitigation multiplier on the mitigation ratio.

(8) Development in or affecting a wetland environment shall be initiated only after a mitigation plan has been approved and adequate securities, such as a performance bond or letter of credit, are provided as specified in this Chapter.

(9) A plan for the perpetual management, operation, and maintenance of the mitigation areas, including the designation of the person(s) or organization legally responsible for long-term operation and maintenance, and dedicated funding sources shall be submitted.

(10) All wetland impacts mitigated on private property shall be protected by a conservation easement, deed restriction, or other legal mechanism recorded on the plat of survey for the parcel on which the mitigation is located.

(F) **Wetland Banking.**

(1) Where development affecting WOTUS meets the requirements of this Chapter and the long-term preservation of existing wetland functions or characteristics is unlikely as a result of existing or proposed land use

practices in adjacent upland areas, then the applicant may provide mitigation wholly or in part through investment in a USACE-certified wetland banking project, [or payment into the wetland restoration fund in lieu of constructing new wetlands.]

(2) Such wetland banking shall be allowed only if the adverse impacts of development in isolated wetlands are fully mitigated.

(3) Wetland Banks must be certified by the USACE.

(4) A stormwater management permit will not be issued until a copy of the receipt of payment is provided.

(G) **Wetland Hydrology.**

(1) The following hydrology threshold requirements shall be met by the regulated development. If the development activity exceeds the hydrology threshold limits, a wetland impact shall be assumed, and the mitigation requirements of this Section of the Chapter shall apply.

(2) The design shall maintain between **eight percent (80%)** and **one hundred fifty percent (150%)** of the existing condition **two (2) year**, **twenty-four (24) hour** storm event runoff volume from the onsite tributary drainage area. The design shall meet the total off-site release rate requirements of this Chapter. The following minimum information shall be submitted to address this provision:

(a) An exhibit illustrating the existing condition and proposed condition drainage areas;

(b) Existing condition and proposed conditions runoff volume calculations.

ARTICLE VI – STORMWATER MANAGEMENT PLANS

32-6-1 REVIEW AND APPROVAL OF STORMWATER MANAGEMENT PLANS.

(A) For any proposed development, the developer shall submit a stormwater management plan (SWM plan) or waiver application to the Village for review and approval, unless otherwise exempted. The stormwater management plan shall contain supporting computations, drawings, and sufficient information describing the manner, location, and type of measures in which stormwater runoff will be managed from the entire development. The Village shall review the plan to determine compliance with the requirements of this Chapter prior to approval. The plan shall serve as the basis for all subsequent construction.

(B) Notification of approval or reasons for disapproval or modification shall be given to the applicant within **forty-five (45) days** after submission of the completed stormwater plan. If a decision is not made within **forty-five (45) days**, the applicant shall be informed of the status of the review process and the anticipated completion date. The stormwater management plan shall not be considered approved without the inclusion of the signature and date of signature of the (*enforcement officer*) on the plan.

32-6-2 CONTENTS OF THE STORMWATER MANAGEMENT PLAN.

(A) The developer is responsible for submitting a stormwater management plan that meets the design requirements of this Chapter. The plan shall be accompanied by a report that includes sufficient information to evaluate the environmental characteristics of affected areas, the potential impacts of the proposed development on water resources, and the effectiveness and acceptability of measures proposed for managing stormwater runoff. The developer or builder shall certify on the drawings that all clearing, grading, drainage, construction, and development shall be conducted in strict accordance with the plan. If a stormwater management plan involves direction of some or all runoff of the site, it is the responsibility of the developer to obtain from adjacent property owners any easements or necessary property interests concerning flowage of water. Approval of a stormwater management plan does not create or affect any right to direct runoff onto adjacent property without that property owner's permission. The minimum information submitted for support of a stormwater management plan or application for a waiver shall be as follows.

(B) Reports submitted for stormwater management plan approval shall include:

(1) A brief narrative description of the project;
(2) Geotechnical investigations including soil maps, borings, site-specific recommendations, and any additional information necessary for the proposed stormwater management design;
(3) Descriptions of all water courses, impoundments, and wetlands on or adjacent to the site or into which stormwater directly flows;
(4) Hydrologic computations, including drainage area maps depicting pre-development and post-development runoff flow path segmentation and land use;
(5) Hydraulic computations;
(6) Structural computations;
(7) Volume computations;
(8) Water quality computations; and
(9) Operations and Maintenance Plan.

(C) Construction drawings submitted for stormwater management plan approval shall include the following:

(1) A vicinity map;
(2) Topography survey showing existing and proposed **one (1) foot** contours, including the area necessary to determine downstream analysis for proposed stormwater management facilities;
(3) Any proposed improvements including location of buildings or other structures, impervious surfaces, storm drainage facilities, and all grading;
(4) The location of existing and proposed structures and utilities;

(5) Any easements and rights-of-way;
(6) The delineation, if applicable, of the regulatory and proposed (if applicable) 100-year floodplain and any on-site wetlands;
(7) Structural and construction details for all components of the proposed drainage system or systems, and stormwater management facilities;
(8) All necessary construction specifications;
(9) A sequence of construction;
(10) Data for total site area, disturbed area, new impervious area, and total impervious area;
(11) A table of materials to be used for stormwater management planting;
(12) All soil boring logs and locations;
(13) A maintenance schedule;
(14) Certification by the owner/developer that all stormwater management construction will be done according to this plan; and
(15) An as-built certification signature block to be executed after project completion.
(16) An erosion and sediment control plan.

32-6-3 PREPARATION OF THE STORMWATER MANAGEMENT PLAN. The design of stormwater management plans shall be prepared by any individual whose qualifications are acceptable to the Village.

ARTICLE VII – OPERATIONS AND MAINTENANCE (O&M)

32-7-1 MAINTENANCE RESPONSIBILITY.

(A) The owner shall maintain all stormwater management facilities in good working order in accordance with the approved O & M Plan.

(B) the owner shall convey to the Village easements to assure access for inspections and maintenance, if required.

(C) The owner shall keep on file with the Village the name, address, and telephone number of the person or company responsible for maintenance activities; in the event of a change, new information will be submitted to the Village within **ten (10) days** of the change.

(D) Enumerate permanent SWM facilities as permanent real estate appurtenances and record as deed restrictions or easements that run with the land.

(E) The record owner of the development site shall sign and record an Operation and Maintenance (O&M) Agreement covering all SWM facilities, including riparian buffers and riparian forest buffers, which are to be privately owned. The O&M Plan and Agreement shall be recorded as a restrictive covenant agreement that runs with the land.

32-7-2 OPERATION AND MAINTENANCE AGREEMENTS.

(A) The Operation and Maintenance Agreement includes the Operation and Maintenance Plan and shall be subject to the review and approval of the (*enforcement officer*).

(B) The Village is exemp0t from the requirement to sign and record an O&M agreement.

32-7-3 OPERATION AND MAINTENANCE PLAN. The O&M Plan shall clearly establish the operation and maintenance necessary to ensure the proper functioning of all temporary and permanent stormwater management facilities and erosion and sedimentation control facilities. The O&M Plan shall be submitted with the stormwater management permit application to the (*enforcement officer*).

(A) O&M Plans shall be kept on file by the Village for all stormwater management systems.

(B) The following shall be addressed in the O&M Plan:

(1) Description of maintenance requirements, including, but not limited to, the following:

(a) Regular inspection of the SWM facilities. To assure proper implementation of BMPs, maintenance and care SWM BMPs should be inspected by a qualified person, which may include the landowner, or the owner's designee (including the Village for dedicated and owned facilities), according to the following minimum frequencies:

(i) The first year of operation.

(ii) Once every **three (3) years** thereafter.

(iii) During or immediately after the cessation of a 10-year or greater storm.

(b) All pipes, swales, and detention facilities shall be kept free of any debris or other obstruction and in original design condition.

(c) Removal of silt from all permanent structures which trap silt or sediment in order to keep the material from building up in grass waterways, pipes, detention or retention basins, infiltration structures, or BMPs, and thus reducing their capacity to convey or store water.

(d) Re-establishment of vegetation of scoured areas or areas where vegetation has not been successfully established. Selection of seed mixtures shall be subject to approval by the Village.

(C) After notification is provided to the owner of any deficiencies discovered from an inspection of a stormwater management system, the owner shall have **thirty (30) days** to correct the deficiencies. Village shall then conduct a subsequent inspection to ensure completion of the repairs.

(D) If, after an inspection by the Village, the condition of a stormwater management facility presents an immediate danger to the public health or safety because of an unsafe condition or improper maintenance, the Village shall take such action as may be necessary to protect the public and make the facility safe. Any cost incurred by the Village shall be assessed against the owner(s).

ARTICLE VIII – VARIANCES AND APPEALS

32-8-1 VARIANCES.

(A) The (*enforcement officer*) upon application, after public hearing, and subject to the process and standards that follow, may grant variances to the provisions of this Chapter as will not cause detriment to the public good, safety, or welfare nor be contrary to the spirit, purpose, and intent of this Chapter where, by reason of unique and exceptional physical circumstances or condition of a particular property, the literal enforcement of the provisions of this chapter would result in an unreasonable hardship.

(1) The community's (*enforcement officer*) shall administer the variance provisions.

(2) A public notice will be issued in accordance with your local zoning and planning guidance.

(3) No variance shall be granted unless the applicant demonstrates that all of the following conditions are met:

(a) Showing of good and sufficient cause, and

(b) A determination that the variance is the minimum necessary to afford relief, considering the flood hazard and water quality, and

(c) A finding that failure to grant the variance would result in exceptional hardship to the applicant, and

(d) A finding that the granting of a variance would not result in increased flood heights or damages, additional threats to public safety, extraordinary public expense, a created nuisance, fraud, or victimization of the public, nor conflict with existing local laws or stated purpose of any ordinances, and

(e) A finding that all buildings will be protected by methods that will minimize flood damage up to the FPE, and

(f) A finding that the development activity cannot be located outside the regulatory floodplain or flood prone area, and

(g) The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP; and

(h) The activity is not in a designated floodway; and

(i) The granting of the variance will not alter the essential character of the area involved including existing stream uses; and

(j) All other required state and federal permits or waivers have been obtained.

(4) Upon consideration of the factors noted above and the intent of this Chapter, the (*enforcement officer*) may attach such conditions to the granting of a variance deemed necessary to further the purposes and objectives herein.

(5) Variances requested in connection with restoration of a historic site or building listed on the National Register of Historical Places or documented as worthy of preservation by the Illinois Historic Preservation Agency or Certified Local Government, may be granted using criteria more permissive than the requirements contained in this Chapter.

(6) In a flood-prone area or a regulatory floodplains (without a mapped regulatory floodway) where the tributary drainage area is **six hundred forty (640) acres** or more, a variance may not be granted that will reduce the regulatory floodplain or flood-prone area storage volume by greater than **five percent (5%)** of the existing regulatory floodplain or flood-prone area storage volume on the site. In addition, hydrologic and hydraulic analysis must demonstrate that issuance of a variance will not result in singular or cumulative increases in flood heights.

(7) Variances requested in connection with the redevelopment of previously developed sites, that will further the public policy goals of downtown redevelopment and neighborhood revitalization, may be granted a variance provided the variance would not result in an increase in the pre-redevelopment runoff rate or volume and there will exist adequate downstream stormwater capacity.

(8) Variances to Buffer Areas Requirements and Stormwater Management Requirements requested for public road development that will continue the public policy of minimizing the condemnation of private or public property may be granted using criteria less restrictive than the Stormwater Management requirements to the extent necessary to reduce the amount of condemnation provided the variance will not result in a downstream drainage hazard, and

(9) Written findings shall be made public for all variances and shall be on file with the Village.

32-8-2 APPEALS.

(A) Any person aggrieved by a decision of an (*enforcement officer*) may request review thereof by the Village's board of elected officials or the appropriate body.

(BN) Any person aggrieved by a decision, requirement, ruling, or interpretation of this Chapter by the Village Chief Engineer may appeal it to the Village by written notice filed with the Chief Engineer within **ten (10) days** of the determination.

ARTICLE IX – INSPECTIONS

32-9-1 INSPECTION SCHEDULE AND REPORT.

(A) The developer shall notify the Village at least **forty-eight (48) hours** before commencing any work in conjunction with the stormwater management plan and upon completion of the project when a final inspection will be conducted.

(B) Inspections shall be conducted by the Village, its authorized representative, or certified by a Professional Engineer licensed in Illinois. Written inspection reports shall be made of the periodic inspections necessary during construction of stormwater management systems to ensure compliance with the approved plans.

(C) Written inspection reports shall include:

(1) The date and location of the inspection;

(2) Whether construction was in compliance with the approved stormwater management plan;

(3) Any variations from the approved construction specifications; and

(4) Any violations that exist.

(D) The owner/developer and on-site personnel shall be notified in writing when violations are observed. Written notification shall describe the nature of the violation and the required corrective action and date.

(E) No work shall proceed until the Village inspects and approves the work previously completed and furnishes the developer with the results of the inspection reports as soon as possible after completion of each required inspection.

32-9-2 INSPECTION REQUIREMENTS DURING CONSTRUCTION.

(A) At a minimum, regular inspections shall be made and documented at the following specified stages of construction:

(1) **For Ponds.**

(a) Upon completion of excavation to sub-foundation and when required, installation of structural supports or reinforcement for structures, including but not limited to:

(i) Core trenches for structural embankments;

(ii) Inlet and outlet structures, anti-seep collars or diaphragms, and watertight connectors on pipes; and

(iii) Trenches for enclosed storm drainage facilities;

(b) During placement of structural fill, concrete, and installation of piping and catch basins;

(c) During backfill of foundations and trenches;

(d) During embankment construction; and

(e) Upon completion of final grading and establishment of permanent stabilization.

(2) **For Wetlands.** At the stages specified for pond construction in this Section, during and after wetland reservoir area planting, and during the second growing season to verify a vegetation survival rate of at least **fifty percent (50%)**.

(3) **For Infiltration Trenches.**

(a) During excavation to subgrade;

(b) During placement and backfill of underdrain systems and observation wells;

(c) During placement of geotextiles and all filter media;

(d) During construction of appurtenant conveyance systems such as diversion structures, pre-filters and filters, inlets, outlets, and flow distribution structures; and

(e) Upon completion of final grading and establishment of permanent stabilization;

(4) **For Infiltration Basins.** At the stages specified for pond construction in this Section and during placement and backfill of underdrain systems.

(5) **For Filtering Systems.**

(a) During excavation to subgrade;

(b) During placement and backfill of underdrain systems;

(c) During placement of geotextiles and all filter media;

(d) During construction of appurtenant conveyance systems such as flow diversion structures, pre-filters and filters, inlets, outlets, orifices, and flow distribution structures; and

(e) Upon completion of final grading and establishment of permanent stabilization.

(6) **For Open Channel Systems.**

(a) During excavation to subgrade;

(b) During placement and backfill of underdrain systems for dry swales;

(c) During installation of diaphragms, check dams, or weirs; and

(d) Upon completion of final grading and establishment of permanent stabilization.

(7) **For Nonstructural Practices.** Upon completion of final grading, the establishment of permanent stabilization, and before issuance of use and occupancy approval.

(B) The Village may, for enforcement purposes, use any one or a combination of the following actions:

(1) A notice of violation shall be issued specifying the need for a violation to be corrected if stormwater management plan noncompliance is identified;

(2) A stop work order shall be issued for the site by Village if a violation persists;

(3) Bonds or securities may be withheld or the case may be referred for legal action if reasonable efforts to correct the violation have not been undertaken; or

(4) In addition to any other sanctions, a civil action or criminal prosecution may be brought against any person in violation of the Stormwater Management subtitle or this Chapter.

(C) Any step in the enforcement process may be taken at any time, depending on the severity of the violation.

ARTICLE X – VIOLATION AND PENALTY

32-10-1 VIOLATION AND PENALTY. Any person who violates, disobeys, omits, neglects, refuses to comply with, or resists the enforcement of any provision of this Chapter, including but not limited to: obtaining a required stormwater management permit, violating a condition of an issued stormwater management permit, failing to submit or follow an O&M plan, or violating a stop work order shall be in violation of this Chapter and subject to various available legal or equitable actions, remedies, and penalties.

(A) Failure to comply with any of the requirements of this Chapter shall constitute a violation, and any person convicted thereof shall be fined not more than **Seven Hundred Fifty Dollars ($750.00)** for each offense. Each day the violation continues shall be considered a separate offense.

(B) Whenever the (*enforcement officer*) finds a violation of this Chapter, or of any permit or stop work order within his or her respective jurisdiction, the (*enforcement officer*) may pursue any one or more of the following legal or equitable actions, remedies, and penalties against any person found to be in violation of this Chapter including but not limited to:

(1) The (*enforcement officer*) may initiate a complaint and civil legal action in a court of competent jurisdiction against any person in violation of this Chapter;

(2) The (*enforcement officer*) may revoke any stormwater management permit issued;

(3) The (*enforcement officer*) may require the person to apply for an "after-the-fact" stormwater management permit, including any and all supporting documentation required thereto, for any unpermitted, unauthorized development, disturbance, or impact;

(4) The (*enforcement officer*) may issue a stop work order requiring the suspension of any further work on the site. Such stop work order shall be in writing, indicate the reason for its issuance, and require compliance with this Chapter prior to completion of the activity in violation;

(5) The (*enforcement officer*) may take other legal action including, but not limited to, a temporary restraining order and other preliminary or permanent injunctive relief necessary to prevent further harm or violation and/or remedy any harm or violation that has already occurred, and, if applicable, require removal, correction, remediation and/or mitigation for said harm and violation. In addition to any fine or other relief, all costs and expenses, including reasonable attorney's fees incurred, may be recovered;

(6) The (*enforcement officer*) may require removal, correction, remediation and/or mitigation for any harm and violation that has occurred and require that the area be fully restored to its condition prior to such development, disturbance, or impact.

ARTICLE XI – DISCLAIMER OF LIABILITY

32-11-1 DISCLAIMER OF LIABILITY. It is recognized that the degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. However, on occasion, greater floods than the base flood will occur and will result in greater flood heights and flood damage. Furthermore, flood heights may be increased by other man-made or natural causes. These provisions do not imply that land outside the floodplain or flood-prone areas or that uses permitted within such areas will be free from flooding or flood damages. These provisions shall not create liability on the part of the Stormwater Committee nor any certified community nor any officer or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

ARTICLE XII – SEVERABILITY

32-12-1 SEVERABILITY. If any portion of this Chapter is held invalid or unconstitutional by a court of competent jurisdiction, such portion shall not affect the validity of the remaining portions of this Chapter. It is the intent of the Village that this Chapter shall stand, even if a section, subsection, sentence, clause, phrase, or portion may be found invalid.

ARTICLE XIII – EFFECTIVE DATE

32-13-1 EFFECTIVE DATE. And be it further enacted that this Chapter shall take effect (time frame) from the date it becomes adopted.

APPENDIX A

WATER QUALITY VOLUME CONTROL PRACTICES DESIGN SPECIFICATIONS

From the Department of Environmental Protection, bureau of Watershed Management
Pennsylvania Stormwater Best Management Practices Manual, Chapter 5: Non-Structural BMPs and Chapter 8: Stormwater Calculations and Methodology, December, 2006

Preservation of natural resource features of the development site (e.g., floodplains, wetlands, prairies, and woodlands)

Preserved natural resource features are not to be included in the runoff Volume calculation

Stormwater management Area = (total Area – Preserved Area)

Runoff from the Preserved Areas may be excluded from peak rate calculations for runoff control, provided that the runoff from the Preserved Area is not conveyed to and/or through stormwater management control structures. If necessary, runoff from Preserved Areas should be directed around BMPs and stormwater pipes and inlets by means of vegetated swales or low berms that direct flow to natural drainage ways.

Preservation of the existing natural streams, channels, and drainage ways

A volume reduction may be credited based upon the area of the natural drainage feature that is vegetated.

Volume Reduction (ft^3) = Area x ¼" runoff

= Vegetated Area of Natural Drainage Feature (ft^2) x ¼"/12

The peak rate is reduced by a longer travel time of runoff through natural drainage features. The time of travel (Tt) after development may be considered the same as the Tt before development for flows through natural drainage features. When calculating flow rates:

Tt_before = Tt_after

Minimizing impervious surfaces

Minimizing impervious surfaces is "self-crediting" in that the use of this BMP automatically provides a reduction in impervious area and a corresponding reduction in stormwater impacts.

The use of natural landscaping as an alternative to turf grass

A volume reduction may be credited in the same manner as for preservation:

Volume Reduction (ft^3) = Area x ¼" runoff

= Vegetated Area of Natural Landscaping (ft^2) x ¼"/12

The peak rate for runoff will be reduced by using the reduced volume as calculated above.

The use of open vegetated channels, filter strips, and infiltration (basins, trenches, floodplain restoration, etc.) to convey, filter, and infiltrate stormwater runoff

Storage volume equals the amount of runoff the facility can hold.

Preservation of the natural infiltration and storage characteristics of the site (e.g. disconnection of impervisou cover, on-lot bioretention facilities, rooftop detention, parking lot detention)

A volume reduction may be credited based upon the area that will be disconnected from a storm sewer or other structural facility and drain into an infiltrating area instead.

Volume Reduction (ft^3) = Disconnected area (ft^2) x ¼"/12

The peak rate for runoff will be reduced by using the reduced volume as calculated above.

Structural measures that provide water quality and quantity control (stormwater wetlands, wet detention facilities, sedimentation traps, etc.);

Storage volume equals the amount of runoff the facility can hold.

Structural measures that provide only quantity control and conveyance.

Storage volume equals the amount of runoff the facility can hold.

APPENDIX "B"

"WATERS OF THE UNITED STATES" DEFINITION

Clean Water Rule: Definition of "Waters of the United States"
40 CFR 230.3
PART 230 – SECTION 404(b)(1) GUIDELINES FOR SPECIFICATION OF DISPOSAL SITES FOR DREDGED OR FILL MATERIAL
*****
§230.3 Definitions
*****
(o) The term *waters of the United States* means:

(1) For purposes of the Clean Water Act, 33 U.S.C. 1251 *et. Seq.* and its implementing regulations, subject to the exclusions in paragraph (o)(2) of this section, the term "waters of the United States" means:

(i) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(ii) All interstate waters, including interstate wetlands;

(iii) The territorial seas;

(iv) All impoundments of waters otherwise identified as waters of the United States under this section;

(v) All tributaries, as defined in paragraph (o)(3)(iii) of this section, of waters identified in paragraphs (o)(1)(i) through (iii) of this section;

(vi) All waters adjacent to a water identified in paragraphs (o)(1)(i) through (v) of this section, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters;

(vii) All waters in paragraphs (o)(1)(vii)(A) through (E) of this section where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (o)(1)(i) through (iii) of this section. The waters identified in each of paragraphs (o)(1)(vii)(A) through (E) of this section are similarly situated and shall be combined, for purposes of a significant nexus analysis, in the watershed that drains to the nearest water identified in paragraphs (o)(1)(i) through (iii) of this section. Waters identified in this paragraph shall not be combined with waters identified in paragraph (o)(1)(vi) of this section when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (o)(1)(vi), they are an adjacent water and no case-specific significant nexus analysis is required.

(A) *Prairie potholes.* Prairie potholes are a complex of glacially formed wetlands, usually occurring in depressions that lack permanent natural outlets, located in the upper Midwest.

(B) *Carolina bays and Delmarva bays.* Carolina bays and Delmarva bays are ponded, depressional wetlands that occur along the Atlantic coastal plain.

(C) *Pocosins.* Pocosins are evergreen shrub and tree dominated wetlands found predominantly along the Central Atlantic coastal plain.

(D) *Western vernal pools.* Western vernal pools are seasonal wetlands located in parts of California and associated with topographic depression, soils with poor drainage, mild, wet winters and hot, dry summers.

(E) *Texas coastal prairie wetlands.* Texas coastal prairie wetlands are freshwater wetlands that occur as a mosaic of depressions, ridges, intermound flats, and mima mound wetlands located along the Texas Gulf Coast.

(viii) All waters located within the 100-year floodplain of a water identified in paragraphs (o)(1)(i) through (iii) of this section and all waters located within 4,000 feet of the high tide line or ordinary high water mark of a water identified in paragraphs (o)(1)(i) through (v) of this section where they are determined on a case-specific basis to have a significant nexus to a water identified in paragraphs (o)(1)(i) through (iii) of this section. For waters determined to have a significant nexus, the entire water is a water of the United States if a portion is located within the 100-year floodplain of a water identified in paragraphs (o)(1)(i) through (iii) of this section or

within 4,000 feet of the high tide line or ordinary high water mark. Waters identified in this paragraph shall not be combined with waters identified in paragraphs (o)(1)(vi) of this section when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (o)(1)(vi), they are an adjacent water and no case-specific significant nexus analysis is required.

(2) The following are not "waters of the United States" even where they otherwise meet the terms of paragraphs (o)(1)(iv) through (viii) of this section.
   (i) Waste treatments systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act are not waters of the United States.
   (ii) Prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other Federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.
   (iii) The following ditches:
      (A) Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.
      (B) Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.
      (C) Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (o)(1)(i) through (iii) of this section.
   (iv) The following features:
      (A) Artificially irrigated areas that would revert to dry land should application of water to that area cease;
      (B) Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds;
      (C) Artificial reflecting pools or swimming pools created in dry land;
      (D) Small ornamental waters created in dry land;
      (E) Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water;
      (F) Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of tributary, non-wetland swales, and lawfully constructed grassed waterways; and
      (G) Puddles.
   (v) Groundwater, including groundwater drained through subsurface drainage systems.
   (vi) Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.
   (vii) Wastewater recycling structures constructed in dry land; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling.

(3) In this paragraph (o), the following definitions apply:
   (i) *Adjacent.* The term *adjacent* means bordering, contiguous, or neighboring a water identified in paragraphs (o)(1)(i) through (v) of this section, including waters separated by constructed dikes or barriers, natural river berms, beach dunes, and the like. For purposes of adjacency, an open water such as a pond or lake includes any wetlands within or abutting its ordinary high water mark. Adjacency is not limited to waters located laterally to a water identified in paragraphs (o)(1)(i) through (v) of this section. Adjacent waters also include all waters that connect segments of a water identified in paragraphs (o)(1)(i) through (v) or are located at the head of a water identified in paragraphs (o)(1)(i) through (v) of this section and are bordering, contiguous, or neighboring such water. Waters being used for established normal farming, ranching, and silviculture activities (33 U.S.C. 1344(f)) are not adjacent.
   (ii) *Neighboring.* The term *neighboring* means:
      (A) All waters located within 100 feet of the ordinary high water mark of a water identified in paragraphs (o)(1)(i) through (v) of this section. The entire water is neighboring if a portion is located within 100 feet of the ordinary high water mark;
      (B) All waters located within the 100-year floodplain of a water identified in paragraphs (o)(1)(i) through (v) of this section and not more than 1,500 feeet from the ordinary high water

mark of such water. The entire water is neighboring if a portion is located within 1,500 feet of the ordinary high water mark and within the 100-year floodplain;

(C) All waters located within 1,500 feet of the high tide line of a water identified in paragraphs (o)(1)(i) or (iii) of this section, and all waters within 1,500 feet of the ordinary high water mark of the Great Lakes. The entire water is neighboring if a portion is located within 1,500 feet of the high tide line or within 1,500 feet of the ordinary high water mark of the Great Lakes.

(iii) *Tributary* and *tributaries.* The terms *tributary* and *tributaries* each mean a water that contributes flow, either directly or through another water (including an impoundment identified in paragraph (o)(1)(iv) of this section), to a water identified in paragraphs (o)(1)(i) through (iii) of this section that is characterized by the presence of the physical indicators of a bed and banks and an ordinary high water mark. These physical indicators demonstrate there is volume, frequency, and duration of flow sufficient to create a bed and banks and an ordinary high water mark, and thus to qualify as a tributary. A tributary can be a natural, man-altered, or man-made water and includes waters such as rivers, streams, canals, and ditches not excluded under paragraph (o)(2) of this section. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if, for any length, there are one or more constructed breaks (such as bridges, culverts, pipes, or dams), or one or more natural breaks (such as wetlands along the run of a stream, debris piles, boulder fields, or a stream that flows underground) so long as a bed and banks and an ordinary high water mark can be identified upstream of the break. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if it contributes flow through a water of the United States that does not meet the definition of tributary or through a non-jurisdictional water to a water identified in paragraphs (o)(1)(i) through (iii) of this section.

(iv) *Wetlands.* The term *wetlands* means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marches, bogs, and similar areas.

(v) *Significant nexus.* The term *significant nexus* means that a water, including wetlands, either alone or in combination with other similarly situated waters in the region, significantly affects the chemical, physical, or biological integrity of a water identified in paragraphs (o)(1)(i) through (iii) of this section. The term "in the region" means the watershed that drains to the nearest water identified in paragraphs (o)(1)(i) through (iii) of this section. For an effect to be significant, it must be more than speculative or insubstantial. Waters are similarly situated when they function alike and are sufficiently close to function together in affecting downstream waters. For purposes of determining whether or not a water has a significant nexus, the water's effect on downstream (o)(1)(i) through (iii) waters shall be assessed by evaluating the aquatic functions identified in paragraphs (o)(3)(v)(A) through (I) of this section. A water has a significant nexus when any single function or combination of functions performed by the water, alone or together with similarly situated waters in the region, contributes significantly to the chemical, physical, or biological integrity of the nearest water identified in paragraphs (o)(1)(i) through (iii) of this section. Functions relevant to the significant nexus evaluation are the following:

(A) Sediment trapping,
(B) Nutrient recycling,
(C) Pollutant trapping, transformation, filtering, and transport,
(D) Retention and attenuation of flood waters,
(E) Runoff storage,
(F) Contribution of flow,
(G) Export of organic matter,
(H) Export of food resources, and
(I) Provision of life cycle dependent aquatic habitat (such as foraging, feeding, nesting, breeding, spawning, or use as a nursery area) for species located in a water identified in paragraphs (o)(1) through (3) of this section.

(vi) *Ordinary high water mark.* The term *ordinary high water mark* means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

(vii) *High tide line.* The term *high tide line* means the line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

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Appendix C: "Stormwater Model Ordinance Flowchart"

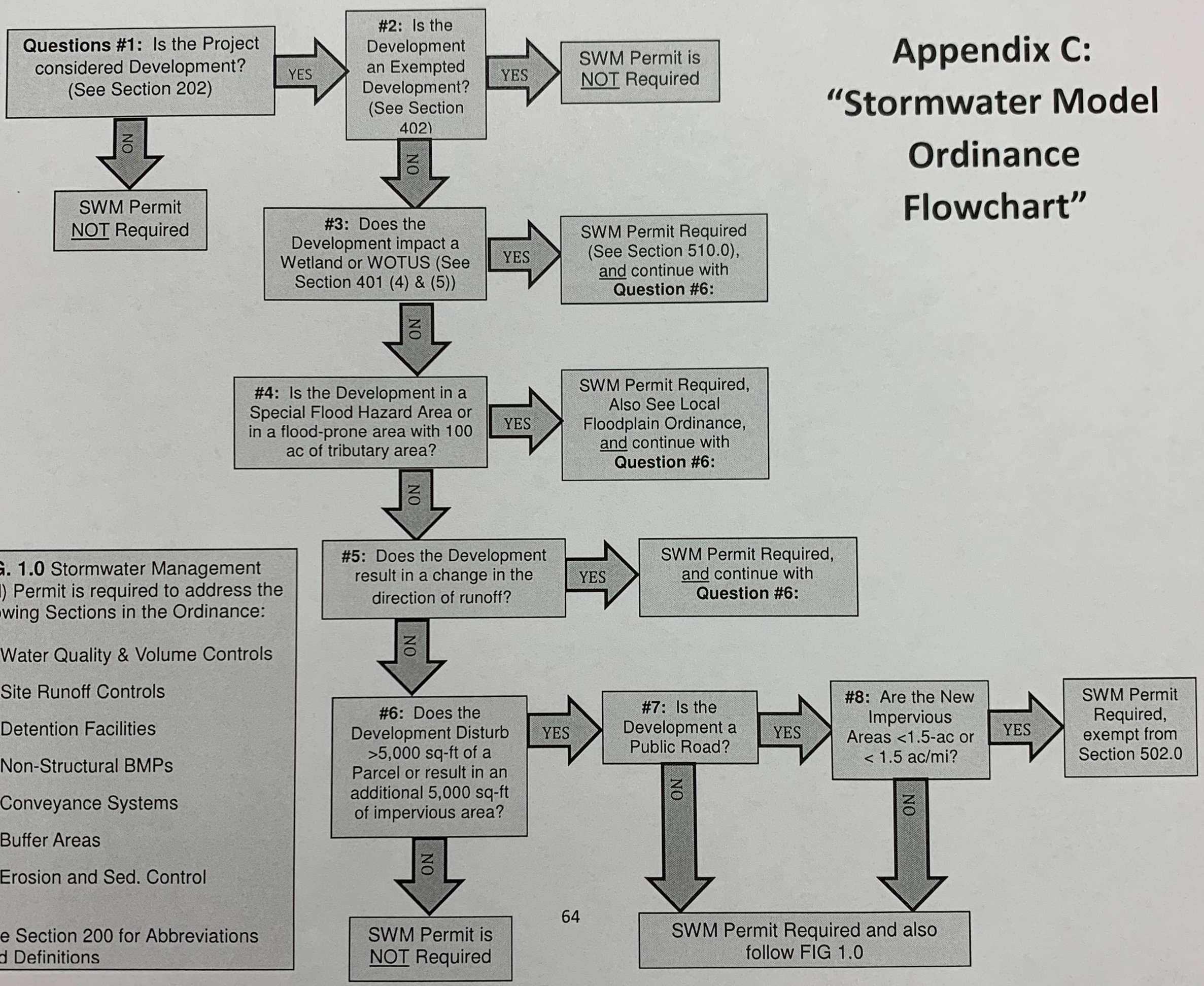

FIG. 1.0 Stormwater Management (SWM) Permit is required to address the following Sections in the Ordinance:

502.0 Water Quality & Volume Controls

503.0 Site Runoff Controls

504.0 Detention Facilities

505.0 Non-Structural BMPs

506.0 Conveyance Systems

507.0 Buffer Areas

508.0 Erosion and Sed. Control

See Section 200 for Abbreviations and Definitions

CHAPTER 33 – STREET REGULATIONS

ARTICLE		*TITLE*	*PAGE*
I	*DEPARTMENT ESTABLISHED*		
	Section 33-1-1 -	*Department Established*	*33-1*
	Section 33-1-2 -	*Committee on Streets*	*33-1*
II	*GENERAL REGULATIONS*		
	Section 33-2-1 -	*Undermining*	*33-1*
	Section 33-2-2 -	*Open Doors*	*33-1*
	Section 33-2-3 -	*Repairing Sidewalks, Etc.*	*33-1*
	Section 33-2-4 -	*Stairway - Railing*	*33-1*
	Section 33-2-5 -	*Closing Street*	*33-1*
	Section 33-2-6 -	*Signs Across Street*	*33-1*
	Section 33-2-7 -	*Vehicles and Skateboards on Sidewalks*	*33-2*
	Section 33-2-8 -	*Deposits on Sidewalks and Streets*	*33-2*
	Section 33-2-9 -	*Obstructing Street*	*33-2*
	Section 33-2-10 -	*Rainwater Drains*	*33-2*
	Section 33-2-11 -	*Building Materials in Street*	*33-2*
	Section 33-2-12 -	*Merchandise on Public Street*	*33-2*
	Section 33-2-13 -	*Encroachments*	*33-3*
	Section 33-2-14 -	*Posting Bills*	*33-3*
	Section 33-2-15 -	*Signs on Poles*	*33-3*
	Section 33-2-16 -	*Injury to New Pavements*	*33-3*
	Section 33-2-17 -	*Barbed-Wire Fences*	*33-3*
	Section 33-2-18 -	*Burning on Public Streets*	*33-3*
	Section 33-2-19 -	*Grass Mowing*	*33-3*
	Section 33-2-20 -	*Porches*	*33-3*
	Section 33-2-21 -	*Parade Permit*	*33-3*
III	*TREES AND SHRUBS*		
	Section 33-3-1 -	*Planting*	*33-4*
	Section 33-3-2 -	*Unlawful to Plant Trees and Shrubbery*	*33-4*
	Section 33-3-3 -	*Removal*	*33-4*
	Section 33-3-4 -	*Injury*	*33-4*
	Section 33-3-5 -	*Advertisements or Notices*	*33-4*
	Section 33-3-6 -	*Dangerous Trees*	*33-4*
	Section 33-3-7 -	*Wires*	*33-4*
	Section 33-3-8 -	*Gas Pipes*	*33-4*
IV	*CONSTRUCTION OF UTILITY FACILITIES IN THE RIGHTS-OF-WAY*		
	Section 33-4-1 -	*Purpose and Scope*	*33-5*
	Section 33-4-2 -	*Definitions*	*33-6*
	Section 33-4-3 -	*Annual Registration Required*	*33-9*
	Section 33-4-4 -	*Permit Required; Applications and Fees*	*33-9*
	Section 33-4-5 -	*Action on Permit Applications*	*33-10*
	Section 33-4-6 -	*Effect of Permit*	*33-11*
	Section 33-4-7 -	*Revised Permit Drawings*	*33-12*
	Section 33-4-8 -	*Insurance*	*33-12*
	Section 33-4-9 -	*Indemnification*	*33-13*

ARTICLE		TITLE	PAGE
IV	CONSTRUCTION OF UTILITY FACILITIES IN THE RIGHTS-OF-WAY (CONTINUED)		
	Section 33-4-10	- Security	33-13
	Section 33-4-11	- Permit Suspension and Revocation	33-15
	Section 33-4-12	- Change of Ownership or Owner's Identity or Legal Status	33-15
	Section 33-4-13	- General Construction Standards	33-16
	Section 33-4-14	- Traffic Control	33-16
	Section 33-4-15	- Location of Facilities	33-16
	Section 33-4-16	- Construction Methods and Materials	33-19
	Section 33-4-17	- Vegetation Control	33-24
	Section 33-4-18	- Removal, Relocation, or Modification of Utility Facilities	33-24
	Section 33-4-19	- Cleanup and Restoration	33-25
	Section 33-4-20	- Maintenance and Emergency Maintenance	33-25
	Section 33-4-21	- Variances	33-26
	Section 33-4-22	- Penalties	33-26
	Section 33-4-23	- Enforcement	33-26
V	STREET IMPROVEMENTS		
	Section 33-5-1	- Sidewalks	33-27
	Section 33-5-2	- Curbs and Gutters	33-27
	Section 33-5-3	- Storm Sewers	33-27
VI	CULVERTS		
	Section 33-6-1	- Obstruction of Drain or Storm Sewer	33-29
	Section 33-6-2	- Permit for Culvert	33-29
	Section 33-6-3	- Application for Permit	33-29
	Section 33-6-4	- Termination of Permit	33-29
	Section 33-6-5	- Type of Culvert	33-29
	Section 33-6-6	- Installation Cost	33-29
	Section 33-6-7	- Backfill Cost	33-29
VII	DRIVEWAYS		
	Section 33-7-1	- Permits Required	33-30
	Section 33-7-2	- Fee	33-30
	Section 33-7-3	- Grade Surface	33-30
	Section 33-7-4	- Specifications	33-30
	Section 33-7-5	- Breaking Curb – Bond Required	33-30
	Section 33-7-6	- Repair	33-30
VIII	SNOW REMOVAL		
	Section 33-8-1	- Definitions	33-31
	Section 33-8-2	- Snow and Ice to be Removed From Sidewalks by Private Persons	33-31
	Section 33-8-3	- Depositing of Snow and Ice Restricted	33-31
	Section 33-8-4	- Mayor's Authority	33-31

ARTICLE		TITLE	PAGE
IX	MOVING BUILDINGS		
	Section 33-9-1	- Permit Required	33-32
	Section 33-9-2	- Application for Permit	33-32
	Section 33-9-3	- Investigation	33-32
	Section 33-9-4	- Denial of Permit	33-32
	Section 33-9-5	- Terms and Conditions of Permit	33-32
	Section 33-9-6	- Estimate of Cost and Deposit	33-33
	Section 33-9-7	- Liability Insurance	33-33
	Section 33-9-8	- Owner's Completion Bond or Savings and Loan Certificate and Share	33-33
	Section 33-9-9	- Clearance of Site and Safety Measures Required	33-33
	Section 33-9-10	- Inspection Fee and Permit Fee	33-34
	Section 33-9-11	- Issuance of Permit	33-34
	Section 33-9-12	- Suspension or Revocation of Permit	33-34
	Section 33-9-13	- Control and Supervision	33-34
	Section 33-9-14	- Notice Required	33-34
	Section 33-9-15	- Default in Performance of Conditions	33-34
	Section 33-9-16	- Approval of Route	33-35
	Section 33-9-17	- Obstructing Streets	33-35
	Section 33-9-18	- Lights and Barricades	33-35
	Section 33-9-19	- Wires and Structural Supports	33-35
	Section 33-9-20	- Trees, Plants and Shrubs	33-35
	Section 33-9-21	- Repairs to Public Property	33-36
	Section 33-9-22	- Refunding of Deposits	33-36

CHAPTER 33

STREET REGULATIONS

ARTICLE I – DEPARTMENT ESTABLISHED

33-1-1 DEPARTMENT ESTABLISHED. There is hereby established a Department of the municipal government which shall be known as the **Street Department**. It shall embrace the Street Committee, the Superintendent, and the employees. The Village Engineer shall serve as ex-officio officer.

33-1-2 COMMITTEE ON STREETS. The Village Board Standing Committee on Streets shall exercise a general supervision over the affairs of the Street Department. It shall ascertain the needs and conditions thereof and shall, from time to time, report the same to the Mayor and Village Board.

ARTICLE II - GENERAL REGULATIONS

33-2-1 UNDERMINING. No person shall undermine in any manner, any street or any other ground or real estate situated in the Village or belonging to any private person.

33-2-2 OPEN DOORS. No person shall open or allow to remain open, any door, any gate, or the grating of any vault belonging to the premises occupied by him, on any street, alley or sidewalk in the Village for any purpose, except the taking in and removing goods; and any person allowing such grating to remain open shall warn passersby of the danger.

33-2-3 REPAIRING SIDEWALKS, ETC. When any private sidewalk, pavement, or cellar door on the same becomes worn out or out of repair, or is torn up or broken and uneven, it shall be the duty of the Street Superintendent to immediately report such fact to the Mayor or Street and Alley Committee, and upon verbal or written order from either of them, to give notice to the party owning the adjoining property to repair such sidewalk or cellar door without delay.

33-2-4 STAIRWAY - RAILING. Steps or stairways leading into any building shall not extend from the wall of such building onto any pavement or sidewalk, and in such case, the person making or causing to be made such passage shall erect a railing on the side of the stairs toward the street to prevent persons from falling into the street.

33-2-5 CLOSING STREET. Whenever public safety or the improvement or repair of any street, alley or public place requires it, the Mayor may order any street, alley, or public place temporarily closed to traffic and the placing of signs indicating that the street, alley or public place is closed by order of the Mayor. Whenever such signs are so placed, no person shall ride or drive upon or cross such street, alley or public place, or in any manner, destroy, deface, or remove any such sign.

33-2-6 SIGNS ACROSS STREET. No person shall place any sign, advertisement or banner over any or across any street, alley or sidewalk in the Village, unless he has written approval of the Village Board. **(65 ILCS 5/11-80-17)**

33-2-7 VEHICLES AND SKATEBOARDS ON SIDEWALKS. No person shall operate any skateboard or motor vehicle on or over any sidewalk, except in crossing the same to go into a yard or parking lot.

33-2-8 DEPOSITS ON SIDEWALKS AND STREETS. It shall be unlawful to deposit on any public sidewalk, any material which may be harmful to the pavement thereof, or any waste material, or any glass or other articles which might cause injury to persons, animals or property.

Merchandise or other articles may be deposited on sidewalks preparatory to delivery, provided that the usable width is not thereby reduced to less than **four (4) feet**; and provided that no such article shall remain on such walk for more than **thirty (30) minutes.**

33-2-9 OBSTRUCTING STREET.

(A) It shall be unlawful to deposit any material on any street which may be harmful to the pavement thereof, or any waste material, or any grass clippings, or to cause a lawn mower to blow grass clippings onto a street or any other articles such as glass which may cause injury to any person, animal or property.

(B) No person shall place or cause to be placed or erected on any public ground, or in any public street, alley or sidewalk in the Village, any debris, materials, or obstruction, except as may be permitted by this Code.

(C) It shall be the duty of the Police Department to exercise a vigilant supervision over such places and to notify any person found making such deposit or responsible for same to remove the offending matter at once. **(65 ILCS 5/11-80-3)**

33-2-10 RAINWATER DRAINS. It shall be unlawful to construct or permit the construction of any storm water drain or any drainage pipe in either a natural or man-made ditch without having first obtained a permit therefor. Applications for such permits shall be made to the Village Clerk and shall be accompanied by a statement as to the purpose of such drainage pipe, the premises to be served and the specification of such pipe to be installed. Such application shall be referred to the Street Superintendent and no such permit shall be issued unless he shall have found that the Village Code would be complied with by the installation of such storm water drain or drainage pipe and, that the installation of such storm water drain or drainage pipe would not interfere with, overload, obstruct or otherwise adversely affect the existing storm water drainage system within the Village.

It shall be unlawful to construct or permit the construction of any storm water drain which discharges water onto any sidewalk in the Village and it shall be unlawful to construct or permit the maintenance of any such drain which discharges into any public street or alley at a height greater than **eighteen (18) inches** above the ground or pavement.

33-2-11 BUILDING MATERIALS IN STREET. The Street Superintendent may move any obstruction on any street or sidewalk of the Village, but before doing so, he shall notify the person responsible therefore to remove such obstruction within a reasonable time after being notified. Any person engaged in erecting a building or fence or improving any lot on such street may deposit materials thereon and contiguous to such length of time as may be necessary for the work. The obstruction shall not extend to more than **one-half (1/2)** of the width of the sidewalk, street, or alley adjacent to such improvement and the gutter shall always be left free and unobstructed. At night, such person shall keep an illuminated warning light on such material. **(65 ILCS 5/11-80-3)**

33-2-12 MERCHANDISE ON PUBLIC STREET. It shall be unlawful for any person, firm or corporation to use any street, sidewalk, or other public place as space for the display of goods or merchandise for sale; or to write or make any signs or advertisements on any such pavements, unless permission is granted by the Village Board. **(65 ILCS 5/11-80-3)**

33-2-13 ENCROACHMENTS. It shall be unlawful to erect or maintain any building or structure which encroaches upon any public street or property.

33-2-14 POSTING BILLS. It shall be unlawful for any person to paste, paint, print or nail any handbill, sign, poster, advertisement or notice of any kind on any curbstone, flagstone, or any other portion or part of any sidewalk, or upon any tree, lamppost, utility pole, hydrant, or upon any private wall, door or gate without the consent, in writing, of the owner of such curbstone, flagstone, sidewalk, tree, lamppost, utility pole, hydrant, private wall, door or gate.

33-2-15 SIGNS ON POLES. No person shall nail, tack, paste, paint or fasten, or cause to be nailed, tacked, painted or fastened, any sign or any other foreign substance or material onto any telephone, telegraph, electric light, police and/or fire alarm pole or post, or any street or traffic sign located on any sidewalk, street, alley or public grounds or injure or deface any such pole or post.

33-2-16 INJURY TO NEW PAVEMENTS. It shall be unlawful to walk upon or drive any vehicle or animal upon or destroy any newly-laid sidewalk pavement while the same is guarded by a warning sign or barricade, or to knowingly injure any soft, newly-laid pavement.

33-2-17 BARBED-WIRE FENCES. It shall be unlawful to maintain or construct any fence composed in whole or in part of barbed wire, or with any similar material designed to cause injury to persons, or any wire charged with electrical current, anywhere within **three (3) feet** of any public street, sidewalk, alley, park or other public way or place unless such barbs or charged wire are at least **six (6) feet** above the level of such public place.

33-2-18 BURNING ON PUBLIC STREETS. It shall be unlawful for any person to burn any leaves, paper, rubbish or other substances upon any of the public streets, sidewalks or alleys in the Village.

33-2-19 GRASS MOWING. Property owners and/or their tenants shall be jointly and separately responsible for mowing the grass or weeds between the property lines and the adjoining street surfaces. The height of the grass or weeds shall not exceed **eight (8) inches**.

33-2-20 PORCHES. It shall be unlawful for any person or persons, firm or corporation to construct and maintain any porch or similar overhead device extending from any building bordering upon any public sidewalk of this Village, which overhangs any public sidewalk or passageway of this Village supported by or resting upon posts.

33-2-21 PARADE PERMIT. Any person desiring to conduct a parade within the Village shall obtain the written permission from the Mayor, with the approval of the Village Board.

ARTICLE III - TREES AND SHRUBS

33-3-1 PLANTING. It shall be unlawful to plant any tree or bush in any public street or parkway or other public place without having first secured a permit therefore. Applications for such permits shall be made to the Street Superintendent and shall be referred by him to the Village Board. All trees and shrubs so planted shall be placed subject to the directions and approval of the Village Board.

33-3-2 UNLAWFUL TO PLANT TREES AND SHRUBBERY. It shall be unlawful for any person or persons, firm or corporation to plant or cause to be planted, any tree or shrub less than **seven (7) feet** from the property line of the lot. No trees shall be planted on the corner of a lot at a distance less than **fifteen (15) feet** from any intersecting streets. **(See Zoning Code)**

33-3-3 REMOVAL. It shall be unlawful to remove or cut down any tree or shrub or portion thereof in any street, parkway or other public place without having first secured a permit therefore. Applications for such permits shall be made to the Street Superintendent and shall be referred by him to the Village board before permission shall be granted.

33-3-4 INJURY. It shall be unlawful to injure any tree or shrub planted in such public place.

33-3-5 ADVERTISEMENTS OR NOTICES. It shall be unlawful to attach any sign, advertisement or notice to any tree or shrub in any street, parkway, or other public place.

33-3-6 DANGEROUS TREES. Any tree or shrub which overhangs any sidewalk, street or other public place in the municipality at a height less than **eight (8) feet** or in such a way as to impede or interfere with traffic or travel on such public place shall be trimmed by the owner of the abutting premises or of the premises on which such tree or shrub grows so that the obstruction shall cease.

Any tree or limb of a tree which has become likely to fall on or across any public way or place shall be removed by the owner of the premises on which such tree grows or stands.

The Street Superintendent may, at the owner's expense, trim or remove any tree or shrub so that the obstruction or danger to traffic or passage shall be done away with.

33-3-7 WIRES. It shall be unlawful to attach any wires or rope to any tree or shrub in any public street, parkway or other public place without the permission of the Village Board.

Any person or company given the right to maintain the poles and wires in the streets, alleys, or other public places in the municipality shall, in the absence of provision in the franchise concerning the subject, keep such wires and poles free from and away from any trees or shrubs in such places so far as may be possible and shall keep all such trees and shrubs properly trimmed, subject to the supervision of the Street Superintendent so that no injury shall be done either to the poles or wires or the shrubs and trees by their conduct.

33-3-8 GAS PIPES. Any person or company maintaining any gas pipe in the municipality shall, in the absence of provision in the franchise concerning the subject, keep such pipes free from leaks so that no injury shall be done to any trees or shrubs.

ARTICLE IV - CONSTRUCTION OF UTILITY FACILITIES IN THE RIGHTS-OF-WAY

33-4-1 PURPOSE AND SCOPE.

(A) **Purpose.** The purpose of this Article is to establish policies and procedures for constructing facilities on rights-of-way within the Village's jurisdiction, which will provide public benefit consistent with the preservation of the integrity, safe usage, and visual qualities of the Village rights-of-way and the Village as a whole.

(B) **Intent.** In enacting this Article, the Village intends to exercise its authority over the rights-of-way in the Village and, in particular, the use of the public ways and property by utilities, by establishing uniform standards to address issues presented by utility facilities, including without limitation:

(1) prevent interference with the use of streets, sidewalks, alleys, parkways and other public ways and places;

(2) prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;

(3) prevent interference with the facilities and operations of the Village's utilities and of other utilities lawfully located in rights-of-way or public property;

(4) protect against environmental damage, including damage to trees, from the installation of utility facilities;

(5) protect against increased stormwater run-off due to structures and materials that increase impermeable surfaces;

(6) preserve the character of the neighborhoods in which facilities are installed;

(7) preserve open space, particularly the tree-lined parkways that characterize the Village's residential neighborhoods;

(8) prevent visual blight from the proliferation of facilities in the rights-of-way; and

(9) assure the continued safe use and enjoyment of private properties adjacent to utility facilities locations.

(C) **Facilities Subject to this Article.** This Article applies to all facilities on, over, above, along, upon, under, across, or within the rights-of-way within the jurisdiction of the Village. A facility lawfully established prior to the effective date of this Article may continue to be maintained, repaired and operated by the utility as presently constructed and located, except as may be otherwise provided in any applicable franchise, license or similar agreement.

(D) **Franchises, Licenses, or Similar Agreements.** The Village, in its discretion and as limited by law, may require utilities to enter into a franchise, license or similar agreement for the privilege of locating their facilities on, over, above, along, upon, under, across, or within the Village rights-of-way. Utilities that are not required by law to enter into such an agreement may request that the Village enter into such an agreement. In such an agreement, the Village may provide for terms and conditions inconsistent with this Article.

(E) **Effect of Franchises, Licenses, or Similar Agreements.**

(1) **Utilities Other Than Telecommunications Providers.** In the event that a utility other than a telecommunications provider has a franchise, license or similar agreement with the Village, such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.

(2) **Telecommunications Providers.** In the event of any conflict with, or inconsistency between, the provisions of this Article and the provisions of any franchise, license or similar agreement between the Village and any telecommunications provider, the provisions of such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.

(F) **Conflicts With Other Articles or Chapters.** This Article supersedes all Articles or Chapters or parts of Articles or Chapters adopted prior hereto that are in conflict herewith, to the extent of such conflict.

(G) **Conflicts With State and Federal Laws.** In the event that applicable federal or State laws or regulations conflict with the requirements of this Article, the utility shall comply with the requirements of this Article to the maximum extent possible without violating federal or State laws or regulations.

(H) **Sound Engineering Judgment.** The Village shall use sound engineering judgment when administering this Article and may vary the standards, conditions, and requirements expressed in this Article when the Village so determines. Nothing herein shall be construed to limit the ability of the Village to regulate its rights-of-way for the protection of the public health, safety and welfare.

33-4-2 DEFINITIONS. As used in this Article and unless the context clearly requires otherwise, the words and terms listed shall have the meanings ascribed to them in this Section. Any term not defined in this Section shall have the meaning ascribed to it in 92 Ill. Adm. Code. § 520.30, unless the context clearly requires otherwise.

"AASHTO": American Association of State Highway and Transportation Officials.

"ANSI": American National Standards Institute.

"Applicant": A person applying for a permit under this Article.

"ASTM": American Society for Testing Materials.

"Backfill": The methods or materials for replacing excavated material in a trench or pit.

"Bore" or "Boring": To excavate an underground cylindrical cavity for the insertion of a pipe or electrical conductor.

"Cable Operator": That term as defined in 47 U.S.C. 522(5).

"Cable Service": That tern as defined in 47 U.S.C. 522(6).

"Cable System": That term as defined in 47 U.S.C. 522(7).

"Carrier Pipe": The pipe enclosing the liquid, gas or slurry to be transported.

"Casing": A structural protective enclosure for transmittal devices such as: carrier pipes, electrical conductors, and fiber optic devices.

"Clear Zone": The total roadside border area, starting at the edge of the pavement, available for safe use by errant vehicles. This area may consist of a shoulder, a recoverable slope, a non-recoverable slope, and a clear run-out area. The desired width is dependent upon the traffic volumes and speeds, and on the roadside geometry. Distances are specified in the AASHTO Roadside Design Guide.

"Coating": Protective wrapping or mastic cover applied to buried pipe for protection against external corrosion.

"Conductor": Wire carrying electric current.

"Conduit": A casing or encasement for wires or cables.

"Construction" or "Construct": The installation, repair, maintenance, placement, alteration, enlargement, demolition, modification or abandonment in place of facilities.

"Cover": The depth of earth or backfill over buried utility pipe or conductor.

"Crossing Facility": A facility that crosses one or more right-of-way lines of a right-of-way.

"Disrupt the Right-of-Way": For the purposes of this Article, any work that obstructs the right-of-way or causes a material adverse affect on the use of the right-of-way for its intended use. Such work may include, without limitation, the following: excavating or other cutting; placement (whether temporary or permanent) of materials, equipment, devices, or structures; damage to vegetation; and compaction or loosening of the soil, and shall not include the parking of vehicles or equipment in a manner that does not materially obstruct the flow of traffic on a highway.

"Emergency": Any immediate maintenance to the facility required for the safety of the public using or in the vicinity of the right-of-way or immediate maintenance required for the health and safety of the general public served by the utility.

"Encasement": Provision of a protective casing.

"Engineer": The Village Engineer or his or her designee.

"Equipment": Materials, tools, implements, supplies, and/or other items used to facilitate construction of facilities.

"Excavation": The making of a hole or cavity by removing material, or laying bare by digging.

"Extra Heavy Pipe": Pipe meeting ASTM standards for this pipe designation.

"Facility": All structures, devices, objects, and materials (including, but not limited to, track and rails, wires, ducts, fiber optic cable, antennas, vaults, boxes, equipment enclosures, cabinets, pedestals, poles, conduits, grates, covers, pipes, cables, and appurtenances thereto) located on, over, above, along, upon, under, across, or within rights-of-way under this Article. For purposes of this Article, the term "facility" shall not include any facility owned or operated by the Village.

"Freestanding Facility": A facility that is not a crossing facility or a parallel facility, such as an antenna, transformer, pump, or meter station.

"Frontage Road": Roadway, usually parallel, providing access to land adjacent to the highway where it is precluded by control of access on highway.

"Hazardous Materials": Any substance or material which, due to its quantity, form, concentration, location, or other characteristics, is determined by the Village Engineer or Superintendent to pose an unreasonable and imminent risk to the life, health or safety of persons or property or to the ecological balance of the environment, including, but not limited to explosives, radioactive materials, petroleum or petroleum products or gases, poisons, etiology (biological) agents, flammables, corrosives or any substance determined to be hazardous or toxic under any federal or state law, statute or regulation.

"Highway Code": The Illinois Highway Code, 605 ILCS 5/1-101 et seq., as amended from time to time.

"Highway": A specific type of right-of-way used for vehicular traffic including rural or urban roads, alleys or streets. "Highway" includes all highway land and improvements, including roadways, ditches and embankments, bridges, drainage structures, sign, guardrails, protective structures and appurtenances necessary or convenient for vehicle traffic.

"Holder": A person or entity that has received authorization to offer or provide cable or video service from the ICC pursuant to the Illinois Cable and Video Competition Law, 220 ILCS 5/21-401.

"IDOT": Illinois Department of Transportation.

"ICC": Illinois Commerce Commission.

"Jacking": Pushing a pipe horizontally under a roadway by mechanical means with or without boring.

"Jetting": Pushing a pipe through the earth using water under pressure to create a cavity ahead of the pipe.

"Joint Use": The use of pole lines, trenches or other facilities by two or more utilities.

"Major Intersection": The intersection of two or more major arterial highways.

"Occupancy": The presence of facilities on, over or under right-of-way.

"Parallel Facility": A facility that is generally parallel or longitudinal to the centerline of a right-of-way.

"Parkway": Any portion of the right-of-way not improved by street or sidewalk.

"Pavement Cut": The removal of an area of pavement for access to facility or for the construction of a facility.

"Permittee": That entity to which a permit has been issued pursuant to **Sections 33-4-4** and **33-4-5** of this Article.

"Practicable": That which is performable, feasible or possible, rather than that which is simply convenient.

"Pressure": The internal force acting radically against the walls of a carrier pipe expressed in pounds per square inch gauge (psig).

"Petroleum Products Pipelines": Pipelines carrying crude or refined liquid petroleum products including, but not limited to, gasoline, distillates, propane, butane, or coal-slurry.

"Prompt": That which is done within a period of time specified by the Village. If no time period is specified, the period shall be **thirty (30) days**.

"Public Entity": A legal entity that constitutes or is part of the government, whether at local, state or federal level.

"Restoration": The repair of a right-of-way, highway, roadway, or other area disrupted by the construction of a facility.

"Right-of-Way" or "Rights-of-Way": Any street, alley, other land or waterway, dedicated or commonly used for pedestrian or vehicular traffic or other similar purposes, including utility easements, in which the Village has the right and authority to authorize, regulate or permit the location of facilities other than those of the Village. "Right-of-way" or "rights-of-way" shall not include any real or personal Village property that is not specifically described in the previous two sentences and shall not include Village buildings, fixtures and other structures or improvements, regardless of whether they are situated in the right-of-way.

"Roadway": That part of the highway that includes the pavement and shoulders.

"Sale of Telecommunications at Retail": The transmitting, supplying, or furnishing of telecommunications and all services rendered in connection therewith for a consideration, other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for sale.

"Security Fund": That amount of security required pursuant to **Section 33-4-10**.

"Shoulder": A width of roadway, adjacent to the pavement, providing lateral support to the pavement edge and providing an area for emergency vehicular stops and storage of snow removed from the pavement.

"Sound Engineering Judgment": A decision(s) consistent with generally accepted engineering principles, practices and experience.

"Superintendent of Public Works": The Superintendent of Public Works or his or her designee, hereinafter referred to as "Superintendent".

"Telecommunications": This term includes, but is not limited to, messages or information transmitted through use of local, toll, and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange service, private line services, mobile radio services, cellular mobile telecommunications services, stationary two-way radio, paging service and any other form of mobile or portable one-way or two-way communications, and any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. "Private line" means a dedicated non-traffic sensitive service for a single customer that entitles the customer to exclusive or priority use of a communications channel, or a group of such channels, from one or more specified locations to one or more other specified locations. "Telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code and protocol of the information for purposes other than transmission. "Telecommunications" shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by such provider to the ultimate retail consumer who originates or terminates the end-to-end communications. "Telecommunications" shall not include the provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following), as now or hereafter amended, or cable or other programming services subject to an open video system fee payable to the Village through an open video system as defined in the Rules of the Federal Communications Commission (47 C.F.R. §76.1500 and following), as now or hereafter amended.

"Telecommunications Provider": Means any person that installs, owns, operates or controls facilities in the right-of-way used or designed to be used to transmit telecommunications in any form.

"Telecommunications Retailer": Means and includes every person engaged in making sales of telecommunication at retail as defined herein.

"Trench": A relatively narrow open excavation for the installation of an underground facility.

"Utility": The individual or entity owning or operating any facility as defined in this Article.

"Vent": A pipe to allow the dissipation into the atmosphere of gases or vapors from an underground casing.

"Video Service": That term as defined in Section 21-201(v) of the Illinois Cable and Video Competition Law of 2007, 220 ILCS 21-201(v).

"Village": The Village of Smithton.

"Water Lines": Pipelines carrying raw or potable water.

"Wet Boring": Boring using water under pressure at the cutting auger to soften the earth and to provide a sluice for the excavated material.

33-4-3 ANNUAL REGISTRATION REQUIRED. Every utility that occupies right-of-way within the Village shall register on **January 1** of each year with the Superintendent, providing the utility's name, address and regular business telephone and telecopy numbers, the name of one or more contact persons who can act on behalf of the utility in connection with emergencies involving the utility's facilities in the right-of-way and a **twenty-four (24) hour** telephone number for each such person, and evidence of insurance as required in **Section 33-4-8** of this Article, in the form of a certificate of insurance.

33-4-4 PERMIT REQUIRED; APPLICATIONS AND FEES.

(A) **Permit Required.** No person shall construct (as defined in this Article) any facility on, over, above, along, upon, under, across, or within any Village right-of-way which:

(1) changes the location of the facility;
(2) adds a new facility;
(3) disrupts the right-of-way (as defined in this Article), or
(4) materially increases the amount of area or space occupied by the facility on, over, above, along, under, across or within the right-of-way, without first filing an application with the Superintendent and obtaining a permit from the Village therefor, except as otherwise provided in this Article.

No permit shall be required for installation and maintenance of service connections to customers' premises where there will be no disruption of the right-of-way.

(B) **Permit Application.** All applications for permits pursuant to this Article shall be filed on a form provided by the Village and shall be filed in such number of duplicate copies as the Village may designate. The applicant may designate those portions of its application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each page of such materials accordingly.

(C) **Minimum General Application Requirements.** The application shall be made by the utility or its duly authorized representative and shall contain, at a minimum, the following:

(1) The utility's name and address and telephone and telecopy numbers;
(2) The applicant's name and address, if different than the utility, its telephone, telecopy number, e-mail address, and its interest in the work;
(3) The names, addresses and telephone and telecopy numbers and e-mail addresses of all professional consultants, if any, advising the applicant with respect to the application.
(4) A general description of the proposed work and the purposes and intent of the facility and the uses to which the facility will be put. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed;
(5) Evidence that the utility has placed on file with the Village:
    (a) A written traffic control plan demonstrating the protective measures and devices that will be employed consistent with the Illinois Manual on Uniform Traffic Control Devices, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic; and
    (b) An emergency contingency plan which shall specify the nature of potential emergencies, including, without limitation, construction and hazardous materials emergencies, and the intended response by the applicant. The intended response shall include notification to the Village and shall promote protection of the safety and convenience of the public. Compliance with ICC regulations for emergency contingency plans constitutes

compliance with this Section unless the Village finds that additional information or assurances are needed;

(6) Drawings, plans and specifications showing the work proposed, including the certification of an engineer that such drawings, plans, and specifications comply with applicable codes, rules, and regulations;

(7) Evidence of insurance as required in **Section 33-4-8** of this Article;

(8) Evidence of posting of the security fund as required in **Section 33-4-10** of this Article;

(9) Any request for a variance from one or more provisions of this Article **(See Section 33-4-21)**; and

(10) Such additional information as may be reasonably required by the Village.

(D) **Supplemental Application Requirements for Specific Types of Utilities.** In addition to the requirements of paragraph (C) of this Section, the permit application shall include the following items, as applicable to the specific utility that is the subject of the permit application:

(1) In the case of the installation of a new electric power, communications, telecommunications, cable television service, video service or natural gas distribution system, evidence that any "Certificate of Public Convenience and Necessity" or other regulatory authorization that the applicant is required by law to obtain, or that the applicant has elected to obtain, has been issued by the ICC or other jurisdictional authority;

(2) In the case of natural gas systems, state the proposed pipe size, design, construction class, and operating pressures;

(3) In the case of water lines, indicate that all requirements of the Illinois Environmental Protection Agency, Division of Public Water Supplies, have been satisfied;

(4) In the case of sewer line installations, indicate that the land and water pollution requirements of the Illinois Environmental Protection Agency, Division of Water Pollution Control have been satisfied; or

(5) In the case of petroleum products pipelines, state the type or types of petroleum products, pipe size, maximum working pressure, and the design standard to be followed.

(E) **Applicant's Duty to Update Information.** Throughout the entire permit application review period and the construction period authorized by the permit, any amendments to information contained in a permit application shall be submitted by the utility in writing to the Village within **thirty (30) days** after the change necessitating the amendment.

(F) **Application Fees.** Unless otherwise provided by franchise, license, or similar agreement, all applications for permits pursuant to this Article shall be accompanied by a base fee in the amount of $100.00. Additional application review costs will vary with the complexity of the project and will be determined on a case by case basis and shall be paid prior to issuance of final permit. No application fee is required to be paid by any electricity utility that is paying the municipal electricity infrastructure maintenance fee pursuant to the Electricity Infrastructure Maintenance Fee Act.

33-4-5 ACTION ON PERMIT APPLICATIONS.

(A) **Village Review of Permit Applications.** Completed permit applications, containing all required documentation, shall be examined by the Superintendent within a reasonable time after filing. If the application does not conform to the requirements of all applicable ordinances, codes, laws, rules, and regulations, the Superintendent shall reject such application in writing, stating the reasons therefor. If the Superintendent is satisfied that the proposed work conforms to the requirements of this Article and all applicable ordinances, codes, laws, rules, and regulations, the Superintendent shall issue a permit therefor as soon as practicable. In all instances, it shall be the duty of the applicant to demonstrate, to the satisfaction of the Superintendent, that the construction proposed under the application shall be in full compliance with the requirements of this Article.

(B) **Additional Village Review of Applications of Telecommunications Retailers.**

(1) Pursuant to Section 4 of the Telephone Company Act, 220 ILCS 65/4, a telecommunications retailer shall notify the Village that it intends to commence work governed by this Article for facilities for the provision of telecommunications services. Such notice shall consist of plans, specifications, and other documentation sufficient to demonstrate the purpose and intent of the facilities, and shall be provided by the telecommunications retailer to the Village not less than **ten (10) days** prior to the commencement of work requiring no excavation and not less than **thirty (30) days** prior to the commencement of work requiring excavation. The Superintendent shall specify the portion of the right-of-way upon which the facility may be placed, used or constructed.

(2) In the event that the Superintendent fails to provide such specification of location to the telecommunications retailer within either (a) **ten (10) days** after service of notice to the Village by the telecommunications retailer in the case of work not involving excavation for new construction or (b) **twenty-five (25) days** after service of notice by the telecommunications retailer in the case of work involving excavation for new construction, the telecommunications retailer may commence work without obtaining a permit under this Article.

(3) Upon the provision of such specification by the Village, where a permit is required for work pursuant to **Section 33-4-4** of this Article the telecommunications retailer shall submit to the Village an application for a permit and any and all plans, specifications and documentation available regarding the facility to be constructed. Such application shall be subject to the requirements of paragraph (A) of this Section.

(C) **Additional Village Review of Applications of Holders of State Authorization Under the Cable and Video Competition Law of 2007.** Applications by a utility that is a holder of a State-issued authorization under the Cable and Video Competition Law of 2007 shall be deemed granted **forty-five (45) days** after submission to the Village, unless otherwise acted upon by the Village, provided the holder has complied with applicable Village codes, ordinances, and regulations.

33-4-6 EFFECT OF PERMIT.

(A) **Authority Granted; No Property Right or Other Interest Created.** A permit from the Village authorizes a permittee to undertake only certain activities in accordance with this Article on Village rights-of-way, and does not create a property right or grant authority to the permittee to impinge upon the rights of others who may have an interest in the public rights-of-way.

(B) **Duration.** No permit issued under this Article shall be valid for a period longer than **six (6) months** unless construction is actually begun within that period and is thereafter diligently pursued to completion.

(C) **Pre-Construction Meeting Required.** No construction shall begin pursuant to a permit issued under this Article prior to attendance by the permittee and all major contractors and subcontractors who will perform any work under the permit at a pre-construction meeting. The pre-construction meeting shall be held at a date, time and place designated by the Village with such Village representatives in attendance as the Village deems necessary. The meeting shall be for the purpose of reviewing the work under the permit, and reviewing special considerations necessary in the areas where work will occur, including, without limitation, presence or absence of other utility facilities in the area and their locations, procedures to avoid disruption of other utilities, use of rights-of-way by the public during construction, and access and egress by adjacent property owners.

(D) **Compliance With All Laws Required.** The issuance of a permit by the Village does not excuse the permittee from complying with other requirements of the Village and applicable statutes, laws, ordinances, rules, and regulations.

33-4-7 REVISED PERMIT DRAWINGS. In the event that the actual locations of any facilities deviate in any material respect from the locations identified in the plans, drawings and specifications submitted with the permit application, the permittee shall submit a revised set of drawings or plans to the Village within **ninety (90) days** after the completion of the permitted work. The revised drawings or plans shall specifically identify where the locations of the actual facilities deviate from the locations approved in the permit. If any deviation from the permit also deviates from the requirements of this Article, it shall be treated as a request for variance in accordance with **Section 33-4-21** of this Article. If the Village denies the request for a variance, then the permittee shall either remove the facility from the right-of-way or modify the facility so that it conforms to the permit and submit revised drawings or plans therefor.

33-4-8 INSURANCE.

(A) **Required Coverages and Limits.** Unless otherwise provided by franchise, license, or similar agreement, each utility occupying right-of-way or constructing any facility in the right-of-way shall secure and maintain the following liability insurance policies insuring the utility as named insured and naming the Village, and its elected and appointed officers, officials, agents, and employees as additional insureds on the policies listed in paragraphs (1) and (2) below:

(1) Commercial general liability insurance, including premises-operations, explosion, collapse, and underground hazard (commonly referred as "X", "C", and "U" coverages) and products-completed operations coverage with limits not less than:

(a) **Five Million Dollars ($5,000,000.00)** for bodily injury or death to each person;

(b) **Five Million Dollars ($5,000,000.00)** for property damage resulting from any one accident; and

(c) **Five Million Dollars ($5,000,000.00)** for all other types of liability;

(2) Automobile liability for owned, non-owned and hired vehicles with a combined single limit of **One Million Dollars ($1,000,000.00)** for personal injury and property damage for each accident;

(3) Worker's compensation with statutory limits; and

(4) Employer's liability insurance with limits of not less than **One Million Dollars ($1,000,000.00)** per employee and per accident.

If the utility is not providing such insurance to protect the contractors and subcontractors performing the work, then such contractors and subcontractors shall comply with this Section.

(B) **Excess or Umbrella Policies.** The coverages required by this Section may be in any combination of primary, excess, and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis such that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover such loss.

(C) **Copies Required.** The utility shall provide copies of any of the policies required by this Section to the Village within **ten (10) days** following receipt of a written request therefor from the Village.

(D) **Maintenance and Renewal of Required Coverages.** The insurance policies required by this Section shall contain the following endorsement:

> "It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until **thirty (30) days** after receipt by the Village, by registered mail or certified mail, return receipt requested, of a written notice addressed to the Village Administrator of such intent to cancel or not to renew."

Within **ten (10) days** after receipt by the Village of said notice, and in no event later than **ten (10) days** prior to said cancellation, the utility shall obtain and furnish to the Village evidence of replacement insurance policies meeting the requirements of this Section.

(E) **Self-Insurance.** A utility may self-insure all or a portion of the insurance coverage and limit requirements required by paragraph (A) of this Section. A utility that self-insures is not required, to the extent of such self-insurance, to comply with the requirement for the naming of additional insureds under paragraph (A), or the requirements of paragraphs (B), (C) and (D) of this Section. A utility that elects to self-insure shall provide to the Village evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage and limit requirements required under paragraph (A) of this Section, such as evidence that the utility is a "private self insurer" under the Workers Compensation Act.

(F) **Effect of Insurance and Self-Insurance on Utility's Liability.** The legal liability of the utility to the Village and any person for any of the matters that are the subject of the insurance policies or self-insurance required by this Section shall not be limited by such insurance policies or self-insurance or by the recovery of any amounts thereunder.

(G) **Insurance Companies.** All insurance provided pursuant to this Section shall be effected under valid and enforceable policies, issued by insurers legally able to conduct business with the licensee in the State of Illinois. All insurance carriers and surplus line carriers shall be rates "A-" or better and of a class size "X" or higher by A.M. Best Company.

33-4-9 INDEMNIFICATION. By occupying or constructing facilities in the right-of-way, a utility shall be deemed to agree to defend, indemnify and hold the Village and its elected and appointed officials and officers, employees, agents and representatives harmless from and against any and all injuries, claims, demands, judgments, damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the utility or its affiliates, officers, employees, agents, contractors or subcontractors in the construction of facilities or occupancy of the rights-of-way, and in providing or offering service over the facilities, whether such acts or omissions are authorized, allowed or prohibited by this Article or by a franchise, license, or similar agreement; provided, however, that the utility's indemnity obligations hereunder shall not apply to any injuries, claims, demands, judgments, damages, losses or expenses arising out of or resulting from the negligence, misconduct or breach of this Article by the Village, its officials, officers, employees, agents or representatives.

33-4-10 SECURITY.

(A) **Purpose.** The permittee shall establish a Security Fund in a form and in an amount as set forth in this Section. The Security Fund shall be continuously maintained in accordance with this Section at the permittee's sole cost and expense until the completion of the work authorized under the permit. The Security Fund shall serve a security for:

(1) The faithful performance by the permittee of all the requirements of this Article;

(2) Any expenditure, damage, or loss incurred by the Village occasioned by the permittee's failure to comply with any codes, rules, regulations, orders, permits and other directives of the Village issued pursuant to this Article; and

(3) The payment by permittee of all liens and all damages, claims, costs, or expenses that the Village may pay or incur by reason of any action or non-performance by permittee in violation of this Article including, without limitation, any damage to public property or restoration work the permittee is required by this Article to perform that the Village must perform itself or have completed as a consequence solely of the permittee's failure to perform or complete, and all other payments due the Village from the permittee pursuant to this Article or any other applicable law.

(B) **Form.** The permittee shall provide the Security Fund to the Village in the form, at the permittee's election, of cash, a surety bond in a form acceptable to the Village, or an unconditional

letter of credit in a form acceptable to the Village. Any surety bond or letter of credit provided pursuant to this paragraph shall, at a minimum:

(1) Provide that it will not be canceled without prior notice to the Village and the permittee;

(2) Not require the consent of the permittee prior to the collection by the Village of any amounts covered by it; and

(3) Shall provide a location convenient to the Village and within the State of Illinois at which it can be drawn.

(C) **Amount.** The dollar amount of the Security Fund shall be sufficient to provide for the reasonably estimated cost to restore the right-of-way to at least as good a condition as that existing prior to the construction under the permit, as determined by the Superintendent, and may also include reasonable, directly related costs that the Village estimates are likely to be incurred if the permittee fails to perform such restoration. Where the construction of facilities proposed under the permit will be performed in phases in multiple locations in the Village, with each phase consisting of construction of facilities in one location or related group of locations, and where construction in another phase will not be undertaken prior to substantial completion of restoration in the previous phase or phases, the Superintendent may, in the exercise of sound discretion, allow the permittee to post a single amount of security which shall be applicable to each phase of the construction under the permit. The amount of the Security Fund for phased construction shall be equal to the greatest amount that would have been required under the provisions of this paragraph (C) for any single phase.

(D) **Withdrawals.** The Village, upon **fourteen (14) days'** advance written notice clearly stating the reason for, and its intention to exercise withdrawal rights under this paragraph, may withdraw an amount from the Security Fund, provided that the permittee has not reimbursed the Village for such amount within the **fourteen (14) day** notice period. Withdrawals may be made if the permittee:

(1) Fails to make any payment required to be made by the permittee hereunder;

(2) Fails to pay any liens relating to the facilities that are due and unpaid;

(3) Fails to reimburse the Village for any damages, claims, costs or expenses which the Village has been compelled to pay or incur by reason of any action or non-performance by the permittee; or

(4) Fails to comply with any provision of this Article that the Village determines can be remedied by an expenditure of an amount in the Security Fund.

(E) **Replenishment.** Within **fourteen (14) days** after receipt of written notice from the Village that any amount has been withdrawn from the Security Fund, the permittee shall restore the Security Fund to the amount specified in paragraph (C) of this Section.

(F) **Interest.** The permittee may request that any and all interest accrued on the amount in the Security Fund be returned to the permittee by the Village, upon written request for said withdrawal to the Village, provided that any such withdrawal does not reduce the Security Fund below the minimum balance required in paragraph (C) of this Section.

(G) **Closing and Return of Security Fund.** Upon completion of the work authorized under the permit, the permittee shall be entitled to the return of the Security Fund, or such portion thereof as remains on deposit, within a reasonable time after account is taken for all offsets necessary to compensate the Village for failure by the permittee to comply with any provisions of this Article or other applicable law. In the event of any revocation of the permit, the Security Fund, and any and all accrued interest therein, shall become the property of the Village to the extent necessary to cover any reasonable costs, loss or damage incurred by the Village as a result of said revocation, provided that any amounts in excess of said costs, loss or damage shall be refunded to the permittee.

(H) **Rights Not Limited.** The rights reserved to the Village with respect to the Security Fund are in addition to all other rights of the Village, whether reserved by this Article or otherwise authorized by law, and no action, proceeding or exercise of right with respect to said Security Fund shall affect any other right the Village may have. Notwithstanding the foregoing, the Village shall not be entitled to a double monetary recovery with respect to any of its rights which may be infringed or otherwise violated.

33-4-11 PERMIT SUSPENSION AND REVOCATION.

(A) **Village Right to Revoke Permit.** The Village may revoke or suspend a permit issued pursuant to this Article for one or more of the following reasons:

(1) Fraudulent, false, misrepresenting, or materially incomplete statements in the permit application;

(2) Noncompliance with this Article;

(3) Permittee's physical presence or presence of permittee's facilities on, over, above, along, upon, under, across, or within the rights-of-way presents a direct or imminent threat to the public health, safety, or welfare; or

(4) Permittee's failure to construct the facilities substantially in accordance with the permit and approved plans.

(B) **Notice of Revocation or Suspension.** The Village shall send written notice of its intent to revoke or suspend a permit issued pursuant to this Article stating the reason or reasons for the revocation or suspension and the alternatives available to permittee under this **Section 33-4-11**.

(C) **Permittee Alternatives Upon Receipt of Notice of Revocation or Suspension.** Upon receipt of a written notice of revocation or suspension from the Village, the permittee shall have the following options:

(1) Immediately provide the Village with evidence that no cause exists for the revocation or suspension;

(2) Immediately correct, to the satisfaction of the Village, the deficiencies stated in the written notice, providing written proof of such correction to the Village within **five (5) working days** after receipt of the written notice of revocation; or

(3) Immediately remove the facilities located on, over, above, along, upon, under, across, or within the rights-of-way and restore the rights-of-way to the satisfaction of the Village providing written proof of such removal to the Village within **ten (10) days** after receipt of the written notice of revocation.

The Village may, in its discretion, for good cause shown, extend the time periods provided in this paragraph.

(D) **Stop Work Order.** In addition to the issuance of a notice of revocation or suspension, the Village may issue a stop work order immediately upon discovery of any of the reasons for revocation set forth within paragraph (A) of this Section.

(E) **Failure or Refusal of the Permittee to Comply.** If the permittee fails to comply with the provisions of paragraph (C) of this Section, the Village or its designee may, at the option of the Village:

(1) correct the deficiencies;

(2) upon not less than **twenty (20) days** notice to the permittee, remove the subject facilities or equipment; or

(3) after not less than **thirty (30) days** notice to the permittee of failure to cure the noncompliance, deem them abandoned and property of the Village. The permittee shall be liable in all events to the Village for all costs of removal.

33-4-12 CHANGE OF OWNERSHIP OR OWNER'S IDENTITY OR LEGAL STATUS.

(A) **Notification of Change.** A utility shall notify the Village no less than **thirty (30) days** prior to the transfer of ownership of any facility in the right-of-way or change in identity of the utility. The new owner of the utility or the facility shall have all the obligations and privileges enjoyed by the former owner under the permit, if any, and all applicable laws, ordinances, rules and regulations, including this Article, with respect to the work and facilities in the right-of-way.

(B) **Amended Permit.** A new owner shall request that any current permit be amended to show current ownership. If the new owner fails to have a new or amended permit issued in

its name, the new owner shall be presumed to have accepted, and agreed to be bound by, the terms and conditions of the permit if the new owner uses the facility or allows it to remain on the Village's right-of-way.

(C) **Insurance and Bonding.** All required insurance coverage or bonding must be changed to reflect the name of the new owner upon transfer.

33-4-13 GENERAL CONSTRUCTION STANDARDS.

(A) **Standards and Principles.** All construction in the right-of-way shall be consistent with applicable ordinances, codes, laws, rules and regulations, and commonly recognized and accepted traffic control and construction principles, sound engineering judgment and, where applicable, the principles and standards set forth in the following IDOT publications, as amended from time to time:

(1) Standard Specifications for Road and Bridge Construction;
(2) Supplemental Specifications and Recurring Special Provisions;
(3) Highway Design Manual;
(4) Highway Standards Manual;
(5) Standard Specifications for Traffic Control Items;
(6) Illinois Manual on Uniform Traffic Control Devices (92 Ill. Adm. Code § 545);
(7) Flagger's Handbook; and
(8) Work Site Protection Manual for Daylight Maintenance Operations.

(B) **Interpretation of Municipal Standards and Principles.** If a discrepancy exists between or among differing principles and standards required by this Article, the Superintendent shall determine, in the exercise of sound engineering judgment, which principles apply and such decision shall be final. If requested, the Superintendent shall state which standard or principle will apply to the construction, maintenance, or operation of a facility in the future.

33-4-14 TRAFFIC CONTROL.

(A) **Minimum Requirements.** The Village's minimum requirements for traffic protection are contained in IDOT's Illinois Manual on Uniform Traffic Control Devices and this Code.

(B) **Warning Signs, Protective Devices, and Flaggers.** The utility is responsible for providing and installing warning signs, protective devices and flaggers, when necessary, meeting all applicable federal, state, and local requirements for protection of the public and the utility's workers when performing any work on the public rights-of-way.

(C) **Interference with Traffic.** All work shall be phased so that there is minimum interference with pedestrian and vehicular traffic.

(D) **Notice When Access is Blocked.** At least **forty-eight (48) hours** prior to beginning work that will partially or completely block access to any residence, business or institution, the utility shall notify the resident, business or institution of the approximate beginning time and duration of such work; provided, however, that in cases involving emergency repairs pursuant to **Section 33-4-20** of this Article, the utility shall provide such notice as is practicable under the circumstances.

(E) **Compliance.** The utility shall take immediate action to correct any deficiencies in traffic protection requirements that are brought to the utility's attention by the Village.

33-4-15 LOCATION OF FACILITIES.

(A) **General Requirements.** In addition to location requirements applicable to specific types of utility facilities, all utility facilities, regardless of type, shall be subject to the general location requirements of this paragraph.

(1) **No Interference with Village Facilities.** No utility facilities shall be placed in any location if the Superintendent determines that the proposed location will require the relocation or displacement of any of the Village's utility facilities or will otherwise interfere with the operation or maintenance of any of the Village's utility facilities.

(2) **Minimum Interference and Impact.** The proposed location shall cause only the minimum possible interference with the use of the right-of-way and shall cause only the minimum possible impact upon, and interference with the rights and reasonable convenience of property owners who adjoin said right-of-way.

(3) **No Interference with Travel.** No utility facility shall be placed in any location that interferes with the usual travel on such right-of-way.

(4) **No Limitations on Visibility.** No utility facility shall be placed in any location so as to limit visibility of or by users of the right-of-way.

(5) **Size of Utility Facilities.** The proposed installation shall use the smallest suitable vaults, boxes, equipment enclosures, power pedestals, and/or cabinets then in use by the facility owner, regardless of location, for the particular application.

(B) **Parallel Facilities Located Within Highways.**

(1) **Overhead Parallel Facilities.** An overhead parallel facility may be located within the right-of-way lines of a highway only if:

(a) Lines are located as near as practicable to the right-of-way line and as nearly parallel to the right-of-way line as reasonable pole alignment will permit;

(b) Where pavement is curbed, poles are as remote as practicable from the curb with a minimum distance of **two (2) feet (0.6m)** behind the face of the curb, where available;

(c) Where pavement is uncurbed, poles are as remote from pavement edge as practicable with minimum distance of **four (4) feet (1.2m)** outside the outer shoulder line of the roadway and are not within the clear zone;

(d) No pole is located in the ditch line of a highway; and

(e) Any ground-mounted appurtenance is located within **one (1) foot (0.3m)** of the right-of-way line or as near as possible to the right-of-way line.

(2) **Underground Parallel Facilities.** An underground parallel facility may be located within the right-of-way lines of a highway only if:

(a) The facility is located as near the right-of-way line as practicable and not more than **eight (8) feet (2.4m)** from and parallel to the right-of-way line;

(b) A new facility may be located under the paved portion of a highway only if other locations are impracticable or inconsistent with sound engineering judgment (e.g., a new cable may be installed in existing conduit without disrupting the pavement); and

(c) In the case of an underground power or communications line, the facility shall be located as near the right-of-way line as practicable and not more than **five (5) feet (1.5m)** from the right-of-way line and any above-grounded appurtenance shall be located within **one (1) foot (0.3m)** of the right-of-way line or as near as practicable.

(C) **Facilities Crossing Highways.**

(1) **No Future Disruption.** The construction and design of crossing facilities installed between the ditch lines or curb lines of Village highways may require the incorporation of materials and protections (such as encasement or additional cover) to avoid settlement or future repairs to the roadbed resulting from the installation of such crossing facilities.

(2) **Cattle Passes, Culverts, or Drainage Facilities.** Crossing facilities shall not be located in cattle passes, culverts, or drainage facilities.

(3) **90 Degree Crossing Required.** Crossing facilities shall cross at or as near to a **ninety (90) degree** angle to the centerline as practicable.

(4) **Overhead Power or Communication Facility.** An overhead power or communication facility may cross a highway only if:

(a) It has a minimum vertical line clearance as required by ICC's rules entitled, "Construction of Electric Power and Communication Lines" (83 Ill. Adm. Code 305);

(b) Poles are located within **one (1) foot (0.3m)** of the right-of-way line of the highway and outside of the clear zone; and

(c) Overhead crossings at major intersections are avoided.

(5) **Underground Power or Communication Facility.** An underground power or communication facility may cross a highway only if:

(a) The design materials and construction methods will provide maximum maintenance-free service life; and

(b) Capacity for the utility's foreseeable future expansion needs is provided in the initial installation.

(6) **Markers.** The Village may require the utility to provide a marker at each right-of-way line where an underground facility other than a power or communication facility crosses a highway. Each marker shall identify the type of facility, the utility, and an emergency phone number. Markers may also be eliminated as provided in current Federal regulations. (49 C.F.R. §192.707 (1989)).

(D) **Facilities to be Located Within Particular Rights-of-Way.** The Village may require that facilities be located within particular rights-of-way that are not highways, rather than within particular highways.

(E) **Freestanding Facilities.**

(1) The Village may restrict the location and size of any freestanding facility located within a right-of-way.

(2) The Village may require any freestanding facility located within a right-of-way to be screened from view.

(F) **Facilities Installed Above Ground.** Above ground facilities may be installed only if:

(1) No other existing facilities in the area are located underground;

(2) New underground installation is not technically feasible; and

(3) The proposed installation will be made at a location, and will employ suitable design and materials, to provide the greatest protection of aesthetic qualities of the area being traversed without adversely affecting safety. Suitable designs include, but are not limited to, self-supporting armless, single-pole construction with vertical configuration of conductors and cable. Existing utility poles and light standards shall be used wherever practicable; the installation of additional utility poles is strongly discouraged.

(G) **Facility Attachments to Bridges or Roadway Structures.**

(1) Facilities may be installed as attachments to bridges or roadway structures only where the utility has demonstrated that all other means of accommodating the facility are not practicable. Other means shall include, but are not limited to, underground, underwater, independent poles, cable supports and tower supports, all of which are completely separated from the bridge or roadway structure. Facilities transmitting commodities that are volatile, flammable, corrosive, or energized, especially those under significant pressure or potential, present high degrees of risk and such installations are not permitted.

(2) A utility shall include in its request to accommodate a facility installation on a bridge or roadway structure supporting data demonstrating the impracticability of alternate routing. Approval or disapproval of an

application for facility attachment to a bridge or roadway structure will be based upon the following considerations:

(a) The type, volume, pressure or voltage of the commodity to be transmitted and an evaluation of the resulting risk to persons and property in the event of damage to or failure of the facility;

(b) The type, length, value, and relative importance of the highway structure in the transportation system;

(c) The alternative routings available to the utility and their comparative practicability;

(d) The proposed method of attachment;

(e) The ability of the structure to bear the increased load of the proposed facility;

(f) The degree of interference with bridge maintenance and painting;

(g) The effect on the visual quality of the structure; and

(h) The public benefit expected from the utility service as compared to the risk involved.

(H) **Appearance Standards.**

(1) The Village may prohibit the installation of facilities in particular locations in order to preserve visual quality.

(2) A facility may be constructed only if its construction does not require extensive removal or alteration of trees or terrain features visible to the right-of-way user or to adjacent residents and property owners, and if it does not impair the aesthetic quality of the lands being traversed.

33-4-16 CONSTRUCTION METHODS AND MATERIALS.

(A) **Standards and Requirements for Particular Types of Construction Methods.**

(1) **Boring or Jacking.**

(a) **Pits and Shoring.** Boring and jacking under rights-of-way shall be accomplished from pits located at a minimum distance specified by the Superintendent from the edge of the pavement. Pits for boring or jacking shall be excavated no more than **forty-eight (48) hours** in advance of boring or jacking operations and backfilled within **forty-eight (48) hours** after boring or jacking operations are completed. While pits are open, they shall be clearly marked and protected by barricades. Shoring shall be designed, erected, supported, braced, and maintained so that it will safely support all vertical and lateral loads that may be imposed upon it during the boring or jacking operation.

(b) **Wet Boring or Jetting.** Wet boring or jetting shall not be permitted under the roadway.

(c) **Borings With Diameters Greater than Six (6) Inches.** Borings over **six (6) inches (0.15m)** in diameter shall be accomplished with an auger and following pipe, and the diameter of the auger shall not exceed the outside diameter of the following pipe by more than **one (1) inch (25mm)**.

(d) **Borings with Diameters Six (6) Inches or Less.** Borings of **six (6) inches** or less in diameter may be accomplished by either jacking, guided with auger, or auger and following pipe method.

(e) **Tree Preservation.** Any facility located within the drip line of any tree designed by the Village to be preserved shall be bored under or around the root system.

(2) **Trenching.** Trenching for facility installation, repair, or maintenance on rights-of-way shall be done in accord with the applicable portions of Section 603 IDOT's "Standard Specifications for Road and Bridge Construction".

(a) **Length.** The length of open trench shall be kept to the practicable minimum consistent with requirements for pipe-line testing. Only one-half of any intersection may have an open trench at any time unless special permission is obtained from the Superintendent.

(b) **Open Trench and Excavated Material.** Open trench and wind rowed excavated material shall be protected as required by Chapter 6 of the Illinois Manual on Uniform Traffic Control Devices. Where practicable, the excavated material shall be deposited between the roadway and the trench as added protection. Excavated material shall not be allowed to remain on the paved portion of the roadway. Where right-of-way width does not allow for wind rowing excavated material off the paved portion of the roadway, excavated material shall be hauled to an off-road location.

(c) **Drip Line of Trees.** The utility shall not trench within the drip line of any tree designated by the Village to be preserved.

(3) **Backfilling.**

(a) Any pit, trench, or excavation created during the installation of facilities shall be backfilled for its full width, depth, and length using methods and materials in accordance with IDOT's "Standard Specifications for Road and Bridge Construction". When excavated material is hauled away or is unsuitable for backfill, suitable granular backfill shall be used.

(b) For a period of **three (3) years** from the date construction of a facility is completed, the utility shall be responsible to remove and restore any backfilled area that has settled due to construction of the facility. If so ordered by the Superintendent, the utility, at its expense, shall remove any pavement and backfill material to the top of the installed facility, place and properly compact new backfill material, and restore new pavement, sidewalk, curbs, and driveways to the proper grades, as determined by the Superintendent.

(4) **Pavement Cuts.** Pavement cuts for facility installation or repair shall be discouraged but may be permitted only upon location specific approval by the Superintendent and only if that portion of the roadway is closed to traffic.

(a) Any excavation under pavements shall be backfilled and compacted as soon as practicable with granular material of CA-6 or CA-10 gradation, as designated by the Superintendent.

(b) Restoration of pavement, in kind, shall be accomplished as soon as practicable, and temporary repair with bituminous mixture shall be provided immediately. Any subsequent failure of either the temporary repair or the restoration shall be rebuilt upon notification by the Village.

(c) All saw cuts shall be full depth.

(d) For all rights-of-way which have been reconstructed with a concrete surface/base in the last **seven (7) years**, or resurfaced in the last **three (3) years**, permits shall not be issued unless such work is determined to be an emergency repair or other work considered necessary and unforeseen

before the time of the reconstruction or unless a pavement cut is necessary for a J.U.L.I.E. locate.

(5) **Encasement.**

(a) Casing pipe shall be designed to withstand the load of the highway and any other superimposed loads. The casing shall be continuous either by one-piece fabrication or by welding or jointed installation approved by the Village.

(b) The venting, if any, of any encasement shall extend within **one (1) foot (0.3m)** of the right-of-way line. No above-ground vent pipes shall be located in the area established as clear zone for that particular section of the highway.

(c) In the case of water main or service crossing, encasement shall be furnished between bore pits unless continuous pipe or Village approved jointed pipe is used under the roadway. Casing may be omitted only if pipe is installed prior to highway construction and carrier pipe is continuous or mechanical joints are of a type approved by the Village. Bell and spigot type pipe shall be encased regardless of installation method.

(d) In the case of gas pipelines of **60 psig** or less, encasement may be eliminated.

(e) In the case of gas pipelines or petroleum products pipelines with installations of more than **60 psig**, encasement may be eliminated only if:

(i) extra heavy pipe is used that precludes future maintenance or repair and

(ii) cathodic protection of the pipe is provided;

(f) If encasement is eliminated for a gas or petroleum products pipeline, the facility shall be located so as to provide that construction does not disrupt the right-of-way.

(6) **Minimum Cover of Underground Facilities.** Cover shall be provided and maintained at least in the amount specified in the following table for minimum cover for the type of facility:

Type of Facility	Minimum Cover
Electric Lines	30 inches (0.8m)
Communication, Cable or Video Service Lines	18 to 24 inches (0.6m, as Determined by Village)
Gas or Petroleum Products	30 inches (0.8m)
Water Line	Sufficient Cover to Provide Freeze Protection
Sanitary Sewer, Storm Sewer, Or Drainage Line	Sufficient Cover to Provide Freeze Protection

(B) **Standards and Requirements for Particular Types of Facilities.**

(1) **Electric Power or Communication Lines.**

(a) **Code Compliance.** Electric power or communications facilities within Village rights-of-way shall be constructed, operated, and maintained in conformity with the provisions of 83 Ill. Adm. Code 305 (formerly General Order 160 of the Illinois Commerce Commission) entitled "Rules for Construction of Electric Power

and Communications Lines", and the National Electrical Safety Code.

(b) **Overhead Facilities.** Overhead power or communication facilities shall use single pole construction and, where practicable, joint use of poles shall be used. Utilities shall make every reasonable effort to design the installation so guys and braces will not be needed. Variances may be allowed if there is no feasible alternative and if guy wires are equipped with guy guards for maximum visibility.

(c) **Underground Facilities.**

(i) Cable may be installed by trenching or plowing, provided that special consideration is given to boring in order to minimize damage when crossing improved entrances and side roads.

(ii) If a crossing is installed by boring or jacking, encasement shall be provided between jacking or bore pits. Encasement may be eliminated only if:

a. the crossing is installed by the use of "moles", "whip augers", or other approved method which compress the earth to make the opening for cable installation or

b. the installation is by the open trench method which is only permitted prior to roadway construction.

(iii) Cable shall be grounded in accordance with the National Electrical Safety Code.

(iv) **Burial of Drops.** All temporary service drops placed between **November 1** of the prior year and **March 15** of the current year, also known as snowdrops, shall be buried by **May 31** of the current year, weather permitting, unless otherwise permitted by the Village. Weather permitting, utilities shall bury all temporary drops, excluding snowdrops, within **ten (10) business days** after placement.

(2) **Underground Facilities Other Than Electric Power or Communication Lines.** Underground facilities other than electric power or communication lines may be installed by:

(a) The use of "moles", "whip augers", or other approved methods which compress the earth to move the opening for the pipe;

(b) jacking or boring with vented encasement provided between the ditch lines or toes of slopes of the highway;

(c) open trench with vented encasement between ultimate ditch lines or toes of slopes, but only if prior to roadway construction; or

(d) tunneling with vented encasement, but only if installation is not possible by other means.

(3) **Gas Transmission, Distribution and Service.** Gas pipelines within rights-of-way shall be constructed, maintained, and operated in a Village approved manner and in conformance with the Federal Code of the Office of Pipeline Safety Operations, Department of Transportation, Part 192 – Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards (49 CFR §192), IDOT's "Standard Specifications for Road and Bridge Construction", and all other applicable laws, rules, and regulations.

(4) **Petroleum Products Pipelines.** Petroleum products pipelines within rights-of-way shall conform to the applicable sections of ANSI Standard Code for Pressure Piping. (Liquid Petroleum Transportation Piping Systems ANSI-B 31.4).

(5) **Waterlines, Sanitary Sewer Lines, Storm Water Sewer Lines or Drainage Lines.** Water lines, sanitary sewer lines, storm sewer lines, and drainage lines within rights-of-way shall meet or exceed the recommendations of the current "Standard Specifications for Water and Sewer Main Construction in Illinois".

(6) **Ground Mounted Appurtenances.** Ground mounted appurtenances to overhead or underground facilities, when permitted within a right-of-way, shall be provided with a vegetation-free area extending **one (1) foot (305mm)** in width beyond the appurtenance in all directions. The vegetation-free area may be provided by an extension of the mounting pad, or by heavy duty plastic or similar material approved by the Superintendent, shrubbery surrounding the appurtenance may be used in place of vegetation-free area. The housing for ground-mounted appurtenances shall be painted a neutral color to blend with the surroundings.

(C) **Materials.**

(1) **General Standards.** The materials used in constructing facilities within rights-of-way shall be those meeting the accepted standards of the appropriate industry, the applicable portions of IDOT's "Standard Specifications for Road and Bridge Construction", the requirements of the Illinois Commerce Commission, or the standards established by other official regulatory agencies for the appropriate industry.

(2) **Material Storage on Right-of-Way.** No material shall be stored on the right-of-way without the prior written approval of the Superintendent. When such storage is permitted, all pipe, conduit, wire, poles, cross arms, or other materials shall be distributed along the right-of-way prior to and during installation in a manner to minimize hazards to the public or an obstacle to right-of-way maintenance or damage to the right-of-way and other property. If material is to be stored on right-of-way, prior approval must be obtained from the Village.

(3) **Hazardous Materials.** The plans submitted by the utility to the Village shall identify any hazardous materials that may be involved in the construction of the new facilities or removal of any existing facilities.

(D) **Operational Restrictions.**

(1) Construction operations on rights-of-way may, at the discretion of the Village, be required to be discontinued when such operations would create hazards to traffic or the public health, safety, and welfare. Such operations may also be required to be discontinued or restricted when conditions are such that construction would result in extensive damage to the right-of-way or other property.

(2) These restrictions may be waived by the Superintendent when emergency work is required to restore vital utility services.

(3) Unless otherwise permitted by the Village, the hours of construction are from **6:00 A.M.** to **6:00 P.M.**

(E) **Location of Existing Facilities.** Any utility proposing to construct facilities in the Village shall contact J.U.L.I.E. and ascertain the presence and location of existing above-ground and underground facilities within the rights-of-way to be occupied by its proposed facilities. The Village will make its permit record available to a utility for the purpose of identifying possible facilities. When notified of an excavation or when requested by the Village or by J.U.L.I.E., a utility shall locate and physically mark its underground facilities within **forty-eight (48) hours**, excluding weekends and holidays, in accordance with the Illinois Underground Facilities Damage Prevention Act (220 ILCS 50/1 *et seq.*)

33-4-17 VEGETATION CONTROL.

(A) **Electric Utilities - Compliance with State Laws and Regulations.** An electric utility shall conduct all tree-trimming and vegetation control activities in the right-of-way in accordance with applicable Illinois laws and regulations, and additionally, with such local franchise or other agreement with the Village as permitted by law.

(B) **Other Utilities - Tree Trimming Permit Required.** Tree trimming that is done by any other utility with facilities in the right-of-way and that is not performed pursuant to applicable Illinois laws and regulations specifically governing the same, shall not be considered a normal maintenance operation, but shall require the application for, and the issuance of, a permit, in addition to any other permit required under this Article.

(1) **Application for Tree Trimming Permit.** Applications for tree trimming permits shall include assurance that the work will be accomplished by competent workers with supervision who are experienced in accepted tree pruning practices. Tree trimming permits shall designate an expiration date in the interest of assuring that the work will be expeditiously accomplished.

(2) **Damage to Trees.** Poor pruning practices resulting in damaged or misshapen trees will not be tolerated and shall be grounds for cancellation of the tree trimming permit and for assessment of damages. The Village will require compensation for trees extensively damaged and for trees removed without authorization. The formula developed by the International Society of Arboriculture will be used as a basis for determining the compensation for damaged trees or unauthorized removal of trees. The Village may require the removal and replacement of trees if trimming or radical pruning would leave them in an unacceptable condition.

(C) **Specimen Trees or Trees of Special Significance.** The Village may require that special measures be taken to preserve specimen trees or trees of special significance. The required measures may consist of higher poles, side arm extensions, covered wire or other means.

(D) **Chemical Use.**

(1) Except as provided in the following paragraph, no utility shall spray, inject or pour any chemicals on or near any trees, shrubs or vegetation in the Village for any purpose, including the control of growth, insects or disease.

(2) Spraying of any type of brush-killing chemicals will not be permitted on rights-of-way unless the utility demonstrates to the satisfaction of the Superintendent that such spraying is the only practicable method of vegetation control.

33-4-18 REMOVAL, RELOCATION, OR MODIFICATION OF UTILITY FACILITIES.

(A) **Notice.** Within **ninety (90) days** following written notice from the Village, a utility shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any utility facilities within the rights-of-way whenever the corporate authorities have determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any Village improvement in or upon, or the operations of the Village in or upon, the rights-of-way.

(B) **Removal of Unauthorized Facilities.** Within **thirty (30) days** following written notice from the Village, any utility that owns, controls, or maintains any unauthorized facility or related appurtenances within the rights-of-way shall, at its own expense, remove all or any part of such facilities or appurtenances from the rights-of-way. A facility is unauthorized and subject to removal in the following circumstances:

(1) Upon expiration or termination of the permittee's license or franchise, unless otherwise permitted by applicable law;

(2) If the facility was constructed or installed without the prior grant of a license or franchise, if required;

(3) If the facility was constructed or installed without prior issuance of a required permit in violation of this Article; or

(4) If the facility was constructed or installed at a location not permitted by the permittee's license or franchise.

(C) **Emergency Removal or Relocation of Facilities.** The Village retains the right and privilege to cut or move any facilities located within the rights-of-way of the Village, as the Village may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the Municipality shall attempt to notify the utility, if known, prior to cutting or removing a facility and shall notify the utility, if known, after cutting or removing a facility.

(D) **Abandonment of Facilities.** Upon abandonment of a facility within the rights-of-way of the Village, the utility shall notify the Village within **ninety (90) days**. Following receipt of such notice the Village may direct the utility to remove all or any portion of the facility if the Superintendent determines that such removal will be in the best interest of the public health, safety and welfare. In the event that the Village does not direct the utility that abandoned the facility to remove it, by giving notice of abandonment to the Village, the abandoning utility shall be deemed to consent to the alteration or removal of all or any portion of the facility by another utility or person.

33-4-19 CLEANUP AND RESTORATION. The utility shall remove all excess material and restore all turf and terrain and other property within **ten (10) days** after any portion of the rights-of-way are disturbed, damaged or destroyed due to construction or maintenance by the utility, all to the satisfaction of the Village. This includes restoration of entrances and side roads. Restoration of roadway surfaces shall be made using materials and methods approved by the Superintendent. Such cleanup and repair may be required to consist of backfilling, regrading, reseeding, resodding, or any other requirement to restore the right-of-way to a condition substantially equivalent to that which existed prior to the commencement of the project. The time period provided in this Section may be extended by the Superintendent for good cause shown.

33-4-20 MAINTENANCE AND EMERGENCY MAINTENANCE.

(A) **General.** Facilities on, over, above, along, upon, under, across, or within rights-of-way are to be maintained by or for the utility in a manner satisfactory to the Village and at the utility's expense.

(B) **Emergency Maintenance Procedures.** Emergencies may justify noncompliance with normal procedures for securing a permit:

(1) If an emergency creates a hazard on the traveled portion of the right-of-way, the utility shall take immediate steps to provide all necessary protection for traffic on the highway or the public on the right-of-way including the use of signs, lights, barricades or flags. If a hazard does not exist on the traveled way, but the nature of the emergency is such as to require the parking on the shoulder of equipment required in repair operations, adequate signs and lights shall be provided. Parking on the shoulder in such an emergency will only be permitted when no other means of access to the facility is available.

(2) In an emergency, the utility shall, as soon as possible, notify the Superintendent or his or her duly authorized agent of the emergency, informing him or her as to what steps have been taken for protection of the traveling public and what will be required to make the necessary repairs. If the nature of the emergency is such as to interfere with the free movement of traffic, the Village police shall be notified immediately.

(3) In an emergency, the utility shall use all means at hand to complete repairs as rapidly as practicable and with the least inconvenience to the traveling public.

(C) **Emergency Repairs.** The utility must file in writing with the Village a description of the repairs undertaken in the right-of-way within **forty-eight (48) hours** after an emergency repair.

33-4-21 VARIANCES.

(A) **Request for Variance.** A utility requesting a variance from one or more of the provisions of this Article must do so in writing to the Superintendent as a part of the permit application. The request shall identify each provision of this Article from which a variance is requested and the reasons why a variance should be granted.

(B) **Authority to Grant Variances.** The Superintendent shall decide whether a variance is authorized for each provision of this Article identified in the variance request on an individual basis.

(C) **Conditions for Granting of Variance.** The Superintendent may authorize a variance only if the utility requesting the variance has demonstrated that:

(1) One or more conditions not under the control of the utility (such as terrain features or an irregular right-of-way line) create a special hardship that would make enforcement of the provision unreasonable, given the public purposes to be achieved by the provision; and

(2) All other designs, methods, materials, locations or facilities that would conform with the provision from which a variance is requested are impracticable in relation to the requested approach.

(D) **Additional Conditions for Granting of a Variance.** As a condition for authorizing a variance, the Superintendent may require the utility requesting the variance to meet reasonable standards and conditions that may or may not be expressly contained within this Article but which carry out the purposes of this Article.

(E) **Right to Appeal.** Any utility aggrieved by any order, requirement, decision or determination, including denial of a variance, made by the Superintendent under the provisions of this Article shall have the right to appeal to the Village Board, or such other board or commission as it may designate. The application for appeal shall be submitted in writing to the Village Clerk within **thirty (30) days** after the date of such order, requirement, decision or determination. The Village Board shall commence its consideration of the appeal at the Board's next regularly scheduled meeting occurring at least **seven (7) days** after the filing of the appeal. The Village Board shall timely decide the appeal.

33-4-22 PENALTIES. Any person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Article shall be subject to fine in accordance with the penalty provisions of this Code. There may be times when the Village will incur delay or other costs, including third party claims, because the utility will not or cannot perform its duties under its permit and this Article. Unless the utility shows that another allocation of the cost of undertaking the requested action is appropriate, the utility shall bear the Village's costs of damages and its costs of installing, maintaining, modifying, relocating, or removing the facility that is the subject of the permit. No other administrative agency or commission may review or overrule a permit related cost apportionment of the Village. Sanctions may be imposed upon a utility that does not pay the costs apportioned to it. **(See Section 1-1-20 for additional penalties.)**

33-4-23 ENFORCEMENT. Nothing in this Article shall be construed as limiting any additional or further remedies that the Village may have for enforcement of this Article.

(Ord. No. 742; 06-17-08)

ARTICLE V - STREET IMPROVEMENTS

33-5-1 SIDEWALKS.

(A) **Grade.** No sidewalk shall be built above or below the established grade of the Village and in all cases where no grade is established, any person building a sidewalk shall build the same according to the instructions of the Street Superintendent and the Village Board. No one shall build a sidewalk unless it consists of new construction. No one shall remove or destroy a sidewalk without replacing the same with a new sidewalk.

(B) **Permit.** It shall be unlawful for any person to build, lay or construct any sidewalk along any property in the Village or along any of the streets, alleys, or public highways thereon, without first filing an application for a permit with the Village Clerk and approved by the Village Board.

(C) **Cost to Owner.** If the funds are available and the Village Board approves the request, the property owner shall pay **one-half (1/2)** of the cost of the construction, including engineering fees, and thereafter, the sidewalk shall be maintained by the Village.

(D) **Subdivisions.** This Section is not applicable to new subdivisions.

(65 ILCS 5/11-80-13)

33-5-2 CURBS AND GUTTERS.

(A) **Request in Writing.** Any person owning property within the Village who desires to have new curbs and gutters constructed, along with street adjoining his premises shall file a request with the Street Superintendent, giving the location of the property and the length of the curbs and gutters requested. All installations shall conform to the requirements of **65 ILCS 5/11-8-11** and the **Environmental Barriers Act**.

(B) **Cost to Owner.** If the funds are available and the Village Board approves the request, the property owner shall pay **one-half (1/2)** of the cost of the construction, including engineering fees, and thereafter, the curbs and gutters shall be maintained by the Village.

(C) **Approval by Village Board.** The approval of the request for construction of curbs and gutters by the Village Board shall be dependent upon the approval of funds, priority of projects and continuity of construction for the best benefit of the Village as determined by the Village Board.

(D) **Subdivisions.** This Section is not applicable to new subdivisions.

(65 ILCS 5/11-80-11)

33-5-3 STORM SEWERS.

(A) **Description of Storm Water Sewers.** Storm water sewers shall be any pipe or sewer used for the carrying of surface drains, ground waters, roof leaders, or storm waters, rain waters, or other waters other than sanitary sewage.

(B) **Supervision.** The Superintendent of the Water and Sewer Departments shall supervise all connections made to the public storm sewer system or excavations for the purposes of installing or repairing the same.

(C) **Permits.** Before any connection is made to the public storm water sewers, a permit shall be applied for and approved by the Superintendent or his designated representative.

(D) **Requirements: Use of Storm Water Sewers.** Where a storm water sewer is accessible in a street, alley or easement to a building or premises abutting thereon, the surface drains, ground waters, roof leaders, or storm waters shall be discharged into the storm water sewer unless otherwise authorized by the Village. Under no conditions shall sanitary sewage or wastes or any substance other than surface waters, ground waters, roof waters or storm waters be permitted to flow into or be connected to the storm water sewer; and no sanitary sewer shall be connected to the storm water sewer system.

(E) **Drainage Culverts.** The Village may budget **Fifteen Thousand Dollars ($15,000.00)** annually for the replacement or repair of failed culverts and catch basins in storm water drainage easements on private property. **Ten Thousand Dollars ($10,000.00)** from MFT funds to be spent on culverts and catch basins in storm water drainage easements eligible under MFT regulations.

Five Thousand Dollars ($5,000.00) from Road and Bridge funds to be spent on culverts and catch basins in storm water drainage easements that would not qualify for MFT regulations.

(1) Any failed culverts and catch basins not in storm water drainage easements could be replaced or repaired with the property owner absorbing **fifty percent (50%)** of the cost. The funds would be taken from the same funds listed above. The property owner must grant the Village a construction easement.

(2) This agreement would not contribute any funds to the new installation of new culverts on storm water drainage easements or in ditches on private property.

(3) Culvert material used must be approved by the Village Engineer and/or Supervisor.

(4) Any unseen situations with culverts such as downspout connections, sump pump connections, or any other uses, other than the natural flow of rainwater, will be the responsibility of the homeowner.

(5) Homeowner will be responsible for removal and replacement of any and all obstructions to access the storm water easement and/or construction easement area.

(6) Grading and seeding will be the responsibility of the homeowner.

(7) Culvert replacement or repair priority shall be a recommendation of the Street & Utility Committee and Village Engineer with approval of the Village Board of Trustees. Priority of replacement or repairs shall be contingent upon the availability of funds from the MFT fund and Road & Bridge fund.

(65 ILCS 5/11-80-7)

ARTICLE VI - CULVERTS

33-6-1 OBSTRUCTION OF DRAIN OR STORM SEWER. It shall be unlawful to obstruct any drain or storm sewer in any public street or property.

33-6-2 PERMIT FOR CULVERT. It shall be unlawful to install any culvert or replace any culvert without first obtaining a permit from the Village Clerk and approved by the Superintendent.

33-6-3 APPLICATION FOR PERMIT. Any person desiring a permit to install or replace any culvert shall file an application therefor with the Village Clerk upon a form to be provided for that purpose. The application and the permit issued pursuant thereto shall be on the same form which shall be substantially as outlined in **Appendix 'B'** attached hereto.

33-6-4 TERMINATION OF PERMIT. All such permits shall terminate upon the expiration of **one (1) year** following the date of issue.

33-6-5 TYPE OF CULVERT. Culverts shall be installed where driveways or walkways cross open ditches. The material used for the construction of the culverts shall be reinforced concrete, corrugated steel culvert pipe with a minimum wall thickness of **sixteen (16) gauge**, corrugated aluminum alloy culvert pipe with a minimum wall thickness of **sixteen (16) gauge**, asbestos cement storm drain pipe **(Class IV)**, or of such other material as determined by the Street Department, depending upon the conditions existing. The culverts shall be of such size, installed at the grade and constructed with couplings as determined by the Street Superintendent. The person desiring the culvert shall purchase a culvert as provided herein and shall have it delivered on the site. The Village shall install the culvert.

33-6-6 INSTALLATION COST. Any person desiring a driveway-type culvert for a residential structure shall purchase a **twenty (20) foot** approved culvert from the Village and the Village will install the same. Thereafter if the person needs a replacement culvert, the Village will replace the culvert at no cost to the applicant unless said culvert was damaged by the person seeking the replacement culvert.

33-6-7 BACKFILL COST. Any person installing or replacing a culvert shall, at his own expense, provide and place such backfill material as the Street Superintendent determines necessary to complete the project.

(65 ILCS 5/11-80-7)

ARTICLE VII - DRIVEWAYS

33-7-1 PERMITS REQUIRED. No person shall construct a driveway for vehicles or animals across any sidewalk in the Village without having first obtained a permit therefor.

Applications for such permits shall be made to the Village Clerk and shall be accompanied by the fee required.

No permit for construction of a driveway for commercial use, or for the habitual use of other than the owner or occupant of the premises served shall be issued except upon the order of the Village Clerk.

33-7-2 FEE. The fee for all such construction shall be according to **Section 6-1-2**. **(Ord. No. 828; 09-18-12)**

33-7-3 GRADE SURFACE. No driveway shall be so constructed or graded as to leave a step, sharp depression or other obstruction in the sidewalk. The grade shall be as nearly as possible the same as that of the adjoining sidewalk. It shall be unlawful to have the surface finish of any driveway where the same crosses the sidewalk constructed of such materials as to render it slippery and hazardous to pedestrians, or to have the grade of such portion vary from the grade of the sidewalk or be other than level.

33-7-4 SPECIFICATIONS. Driveways across sidewalks shall be constructed in compliance with the specifications required by the Street Superintendent.

33-7-5 BREAKING CURB - BOND REQUIRED. Before a permit can be issued to break a curb in the Village for the installation of a driveway or any other purpose, a bond or cash in the amount of **One Hundred Dollars ($100.00)** is required to be posted with the Village Clerk.

33-7-6 REPAIR. It shall be the duty of the person maintaining the driveway to keep the same in good repair where it crosses the sidewalk and free from obstruction and openings.

(65 ILCS 5/11-80-2)

ARTICLE VIII - SNOW REMOVAL

33-8-1 DEFINITIONS. The following definitions shall apply in the interpretation and enforcement of this Article.

"BUSINESS DAY" is any day not a Sunday or a National Holiday.

"BUSINESS DISTRICT" shall include all those areas zoned for business, commercial and industrial purposes in the Zoning Code and accompanying map as amended or other applicable regulations.

"BUSINESS HOURS" are the hours between **8:00 A.M.** and **5:00 P.M.** on any business day.

"ROADWAY" means that portion of a street or highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder.

"SIDEWALK" means that portion of a street between the curb lines or the lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians.

"STREET" OR "HIGHWAY" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

33-8-2 SNOW AND ICE TO BE REMOVED FROM SIDEWALKS BY PRIVATE PERSONS.

(A) Every person in charge or control of any building or lot of land within the Village fronting or abutting on a paved sidewalk, whether as owner, tenant, occupant, lessee or otherwise, shall remove and clear away, or cause to be removed and cleared away, snow and ice from a path from so much of a sidewalk as is in front or abuts on said building or lot of land. Snow and ice shall be so removed from sidewalks in all business districts within the Village by **twenty-four (24) hours** after cessation of any fall of snow, sleet or freezing rain. The path required to be cleared in the business district shall be **six (6) feet** in width, or the whole width of the sidewalk, whichever is smaller.

(B) However, in the event snow and ice on a sidewalk has become so hard that it cannot be removed without likelihood of damage to the sidewalk, the person charged with its removal shall, within the time mentioned in subsection (A) above, cause enough sand, cinders or other abrasive to be put on the sidewalk to make travel thereon reasonably safe; and shall then, as soon thereafter as weather permits, cause a path on said sidewalk of at least **six (6) feet** in width to be thoroughly cleaned.

33-8-3 DEPOSITING OF SNOW AND ICE RESTRICTED. No person shall deposit or cause to be deposited any snow and ice on or against a fire hydrant or on any sidewalk, roadway, or loading or unloading areas of a public transportation system, except that snow and ice may be windrowed on curbs incident to the cleaning of sidewalks in business districts. **(65 ILCS 5/11-80-13)**

33-8-4 MAYOR'S AUTHORITY. The Mayor is hereby authorized on behalf of the Village to cause sidewalks to be cleared upon the request of the person or entity charged with snow and ice removal. Any person or entity whose sidewalk is cleared pursuant to this Section shall reimburse the Village for the costs of such clearing.

ARTICLE IX - MOVING BUILDINGS

33-9-1 PERMIT REQUIRED. It shall be unlawful for any person to move or cause to be moved, any building in, into, through, or from the Village without first obtaining a permit therefor from the Village Clerk. Such permit shall be known as a **"House Moving Permit".**

33-9-2 APPLICATION FOR PERMIT. Any person desiring such a permit shall file with the Village Clerk an application therefor in writing on a form to be furnished by the Street Superintendent for that purpose. Such application shall specify the following:

(A) The character and size of the building to be moved;

(B) The reason for such moving;

(C) The use, purpose and occupancy for which said building or structure is to be used;

(D) The location from which and to which said building is to be moved;

(E) A plot plan showing the proposed location of the building upon the property to which said building is to be moved, provided said location is in the Village;

(F) The streets on, over or through which it is desired to move said building;

(G) Whether the building conforms to the Zoning Code or other applicable regulations in the location to which it is to be moved.

33-9-3 INVESTIGATION. Upon the filing of the application, the Street Superintendent shall cause the Zoning Administrator, or other authorized representative of the Village, to investigate the building and report to him the results of such investigation, together with recommended action thereon.

33-9-4 DENIAL OF PERMIT. No person shall be issued to move any building or structure which, in the opinion of the Street Superintendent:

(A) Is so constructed or in such condition as to be dangerous;

(B) Is infested with pests or unsanitary;

(C) If it is a dwelling or habitation, is unfit for human habitation;

(D) Is so dilapidated, defective, unsightly, or in such a condition of deterioration or disrepair that its relocation at the proposed site would cause appreciable harm to or be materially detrimental to the property or improvements in the district within a radius of **one thousand (1,000) feet** from the proposed site;

(E) If the proposed use is prohibited by the Zoning laws of the Village;

(F) If the structure is of a type prohibited at the proposed location by any ordinance of the Village; or

(G) If the moving of the building or structure causes unreasonable damage to the trees, plants and/or shrubs on and along the public streets.

Provided, however, that if the condition of the building or structure, in the judgment of the Street Superintendent, admits of practicable and effective repair, the permit may be issued upon the terms and conditions as set forth herein.

33-9-5 TERMS AND CONDITIONS OF PERMIT. When a house moving permit is granted such terms and conditions as may be deemed reasonable and proper may be imposed, including, but not limited to the public streets or other public property in the Village on, over, or through which the building or structure shall be moved, and the requirements of changes, alterations, additions or repairs to be made to or upon the building or structure, to the end that the relocation thereof will not be materially detrimental or injurious to public safety or to public welfare or to the property and improvements, or either, in the district to which it is to be moved. Such terms and conditions shall be written upon the permit or appended in writing thereto.

33-9-6 ESTIMATE OF COST AND DEPOSIT. The applicant shall also deposit with the Village Clerk a cash deposit sufficient to cover the cost to the Village as estimated by the Street Superintendent of trimming, moving, removing or replanting of trees or shrubs, and of moving, removing and displacing any pole or other structure, supporting any wires, cables or other equipment belonging to the Village or the cutting, displacing or changing the location of any wire, cable or other equipment upon said poles or structures belonging to the Village.

33-9-7 LIABILITY INSURANCE. Every person moving a building in the Village shall file with the Village Clerk a liability insurance policy issued by the solvent corporation holding a certificate of authority to do insurance business in the State, which policy shall conform in all respects to the requirements of this Section.

In lieu of filing the insurance policy herein referred to, a certificate of insurance issued by an insurance corporation may be filed. The certificate must show that a policy meeting the requirements of this Section has been issued, and shall set forth the expiration date of said policy.

The liability policy required under this Section shall insure the person moving a building against loss from the liability imposed by law for injury to, or death of any person, or damage to any property growing out of the moving of such building to the amount or limit of **Fifty Thousand Dollars ($50,000.00)** exclusive of interest and costs, on account of injury to or death of any **one (1) person**, of **One Hundred Thousand Dollars ($100,000.00)** exclusive of interest and costs, on account of moving any **one (1) building** resulting in injury to or death of more than **one (1) person**, and of **Twenty-Five Thousand Dollars ($25,000.00)** for damage to property of others, resulting from moving any **one (1) building**.

33-9-8 OWNER'S COMPLETION BOND OR SAVINGS AND LOAN CERTIFICATE AND SHARE. Prior to the issuance of a permit to move a building, the owner or lessee of the property upon which the building is to be located shall file with the Zoning Administrator or other authorized representative of the Village, a corporate surety bond, conditioned as follows:

That all of the work required to be done to complete the relocation, alteration and reconstruction of the building pursuant to the conditions of the permit shall be fully performed and completed within a reasonable time to be specified in the permit by the Zoning Administrator, or other authorized representative of the Village. Such bond shall be in principal amount equal to the estimated cost of the work proposed to be done, plus **ten percent (10%)** thereof, and shall name the Village as obligee, and shall be in a form approved by the Village Attorney.

In lieu of furnishing such a corporate surety bond, the owner or lessee may post a cash deposit in the amount of said bond.

An extension of time for the completion may be granted in writing by the Zoning Administrator or other authorized representative of the Village when, in his discretion, circumstances shall so justify, but no such extension shall release any surety or other security.

33-9-9 CLEARANCE OF SITE AND SAFETY MEASURES REQUIRED. Prior to the issuance of a permit to move a building, the owner or lessee of the property from which the building is to be moved shall file with the Village Clerk a bond or other form of security in favor of the Village, conditioned as follows:

(A) Before any work is started on a building or structure, the permittee or his authorized agent shall notify the appropriate utilities in order that all gas, water and oil pipelines that are to be disconnected from the building may be securely capped and sealed.

(B) Immediately, after the moving of any building or structure, the permittee or his authorized agent shall securely barricade all basement excavations and other holes or openings.

(C) Within **ten (10) days** after the moving of any building or structure, the permittee or his authorized agent shall complete the following work:

(1) Securely close and seal any sanitary piping located on the property.

(2) Fill with dirt or sand any septic tanks or cesspools located on the property.

(3) Fill any openings, excavations or basements remaining on the land with dirt or sand to street level or the natural level of adjoining property, unless otherwise directed by the Street Superintendent.

(4) Remove any buried underground tanks formerly used for storage of flammable liquids.

(5) Removal all refuse, debris and waste materials from the property.

The bond required by this Section shall be an amount equal to the cost of the work proposed to be done, as estimated by the Street Superintendent.

The bond may be in the form of a corporate surety bond, cash deposit, savings and loan certificate, or an instrument of credit.

An extension of time for completion of the work required by this Section may be granted by the Street Superintendent when, in his discretion, circumstances justify such an extension; but no such extension shall release any bond or other security furnished pursuant to this Section.

33-9-10 INSPECTION FEE AND PERMIT FEE. An inspection fee in the sum of **Fifteen Dollars ($15.00)** shall be paid to the Village Clerk upon filing of each application for a house moving permit.

A permit fee in the sum of **Ten Dollars ($10.00)** shall be paid to the Village Clerk upon the issuance of each house moving permit.

33-9-11 ISSUANCE OF PERMIT. The Street Superintendent shall approve the issuance of a house moving permit when all the necessary requirements and conditions of this Article have been complied with. It shall then be the duty of the Village Clerk to issue the permit.

33-9-12 SUSPENSION OR REVOCATION OF PERMIT. The Street Superintendent, at any time, and for sufficient cause, may revoke or suspend any permit granted under this Article.

33-9-13 CONTROL AND SUPERVISION. Every building which is moved on, over, or through any public street, way or park in the Village shall be under the control of the Street Superintendent and every such building shall be moved in a careful manner and the work shall be prosecuted with diligence and to the satisfaction and approval of the Street Superintendent. This Section in no way relieves the person having charge of the moving of any building of his obligation to furnish proper supervision.

33-9-14 NOTICE REQUIRED. Notice must be given to both the Street Department and the Police Department of the Village by the person or his representative to whom the permit is issued not less than **forty-eight (48) hours** nor more than **seventy-two (72) hours** before the actual work of moving a building or structure is to commence.

33-9-15 DEFAULT IN PERFORMANCE OF CONDITIONS. Whenever a default has occurred in the performance of any term or condition of any permit, written notice thereof shall be given to the permittee by the Street Superintendent; said notice to state the work to be done, the estimated cost thereof, and the period of time deemed to be reasonably necessary to complete such work. After receipt of such notice, the permittee must, within the time therein specified, either cause the work to be done, or pay over to the Village Clerk the estimated cost of doing the work, as set forth in the notice, plus **ten percent (10%)** of said estimated cost. Upon receipt of notice from the Village Clerk that the

permittee has deposited such money, the Street Superintendent shall cause the required work to be performed and completed.

If the permittee defaults, the Village shall have the option in lieu of completing the work required to demolish the building or structure and to clear, clean and restore the site or sites.

33-9-16 APPROVAL OF ROUTE. The streets over which any building or structure is to be moved must be recommended by the Street Superintendent and the Chief of Police to the Village Board for approval.

33-9-17 OBSTRUCTING STREETS. No person owning or having charge of the moving of any building into, on, over, through, or from any public streets, ways or parks in the Village shall permit said building to remain in any one location on any such street, way or park for a period longer than **twenty-four (24) hours**, except by written permission obtained from the Chief of Police, or to obstruct traffic on any railroad.

33-9-18 LIGHTS AND BARRICADES. The person having charge of the moving of any structure shall maintain proper lights and barricades whenever such structure is on any public street, way or park during the hours of darkness.

33-9-19 WIRES AND STRUCTURAL SUPPORTS. In the event that the moving of any building for which a permit shall have been granted hereunder makes it necessary to move, remove or displace any pole or other structure supporting the wires, cables or other equipment of any public utility or of the Village, or to cut, displace or change the location of any wire, cable or other equipment upon said pole or structure, the person to whom such permit has been granted, or his authorized representative, shall obtain permission in writing from the owner or owners of such pole, structure or wires, cables or other equipment thereon, and shall notify such owner or owners at least **seventy-two (72) hours** prior to the time that the moving of such building will necessitate the removal of such obstructions.

The person to whom the permit is granted shall not, at the expiration of said time of notice or at any time, cut, move or in any way disturb such public utility or Village property; and such work shall be done only by the authorized workmen of the utility or the Village, whichever is the owner.

The person to whom the permit is granted shall pay to the public utility, or to the Village, as the case may be, any and all costs or expense for the removal, rearrangement or replacement of any pole or structural support of wires, cables or equipment thereon or of any damage to such property.

33-9-20 TREES, PLANTS AND SHRUBS. In the event that the moving of any building for which a permit shall have been granted hereunder makes it necessary to trim, move, remove or replant any tree, plant or shrub belonging to or under the control of the Village, the person to whom such permit has been granted or his authorized representative shall notify the Street Superintendent at least **seventy-two (72) hours** prior to the time that the moving of such building will necessitate the removal of such obstructions.

The person to whom the permit is granted shall not, at the expiration of the time of notice, or at any time, trim, move, remove, replant, or otherwise disturb such trees, plants or shrubs; and such work shall be done only by the authorized workmen of the Village unless otherwise approved and so ordered by the Street Superintendent.

The person to whom the permit is granted shall pay to the Village, any and all costs or expenses for the trimming, moving, removing or replanting of any trees, plants or shrubs or of any damage thereto.

33-9-21 REPAIRS TO PUBLIC PROPERTY. In the event that the moving of any building for which a permit shall have been granted hereunder causes damage to the public streets or other public property, in addition to any other remedies the Village may have, the Street Superintendent may cause such damage to be repaired and the cost thereof shall be deducted from the deposit required herein, or he may require the person to whom such a permit has been granted, or his authorized representative, upon written notification from the Street Superintendent to make all necessary repairs to such streets or property; provided, however, that should the person to whom the permit has been granted and to whom the notice has been given, or his authorized representative, fails to make the necessary repairs within the period of time designated in the written notice, the Street Superintendent may cause such necessary repairs to be made and the cost thereof deducted from the deposit required herein.

33-9-22 REFUNDING OF DEPOSITS. When the moving of any building for which a permit has been granted is completed, and all damage to public streets or other public property has been repaired to the satisfaction of the Street Superintendent, and all costs of repairing damages or performing other work as provided herein have been paid and the deposit as required by **Section 33-9-6**, or such portion thereof then remaining unused under the provisions of this Article, shall be refunded upon surrender of the deposit receipt representing the money so deposited. However, should the cost of repairing damages and/or performing other work, as in this Article provided, exceed the total amount of money deposited, the person to whom the permit was granted shall be held liable for the amount of damage and/or other costs which are in excess of the amount deposited. It shall be the duty of the Village Clerk, upon receipt of the request from the Street Superintendent, to collect such part of the claim which is in excess of the deposit from the person to whom the permit was granted.

VILLAGE OF SMITHTON

EXCAVATION PERMIT

NAME _____

FIRM NAME _____

ADDRESS _____

CITY/VILLAGE _____ STATE _____ PHONE _____

LOCATION OF PROPOSED EXCAVATION _____

_____

_____

NATURE OF EXCAVATION _____

_____

_____

BONDING COMPANY:

NAME _____

ADDRESS _____

CITY/VILLAGE _____ STATE _____ PHONE _____

AMOUNT OF BOND $_____

PREVIOUS EXPERIENCE (LIST CITIES AND/OR VILLAGES)

	CITY/VILLAGE	CITY/VILLAGE OFFICIAL
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____

I have read the municipal law with regard to excavations and my firm or company intends to fully comply with the Street Regulations Code provisions.

_____

(Applicant's Signature)

VILLAGE OF SMITHTON

APPLICATION FOR CULVERT/DRIVEWAY PERMIT

I, _____, do hereby request permission and authority to construct a culvert/driveway on the right-of-way of the Village in accordance with the information provided on this application and the accompanying sketch. (Applicant must prepare a sketch showing location, length and pertinent details.)

ADDRESS: _____

Pipe material will be: _____

Wall thickness or gauge will be: _____

Type of joint will be: _____

DATED: _____, 20__ SIGNED: _____
(APPLICANT)

CULVERT/DRIVEWAY PERMIT

APPLICATION **Approved ( )** **Disapproved ( )**

If disapproved, state reasons:

_____
_____
_____

DATED: _____, 20__ SIGNED: _____

CERTIFICATION

The undersigned has inspected the construction and installation set forth above and finds that the same (is) (is not) in accordance with the permit.

DATED: _____, 20__ SIGNED: _____

VILLAGE OF SMITHTON

STRUCTURE MOVING PERMIT

NAME _____

ADDRESS _____ PHONE _____

OWNER OF STRUCTURE _____

ADDRESS OF STRUCTURE _____ ZONE DISTRICT _____

PROPOSED LOCATION _____ ZONE DISTRICT _____

KIND OF STRUCTURE _____

SIZE OF STRUCTURE _____

REASON FOR MOVING STRUCTURE _____

_____

_____

PROPOSED USE/PURPOSE OF STRUCTURE _____

_____

_____

_____

(NOTE: Zoning Restrictions May Apply)

ZONING OCCUPANCY APPLICATION ATTACHED: YES _____ NO _____

(Including Plot Plan)

PROPOSED ROUTE (STREETS) TO BE TRAVELED _____

_____

_____

_____

_____

NAME OF MOVER _____

ADDRESS OF MOVER _____

CITY – PHONE _____

Superintendent's Estimated Deposit for Removal of Utilities, Trees, Etc. $_____

Has Liability Insurance Policy Been Filed? _____ Amount $_____

Have Fees Been Paid? _____ Amount $_____

_____ _____

ZONING OFFICIAL VILLAGE COLLECTOR

_____

VILLAGE SUPERINTENDENT

CHAPTER 34 – SUBDIVISION CODE

ARTICLE		*TITLE*	*PAGE*
I	*SCOPE AND PURPOSE*		
	Section 34-1-1	*Title*	*34-1*
	Section 34-1-2	*Scope*	*34-1*
	Section 34-1-3	*Intent and Purpose*	*34-1*
	Section 34-1-4	*Interpretation*	*34-1*
	Section 34-1-5	*Application of Ordinance*	*34-1*
	Section 34-1-6	*Suitability of Land for Subdivision Development*	*34-1*
	Section 34-1-7	*Rules and Definitions*	*34-2*
	Section 34-1-8	*Adoption by Reference*	*34-4*
	Section 34-1-9	*34-1-10 Reserved*	
II	*PRELIMINARY PLAT*		
	Division I - Procedure		
	Section 34-2-1	*Pre-Application Conference*	*34-5*
	Section 34-2-2	*Procedure Required to Follow Regulations*	*34-5*
	Section 34-2-3	*Preliminary Plat*	*34-5*
	Section 34-2-4	*Reserved*	
	Division II – Preliminary Plat Requirements		
	Section 34-2-5	*Requirements*	*34-6*
	Section 34-2-6	*Reserved*	
	Division III – Minimum Standards of Design		
	Section 34-2-7	*General Statement*	*34-7*
	Section 34-2-8	*Streets and Alleys*	*34-7*
	Section 34-2-9	*Drainage*	*34-8*
	Section 34-2-10	*Erosion and Sediment Control*	*34-9*
	Section 34-2-11	*Easements*	*34-9*
	Section 34-2-12	*Blocks*	*34-10*
	Section 34-2-13	*Parks and Other Public Areas*	*34-10*
	Section 34-2-14	*Utilities*	*34-10*
	Section 34-2-15	*Lots*	*34-10*
	Section 34-2-16	*Reserved*	
	Division IV – Approval of Preliminary Plat		
	Section 34-2-17	*Checklist Completed*	*34-11*
	Section 34-2-18	*Changes or Revisions*	*34-11*
	Section 34-2-19	*Approval – Tentative*	*34-11*
	Section 34-2-20	*Certificate*	*34-11*
	Section 34-2-21	*Reserved*	
III	*ENGINEERING PLANS*		
	Division I - Procedure		
	Section 34-3-1	*Engineering Plan Procedures*	*34-12*

ARTICLE		TITLE	PAGE
III	ENGINEERING PLANS (CONTINUED)		
	Division II – Minimum Standards of Improvement		
	Section 34-3-2	- General Statement	34-12
	Section 34-3-3	- Reference Monuments	34-12
	Section 34-3-4	- Street Improvements	34-12
	Section 34-3-5	- Storm Sewers and Other Drainage Appurtenances	34-13
	Section 34-3-6	- Public Utility Engineering Requirements	34-14
	Section 34-3-7	- Figures	34-14
	Section 34-3-8	- 34-3-10 Reserved	
	Section 34-3-11	- Sanitary Sewers	34-14
	Section 34-3-12	- Water System	34-14
	Section 34-3-13	- Street Markers and Traffic Signs	34-15
	Section 34-3-14	- Public Utilities	34-15
	Section 34-3-15	- Sidewalks	34-16
	Section 34-3-16	- 34-3-19	
	Division III – Approval of Design Plans		
	Section 34-3-20	- Checklist	34-16
	Section 34-3-21	- Changes or Revisions	34-16
	Section 34-3-22	- Approval, Tentative	34-16
	Section 34-3-23	- Letter of Approval	34-16
	Section 34-3-24	- 34-3-25 Reserved	
IV	FINAL PLATS		
	Division I – Procedure		
	Section 34-4-1	- Subdivider	34-17
	Section 34-4-2	- Reserved	
	Division II – Final Plat Requirements		
	Section 34-4-3	- Requirements by Subdivider	34-18
	Section 34-4-4	- Appropriate Certificates	34-19
	Section 34-4-5	- 34-4-6 Reserved	
	Division III – Approval of Final Plat		
	Section 34-4-7	- Requirements of Final Plat	34-21
	Division IV – Guarantees		
	Section 34-4-8	- Guarantees to Village	34-22
	Section 34-4-9	- Construction Time Constraints	34-22
	Section 34-4-10	- Inspection	34-22
	Section 34-4-11	- Release of Bond	34-23
V	MISCELLANEOUS		
	Section 34-5-1	- Variations and Special Exceptions	34-24
	Section 34-5-2	- Minor Subdivisions	34-24
	Section 34-5-3	- Recording	34-24
	Section 34-5-4	- Penalties	34-25
	Section 34-5-5	- Validity	34-25
	Section 34-5-6	- Repeal of Conflicting Regulations	34-25

ARTICLE		*TITLE*	*PAGE*
VI	*SCHEDULES AND BONDS*		
	Section 34-6-1 -	*Schedule "A" – Checklist for Preliminary Plat*	*34-26*
	Section 34-6-2 -	*Schedule "B" – Checklist for Engineering Plans*	*34-32*
	Section 34-6-3 -	*Schedule "C" – Checklist for Final Plat*	*34-34*
	Section 34-6-4 -	*Surety Bond for Improvements*	*34-36*
	Section 34-6-5 -	*Cash Bond*	*34-36*

CHAPTER 34

SUBDIVISION CODE

ARTICLE I – SCOPE AND PURPOSE

34-1-1 TITLE. This Code shall be known, referred to and cited as "The Subdivision Code of the Village of Smithton".

34-1-2 SCOPE. For the purpose of present and future development of the Village and for the promotion of the public health, safety, comfort, morals and welfare of persons living within the territory governed, the provisions and regulations hereinafter contained shall govern the subdividing and platting of lands lying within the area of jurisdiction of the Village, as now or hereafter existing, except as otherwise provided in **Section 34-5-1**. Within the area of jurisdiction of the Village, the provisions of the Statutes of the State of Illinois are hereby adopted as part of the Official Plan of the Village.

This Code prescribes procedures for the subdivision or resubdivision of land within the area of jurisdiction of the Village and comprises the procedures, requirements, standards and specifications with respect thereto.

34-1-3 INTENT AND PURPOSE. This Code is intended for the purpose of providing adequate service and utilities, safe convenient access, a desirable and attractive living environment through good subdivision design, and utilizing development standards directed toward reasonable costs for initial development and continuing maintenance including the following:

(A) The proper location and width of streets, building setback lines, open spaces, recreational areas and public lands.

(B) The avoidance of conditions which would lead to the creation of blighted areas.

(C) The avoidance of overcrowding of population and congestion of vehicular traffic.

(D) The manner in which streets are to be graded and improved and the extent to which water, sewer, storm water and other utility service are to be provided.

(E) The provision of adequate space for traffic for utility facilities; access of emergency apparatus; for the control of the number, spacing, type and design of access points to existing or future streets; for minimum width, depth, and area of lots; for light and air; and for a proper distribution of population.

34-1-4 INTERPRETATION. This Code is intended as Minimum Requirements to provide for coordinated, efficient and economic development of the Village, to insure the adequacy of street and utility facilities, and to promote the public health, safety and welfare.

If any other provision of law relates to any matter covered herein, the regulation providing the higher standard shall apply.

34-1-5 APPLICATION OF ORDINANCE. No lot in a subdivision, as defined herein, may be conveyed unless a Final Plat of the property has been approved according to the requirements and provisions of this Code, and recorded in the office of the County Recorder of Deeds.

34-1-6 SUITABILITY OF LAND FOR SUBDIVISION DEVELOPMENT. Land unsuitable for subdivision development due to drainage, flood hazard area hillside, a rock formation or any other conditions constituting a danger to health, life or property shall not be approved for subdivision development unless the subdivider presents evidence or data satisfactory to the Village, establishing that the methods proposed to meet any such conditions are adequate to avoid any danger to health, life or property.

34-1-7 RULES AND DEFINITIONS. The language set forth in the text of this Code shall be interpreted in accordance with the following rules of construction.

Words. Whenever a word or term defined hereinafter appears in the text of this Code, its meaning shall be construed as set forth in the definition thereof; and any word appearing in parentheses, directly after a word herein defined, shall be construed in the same sense as that word.

All measured distances, expressed in feet, tenths and hundredths.

Administrative Officer. The person or persons designated by the Village to enforce and administer the provisions of this Code or his duly appointed representative(s).

Alley. See Zoning Code, **Section 40-2-2**.

Area, Gross. The entire area within the boundary lines of the territory proposed for subdivision, including the area to be dedicated for street and alley right-of-way and public use.

Area, Net. The entire area within the boundary lines of the territory proposed for subdivision, less the area to be dedicated for street and alley right-of-ways and public use.

Barrier (Natural or Artificial). Any street, highway, river, pond, canal, railroad, levee, embankment, or screening by a fence or hedge.

Block. See Zoning Code, **Section 40-2-2**.

Boarding House. See Zoning Code, **Section 40-2-2**.

Buildable Area. See Zoning Code, **Section 40-2-2**.

Building. See Zoning Code, **Section 40-2-2**.

Building Height. See Zoning Code, **Section 40-2-2**.

Building Line. See Zoning Code, **Section 40-2-2**.

Building, Principal. See Zoning Code, **Section 40-2-2**.

Clinic. See Zoning Code, **Section 40-2-2**.

Club. See Zoning Code, **Section 40-2-2**.

Comprehensive Plan. The Plan or any portion thereof adopted by the Village for the coordinated physical development, including, among other things, plans and programs regarding the location, character and extent of highways, transportation routes, bridges, public buildings or uses, utilities, schools, residential, commercial or industrial land uses, parks, forests, dams, drainage facilities and projects affecting the conservation of natural resources of the Village.

Cul-de-Sac. A short, minor local street, having only one end open for vehicular traffic, and other permanently terminated by a turn-around for vehicles.

Design. The arrangement of uses on the land and use of land for easements, lots and right-of-way, including materials, alignment, grade and width of these elements.

District. See Zoning Code.

Dump. See Zoning Code.

Dwelling. See Zoning Code.

Flood Hazard Area. All land subject to periodic inundation from overflow of natural waterways when subjected to the maximum possible runoff from **three (3) inches** of rain per hour as calculated by approved engineering methods subject to periodic ponding.

Hillside Area. An area with an average slope of **twenty percent (20%)** or more.

Hotel. See Zoning Code.

Improvement. Refers to site grading, street work and utilities (including water, sewer, electric, gas, and storm water) to be installed or agreed to be installed by the subdivider on land to be used for public or private streets, and easements or other purposes as are necessary for the general use of lot owners in the subdivision.

Improvement Plan. The engineering plans showing types of materials and construction details for the physical structures and facilities to be installed both in or in conjunction with a subdivision.

Junk Yard. See Zoning Code.

Kennel. Any structure or lot on which **four (4)** or more dogs and/or cats over **four (4) months** of age are kept.

Land Use Plan. The long-range plan for the desirable use of land in the Village as officially adopted and as amended from time to time by the Village Board or appropriate corporate authority.

Laundries.

Laundromat. A business that provides either home-type washing, drying or ironing machines for hire to be used by the customers on the premises.

Laundry, Commercial Industry. A business that provides either washing, drying or ironing services operated by the employees on the premises.

Loading Space. An off-street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials and which abuts upon a street, alley or other appropriate means of access.

Lodging or Rooming House. See Zoning Code, **Section 40-2-2**.

Lot. See Zoning Code, **Section 40-2-2**.

Lot Area. See Zoning Code, **Section 40-2-2**.

Lot, Corner. See Zoning Code, **Section 40-2-2**.

Lot Coverage. See Zoning Code, **Section 40-2-2**.

Lot Depth. See Zoning Code, **Section 40-2-2**.

Lot, Double Frontage. See Zoning Code, **Section 40-2-2**.

Lot, Interior. See Zoning Code, **Section 40-2-2**.

Lot Line, Front. See Zoning Code, **Section 40-2-2**.

Lot Line, Rear. See Zoning Code, **Section 40-2-2**.

Lot Line, Side. See Zoning Code, **Section 40-2-2**.

Lot of Record. See Zoning Code, **Section 40-2-2**.

Lot, Through. See Zoning Code, **Section 40-2-2**.

Lot Width. See Zoning Code, **Section 40-2-2**.

Parking Area, Private. See Zoning Code, **Section 40-2-2**.

Parking Area, Public. See Zoning Code, **Section 40-2-2**.

Parking Space, Automobile. See Zoning Code, **Section 40-2-2**.

Parking Lane. An auxiliary lane of a street used primarily for vehicular parking.

Planned Development Project. See Zoning Code, **Section 40-2-2**.

Plans. All of the drawings, including plats, cross-sections, profiles, working details and specifications, which the subdivider prepares or has prepared to show the character, extent and details of improvements required in **Article III** of this Code, and which plans shall conform to any requirements of the Zoning Administrator as to scale and details for submittal to the appropriate officials of the Village for consideration, approval or disapproval.

Plat. The maps, drawings, charts, and other documents comply with all applicable provisions of this Code which constitute the plan for subdivision and which the subdivider submits to the Village for consideration of approval and intends in final form to record.

Plat, Final. A plat drawn in ink upon tracing cloth and conforming to the requirements of **Article IV**.

Plat, Preliminary. A plat drawn upon tracing paper or other materials from which reproductions can be made and conforming to the requirements of **Section 34-2-5**.

Premises. A lot together with all the buildings and uses thereon.

Principal Use. See Zoning Code, **Section 40-2-2**.

Public Open Space. See Zoning Code, **Section 40-2-2**.

Public Sewer and Water Facilities. Those water and/or sewer facilities of the Village, County, the State, the Federal and/or of a sanitary sewer district and/or privately-owned public facilities which comply with applicable public health standards.

Residence. See Zoning Code, **Section 40-2-2**.

Resubdivision. See **"Subdivision"**.

Road, County. A term denoting a tract of land which is used primarily for the purpose of vehicular movement and includes all of the facilities and improvements within the right-of-way. This tract of land must have been presented to and accepted by the County Superintendent of Highways.

Roadbeds. The graded portion of a street upon which the base course, surface course, shoulders and median are constructed.

Roadways. The entire improved portion of the street, including shoulders, parking lanes, travel way, curbs and gutter which lies between the right-of-way lines.

Room. See Zoning Code, **Section 40-2-2**.

Setback. See Zoning Code, **Section 40-2-2**.

Setback Line. The line parallel to the front, side or rear lot line establishing the minimum space to be provided as the front, side or rear yard.

Slope. "Slope" means the degree of natural inclination of the existing ground.

Street. A general term denoting a public or private way for the purpose of vehicular travel. The term includes all facilities which normally occur within the right-of-way; it shall also include such other designation for a street as: a highway, thoroughfare, parkway, through way, road, pike, avenue, boulevard, lane, place, drive, court or as otherwise designated but excluding an alley or a way for pedestrian use only.

Street, Arterial. A street designed or utilized primarily for high vehicular speeds and heavy volumes of traffic on a continuous route, with intersections at grade, and which may have direct access to abutting properties, and on which geometric design and traffic control measures are used to expedite the safe movement of through traffic.

Street, Collector. A street which carries or is proposed to carry intermediate volumes of traffic from local streets to arterial streets and which may or may not be continuous.

Street, Local. A street used primarily for access to abutting properties, providing for minimum speeds and traffic volumes.

Street, Marginal Access or Service Road. A local street parallel and adjacent to arterial streets providing access to abutting properties.

Structure. Anything constructed, which requires permanent or temporary location on the ground or is attached to something having a permanent or temporary location on the ground.

Subdivide. See **"Subdivision"**.

Subdivider. "Subdivider" means any person, firm, partnership, association, corporation, estate or other group or combination acting as a unit, dividing or proposing to divide land in a manner that constitutes a subdivision as defined.

Subdivision. (1) The division of land into **two (2)** or more lots or parcels for the purpose of either immediate or future sale, rental, or building development or use(s) other than agricultural use or production. (2) Establishment or dedication of a public street or alley through a tract of land regardless of size. Excluded from this definition is: the division of land into parcels, each containing **five (5) acres** or more for agricultural purposes; division of land for cemetery usage; division and distribution of land pursuant to law or court order. The term "subdivision" shall also include all re-subdivisions of land or lots.

Subdivision, Minor. A division of land into **two (2)**, but not more than **six (6) lots**, all of which front upon an existing street, not involving any new streets or other rights-of-way, easement and improvements, or other provisions for public areas and facilities.

Travelway. That portion of a street used for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

34-1-8 ADOPTION BY REFERENCE. All definitions, not otherwise noted, contained in the Zoning Code and the Revised Code are hereby adopted by reference.

34-1-9 - 34-1-10 RESERVED.

ARTICLE II - PRELIMINARY PLAT

DIVISION I - PROCEDURE

34-2-1 PRE-APPLICATION CONFERENCE. Before submitting a preliminary plat, the applicant is encouraged to confer with the Village Administrative Officer, Zoning Administrator and other official units of government affected thereby as well as those providing services to the area in question to initiate pre-planning activities and obtain information and guidance before entering into binding commitments or incurring substantial expense in the preparation of detailed plans, surveys and other data.

34-2-2 PROCEDURE REQUIRED TO FOLLOW REGULATIONS. In order to subdivide any tract of land (with the exception of division or subdivision of land into parcels or tracts of **five (5) acres** or more in size and not involving a new street or easement of access, or the sale or exchange of existing parcels or tracts of land, or the division of lots and blocks in recorded subdivisions), an owner or subdivider shall follow the procedure set forth in this Code.

34-2-3 PRELIMINARY PLAT.

(A) **Subdivider.** The subdivider shall file with the Village Board at the office of the Village Clerk, **ten (10) copies** of the preliminary plat, at least **ten (10) days** prior to the regularly scheduled Zoning Administrator meeting. Such application shall include the following:

(1) **Requested Information.** A written request to the Zoning Administrator for preliminary review of such subdivision and a general description of the location and size of the tract to be platted; the intent as to character type and use of the property and structures to be developed; the deed restrictions proposed, if any; a statement of mineral rights; the extent and character of the improvements to be made by the subdivider, the zone district classification(s) of the territory and compliance of the proposed subdivision thereto. If appropriate, a description of any unique hardship or difficulty limiting the physical development of the property under consideration and a description of any past history of the property under consideration which is pertinent thereto.

(2) **Documentation.** The necessary documentation in accordance with the requirements of this Code. **(See Section 34-2-4, et seq.)**

(3) **Filing Fee.** A filing fee sufficient to cover the engineering review fees to be incurred by the Village.

(B) **Village Procedure.**

(1) The Village Clerk shall immediately distribute **one (1) copy** to the Village Engineer, **one (1) copy** to the Superintendent of Schools, **one (1) copy** to the Village Board and **two (2) copies** to the Zoning Administrator.

(2) **Time Constraints.** The Zoning Administrator shall review the Preliminary Plat, within **sixty (60) days** from the date of application or the filing by the subdivider of the last item of required supporting data, whichever date is later, unless such time is extended by written mutual consent, and shall determine whether the Preliminary Plat shall be approved as submitted; shall be approved subject to certain conditions or modifications; or shall be disapproved.

(3) **Zoning Administrator Review.** The action of the Zoning Administrator shall be noted in writing and if such Preliminary Plat is disapproved or is conditionally approved, the Zoning Administrator shall furnish written notice of such action to the applicant setting forth the reasons for disapproval or conditional approval and specifying with particularity the aspects in which

the Preliminary Plat fails to conform to the Village's Code, including the Official Map.

(4) **Village Board Review.** The Village Board shall accept or reject said Preliminary Plat within **thirty (30) days** after its next regularly scheduled meeting following the action granting approval of the Preliminary Plat by the Zoning Administrator, unless such time is extended by written mutual agreement of the Village Board and the applicant, the Village Board shall issue by order or resolution, whether the Preliminary Plat is approved or disapproved as submitted. If the Preliminary Plat is disapproved, the resolution shall state the reasons for disapproval.

(5) **Ordinances of Approval.** A certified copy of the resolution of approval or disapproval by the Village Board shall be attached to the Preliminary Plat and shall be filed with the Village Clerk, **one (1)** such copy shall be filed with the administrative officer, and **one (1) copy** shall be returned to the subdivider. Approval of the Preliminary Plat shall not qualify the Preliminary Plat for recording with the County Recorder of Deeds.

(6) **Rights and Privileges of Subdivider.** Preliminary Plat approval shall confer upon the subdivider the following rights and privileges:

(a) That the Preliminary Plat approval will remain in effect for a **one (1) year** period. The applicant may, during this period, submit all or part or parts of said Preliminary Plat for final approval. In the event that the subdivision is being developed in stages, the applicant may, by written mutual agreement with the Zoning Administrator, have final approval of the last part of the Plat delayed for a period not to exceed **three (3) years** from the date of the Preliminary Plat approval. Any part of a subdivision which is being developed in stages shall contain a tract of land at least **one (1) block** in length.

(b) That the general terms and conditions under which the Preliminary Plat approval was granted will not be changed.

34-2-4 RESERVED.

DIVISION II - PRELIMINARY PLAT REQUIREMENTS

34-2-5 REQUIREMENTS. The Preliminary Plat to be provided by the subdivider shall meet and include the following specifications:

(A) Proposed name of the subdivision and location.

(B) Small key map showing the relation of the proposed subdivision to Section or U.S. Survey lines and to platted subdivisions and dedicated roads within **three hundred (300) feet** of the proposed subdivision.

(C) Names and addresses of the owner, subdivider, land planning consultant and the Illinois Professional Land Surveyor who prepared the Preliminary Plat.

(D) Existing and proposed streets or alleys and rights-of-way on and adjoining the site of the proposed subdivision; showing the names and including street roadway and right-of-way widths, approximate gradients, types and widths of pavement, curbs, sidewalks, crosswalks, planting strips and other pertinent data, including classification of all streets as to function as established herein.

(E) All lot lines adjacent to and abutting the subdivision.

(F) Layout of lots, showing approximate dimensions, numbers, lot area, and zone district classification(s).

(G) Parcels of land, if any, proposed to be dedicated or reserved for schools, parks, playgrounds or other public, semi-public or community purposes and use(s) of the area to be subdivided.

(H) Easements, existing and proposed, showing locations, widths and purposes.

(I) Building setback line and dimensions.

(J) Location and size of existing public utilities and drainageways or facilities within or adjoining the proposed subdivision and the location and size of nearest water trunk mains, interceptor sewer lines and other pertinent utilities.

(K) Location, type and approximate size of utility improvements to be installed.

(L) Tract boundary lines showing dimensions, bearings, angles and references to known land lines.

(M) The gross area and net acreage of the proposed subdivision, the acreage of streets, and of any areas reserved for the common use of the property owners within the subdivision and/or for public use.

(N) Where the topography has a significant bearing upon the street grades, the plan of public utilities and drainage ways or facilities in the proposed subdivision and when it would be difficult for the Zoning Administrator or the Village Board to understand the relation of the Plan to the existing topographic conditions, contour lines at not greater than **two (2) foot** intervals shall be shown. Contour lines shall be shown for all hillside areas and all other areas of significant slope.

(O) Location of major water courses, ponding areas, natural drainageways, and flood hazard areas.

(P) The Preliminary Plat shall be drawn to a scale of **one hundred (100) feet** to **one (1) inch**, provided, however, that if the resulting drawing would be over **thirty-six (36) inches** in the shortest dimension, a scale of up to **two hundred (200) feet** to **one (1) inch** may be used.

(Q) North arrow and date.

(R) Whenever a large tract is intended to be developed in stages, and only part of that tract is to be submitted for Final Plat approval, a Preliminary Plat for subdivision of the entire tract shall be submitted.

34-2-6 RESERVED.

DIVISION III - MINIMUM STANDARDS OF DESIGN

34-2-7 GENERAL STATEMENT. The subdivider shall conform to the following principals and standards of land subdivision in the design of each subdivision or portion thereof. No Preliminary Plat shall be approved unless it conforms to the following minimum standards of design.

34-2-8 STREETS AND ALLEYS.

(A) The street and alley arrangement shall be such as to not impose undue hardship upon the owners of adjoining property when they plat their own land and seek to provide for convenient access thereto. Reserve strips controlling access to streets are prohibited, except where there control is placed with the Village Board.

(B) The arrangement of rights-of-way in a subdivision shall provide for the continuation of the existing streets or rights-of-way in adjoining areas, unless the Zoning Administrator deems such continuation undesirable for reasons of topography or design. Subdivision streets or rights-of-way, widths shall be of the same or greater width as the existing street or right-of-way, except they shall not be of less width than hereinafter provided in **Section 34-2-8**.

(C) Where, in the opinion of the Zoning Administrator, it is desirable to provide future street access to adjoining areas, the streets and rights-of-way in the subdivision shall be extended to the property line. If deemed necessary by the Zoning Administrator, any temporary dead-end street shall be provided with a temporary turn-around. In no case, shall access be denied to any parcel or part of a parcel of ground by the subdividing of land.

(D) Streets shall intersect, as nearly as possible at right angles.

(E) Local street curb intersections shall be rounded by radii of at least **fifteen (15) feet**; intersections involving collector or arterial streets shall have radii of not less than **twenty-five (25) feet**.

(F) Street jogs with centerline offsets of less than **one hundred twenty-five (125) feet** are prohibited.

(G) Unless topography indicates a need for a greater length, dead-end streets designed to be permanent shall be no longer than **five hundred (500) feet** and shall terminate in a circular open space having a radius at the outside of the pavement of at least **forty (40) feet** and a diameter at the outside of the right-of-way of at least **one hundred (100) feet**.

(H) Local streets shall be designed so as to discourage through traffic.

(I) No local street grade shall be in excess of **ten percent (10%)** and no collector street or arterial street grade shall be in excess of **seven percent (7%)** except as otherwise approved by the Zoning Administrator due to adverse topographic conditions. For adequate drainage, the minimum grade of any new street shall not be less than **one half (1/2)** of **one percent (1%)**.

(J) The Zoning Administrator shall not approve streets which will be subject to frequent inundation or flooding.

(K) Alleys shall be avoided in a single-family and two-family district, except as required by this Section. Alleys, however, may be required in multiple-family districts and commercial or industrial districts unless other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent and adequate for the use proposed.

(L) Dead-end alleys shall not be permitted, except where provided with adequate turn-around facilities at the dead-end, or where such dead-end alleys provide the only access to off-street parking.

(M) Alleys, where provided, shall have a right-of-way of not less than **twenty (20) feet**.

(N) The minimum right-of-way of local street, including marginal access streets and cul-de-sacs, shall be **fifty (50) feet**.

(O) The minimum right-of-way of collector streets shall be **sixty (60) feet**.

(P) The minimum right-of-way of arterial streets shall be **eighty (80) feet**.

(Q) Intersections of more than **two (2) streets** at **one (1) point** shall be avoided.

(R) Where the subdivision abuts in or contains an existing or proposed arterial street, the Zoning Administrator may require that marginal access streets be provided in order that no lots front on such existing or proposed arterial street.

(S) Dedication of half-streets shall be discouraged, but may be permitted whenever there is no other logical method of platting. However, wherever there exists a dedicated or platted half-street or alley adjacent to the tract to be subdivided, the other half of the street or alley shall be platted, unless otherwise permitted by the Zoning Administrator.

34-2-9 DRAINAGE. No plat shall be approved for any subdivision which is subject to flooding unless the plat conforms to the applicable requirements of this Code.

(A) No plat shall be approved for any subdivision or part thereof which is subject to periodic flooding or which contains inadequate drainage of streets. However, if the subdivider agrees in writing to make improvements at his expense which will, in the opinion of the Zoning Administrator, make the area safe for human occupancy and use and further provide adequate drainage for streets, then the preliminary and final plat may be approved.

(B) Storm water drainage shall be discharged to marshlands, swamps, detention basins or other treatment facilities. Diversion of storm water to marshlands or swamps shall be considered by the Zoning Administrator for existing or planned surface drainage. Marshlands and swamps used for storm water shall provide for natural or artificial water level control.

(C) No existing ditch, stream, drain or drainage canal shall be deepened, widened, filled, rerouted or filled without written permission from the Village.

(D) Where artificial channels must be constructed to augment the natural drainage system, such channels as well as the natural drainageways may be planned as part of a recreation trail system. Channels shall be designed to be aesthetically compatible for recreational trail use.

(E) The drainage system shall be constructed and operational during construction; or as approved by the Village.

(F) The natural drainage system shall be used as far as is feasible for the storage and flow of runoff.

(G) No plat shall be recorded for any subdivision situated within **five hundred (500) feet** of any surface drain or watercourse serving a tributary area of **six hundred forty (640) acres** or more, until such plat or map has been reviewed by the Department of Transportation, either independently or in cooperation with Federal, State or local agencies, for the purpose of determining, for the protection of persons and property, the flood hazards involved, and a report thereon filed by that Department with the County Recorder.

34-2-10 EROSION AND SEDIMENT CONTROL. The following standards shall be applied in the subdivision and construction of land areas:

(A) The development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion.

(B) Natural plant covering shall be retained and protected so far as is consistent with developing the site.

(C) When soil is exposed, the exposure shall be for the shortest feasible period of time.

(D) Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.

(E) Erosion and siltation control measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control erosion.

(F) Provision shall be made to effectively accommodate the increased run-off caused by changed soil and surface conditions during and after development.

(G) Sediment basins, debris basins, desilting basins, or silt traps shall be installed and maintained to remove sediment from run-off waters undergoing development.

(H) Temporary vegetation or, where appropriate, mulching or other non-viable cover shall be used to protect areas exposed during development.

(I) Where the topsoil is removed, sufficient arable soil shall be set aside for respreading over the developed area. The soil shall be restored to a depth of **four (4) inches** and shall be of a quality at least equal to the soil quality prior to development.

(J) Permanent, final plant covering or structures shall be installed as soon as possible.

34-2-11 EASEMENTS.

(A) Easements of not less than **ten (10) feet** in width shall be provided on each side of all rear lot lines, and alongside lot lines where necessary for storm and sanitary sewers, gas, water and other mains, and for electric and telephone lines or for other public utilities. Easements of greater width may be required along or across lots when necessary for the extension of main sewers or other utilities or where both water and sewer lines are located in the same easement. A **two (2) foot** easement shall be required on **one (1) side** of and adjacent to an alley to accommodate pole lines.

(B) Adequate easements for storm water drainage shall be established along any natural drainage, channel and in such other locations as may be necessary to provide satisfactory disposal of storm water from streets, alleys and all other portions of the subdivision. The location and minimum widths of such easements shall be determined by the administrative officer.

(C) No tree, shrub or building shall be placed or erected in any easement for utility or drainage purposes or within the right-of-way of any street, except at the owner's risk as to all costs for demolition, removal or reconstruction, and the proper authorities may have free access to and use of the easements at any time.

34-2-12 BLOCKS.

(A) No block shall be longer than **one thousand four hundred (1,400) feet** or less than **five hundred (500) feet** in length. Except where the continuity of the existing neighborhood would be disrupted.

(B) All blocks, whenever it is deemed essential to provide access to schools, playgrounds, shopping centers and other community facilities, shall have a crosswalk with a right-of-way of at least **ten (10) feet** in width near the center of the block.

(C) The length, width and shapes of blocks shall be determined with due regard to building sites, land use, zoning requirements, access, safety and convenience.

(D) Where a subdivision adjoins an arterial or collector, the greater dimension of the block shall generally front or back upon such arterial or collector to avoid unnecessary ingress or egress.

34-2-13 PARKS AND OTHER PUBLIC AREAS.

(A) Where any area is specifically designated on the general development plan of the Village, for a public park, playground, school or other public use, and is owned by the subdivider, such area shall be reserved for such use on all subdivision plans and plats; and the acquisition of such area may then be secured by the Village Board or arrangements be made for its acquisition within a period not to exceed **one (1) year** from the date of approval of the final plan. The value of such lands shall be established by **three (3)** qualified appraisers; **one (1)** of whom shall be appointed by the Zoning Administrator, **one (1)** by the Subdivider, and **one (1)** of whom shall be mutually agreed upon by the other two.

(B) Should the Village Board decide to take such premises, then, and in that case, it shall make arrangements to pay the subdivider therefor the appraised value as determined by the above described appraisers, or a sum that is mutually agreed upon. The Village Board may accept any donation of land as above described should the subdivider desire to contribute the same to the Village.

34-2-14 UTILITIES.

(A) Source of domestic water supply and type of sewage disposal.

(B) Storm water drainage.

(1) Complete storm sewer system, including pipe sizes, inlets, and inverts.

(2) A proposed surface water drainage pattern for each individual lot, block and street.

(C) All easements as required shall be indicated.

(D) **Protective Covenants.** An outline of all proposed protective covenants shall accompany the preliminary plat and shall include a protection against the obstruction of any surface water drainage easement.

34-2-15 LOTS.

(A) Lots shall not be less than **seventy-five (75) feet** wide or less than **ninety (90) feet** in length.

(B) The lot arrangement and design shall be such that all lots will provide satisfactory and desirable building sites, properly related to topography and the character of surrounding development.

(C) All side lines of lots shall be at right angles to straight street right-of-way lines and radial to curved street right-of-way lines except where a variation of this rule will provide a better street and lot design.

(D) All remnants of lots below minimum lot area size left over after subdividing of a larger tract shall be added to adjacent lots, rather than allowing to remain as unusable land, except when designated for utility purposes or accepted for public space for park or other public uses.

(E) Lots which cannot be served by either a public or private sanitary sewer, and/or a public water system, shall comply with the applicable provisions of the applicable zoning ordinance or shall not be less than **one (1) acre** in size per lot or household unit, whichever is greater. Such lots shall have a width of not less than **one hundred twenty-five (125) feet** or a depth in excess of **three (3) times** its width, unless otherwise permitted and approved by the Zoning Administrator.

(F) Lots with double frontage shall be avoided where possible. Corner lots and lots with double frontage shall have extra dimension sufficient to permit the establishment of front building setback lines on the adjoining streets.

(G) The subdividing of the land shall be such as to provide each lot with satisfactory access to public street. The Zoning Administrator may require additional reservation of land to insure adequate access to prevent land locking of the adjoining territory.

(H) All lots in new residential subdivisions must be SR-1 lots (**ten thousand (10,000) square feet**). **(See Zoning Code)**

34-2-16 RESERVED.

DIVISION IV - APPROVAL OF PRELIMINARY PLAT

34-2-17 CHECKLIST COMPLETED. In order to qualify for approval, the preliminary plan shall be accompanied by a properly executed checklist as shown in **Section 34-6-1**, **Schedule "A"**.

34-2-18 CHANGES OR REVISIONS. The Zoning Administrator and the Superintendent of Schools may recommend or the Village Board may require such changes or revisions as are deemed necessary in the interests and needs of the community.

34-2-19 APPROVAL - TENTATIVE. The approval of a preliminary plat by the Zoning Administrator and the Village Board is tentative only, involving merely the general acceptability of the layout as submitted.

34-2-20 CERTIFICATE. Approval shall consist of a certificate to that effect on the preliminary plat signed by the Chairman of the Zoning Administrator and by the Village President upon authorization by the Village Board.

34-2-21 RESERVED.

ARTICLE III - ENGINEERING PLANS

DIVISION I - PROCEDURE

34-3-1 ENGINEERING PLAN PROCEDURES. Within **twelve (12) months** after receiving approval of the preliminary plan by the Village Board, there shall be submitted to the Village Clerk, by the subdivider, **four (4) copies** of the engineering plans and specifications as required in **Article III, Division II**. The Village Clerk shall immediately refer **two (2) copies** to the Zoning Administrator and **two (2) copies** to the Village Engineer and shall notify the Village Board of this action at the next regular Village Board meeting. In the event of a special problem, the Zoning Administrator shall notify the owner or subdivider of the time and place at which he shall be afforded an opportunity of being heard. The Zoning Administrator shall make its recommendation to the Village Board within **forty-five (45) days** after receipt of the engineering drawings and specifications. In the event of disapproval of the engineering plans and specifications by the Zoning Administrator, the same shall be immediately returned to the Village Clerk for return to the subdivider, and may be refiled with the Village Clerk after necessary revisions are made.

DIVISION II - MINIMUM STANDARDS OF IMPROVEMENT

34-3-2 GENERAL STATEMENT. Utility and street improvements shall be provided by the subdivider in each new subdivision in accordance with the standards and requirements described in the following section. The requirements set forth below shall be considered as minimum requirements and nothing contained herein shall be construed to mean that the subdivider cannot construct or provide improvements of a higher type.

34-3-3 REFERENCE MONUMENTS. Permanent monuments shall be of concrete **six inch by six inch by thirty inch (6" x 6" x 30")** with a **one-half (1/2) inch** iron pin cast in the center, set in such manner that they will not be moved by frost and shall be placed in the field as required by the Statutes of the State of Illinois as revised and are in effect at such time.

All lot corners shall be marked by **one-half (1/2) inch** iron pins not less than **thirty (30) inches** in length and driven into the ground and shall not protrude above the ground surface more than **one and one-half (1 1/2) inch**.

These monuments must be placed at all corners, at the end of all curves, at the point where a curve changes its radius, at all angle points along a meander line, the points to be not less than **twenty (20) feet** back from the normal water elevation of a lake or from the bank of a stream, except that when such corners or points fall within a street or proposed future street, the monuments must be placed in the right-of-way line of the street. All internal boundaries, corners and points must be monumented in the field by like monuments as defined above.

34-3-4 STREET IMPROVEMENTS. All streets shall be graded as hereinafter provided:

(A) All new streets, which are created and dedicated for use within a subdivision shall be grade, drained and surfaced in accordance with the minimum requirements hereinbelow set forth and in a manner which will provide complete and adequate drainage of all the streets, alleys and public grounds which may be necessary in order to provide adequate and satisfactory drainage along the side of any existing public street which lies adjacent to the subdivision.

In general, all such new streets within the subdivision and all work to be undertaken thereon shall be designed and constructed according to the specifications adopted by the State of Illinois, Department of Transportation; as the same are in effect at the time the Preliminary Plat and plans for such improvement work are submitted for approval.

(B) **Grading Roadway and Side Slopes.** The roadway shall be considered to be that part of the improvement which lies between the right-of-way lines, and which roadway, right-of-way, shall not be less than **fifty (50) feet** in width on local streets and **sixty (60) feet** on collector streets.

(C) **Combination Concrete Curb and Gutter.** Combination concrete curb and gutter shall be built in accordance with the detail shown on **Standard 1**. The minimum distance from back to back curbs shall be **thirty (30) feet** on cul-de-sac streets, **thirty-six (36) feet** on local streets and **forty (40) feet** on collector streets.

(D) **Street Construction Standards.** All streets within the jurisdiction authority of the Village other than state highways shall be improved with pavements bounded by integral concrete curbs and gutter, in accordance with the following criteria.

(1)

Street Type	Dedicated Right-of-Way Width	Pavement Width	Pavement Type
Arterial	80 feet	50 feet	Portland Cement Concrete Surface
Collector	60 feet	36 feet (one-Side parking	Portland Cement Concrete Surface
Local	50 feet	32 feet (one-Side parking	Portland Cement Concrete Surface
Cul-de-Sac	50 feet	26 feet	Portland Cement Concrete Surface

(2) All street pavements shall be provided with a minimum **six (6) inch** thick Portland Cement Concrete surface placed on a **twelve (12) inch** sub-base of lime stabilized soil mixture. The mixture shall meet the requirements of Section 310 of the Illinois Department of Transportation Standard Specifications for Road and Bridge Construction with the following exceptions:

(a) the proportions of lime, soil and water shall be determined by the project soil consultant and reviewed by the Village staff.

(b) the density and Immediate Bearing Value IBV test results shall be provided to the Village staff for review.

All street pavement shall have a minimum **two percent (2%)** crown.

(3) The subdivider shall be required to improve Arterial Streets only to the width required by the current and immediate needs of his subdivision consistent to the standards and specifications herein contained.

(Ord. No. 755; 01-06-09)

34-3-5 STORM SEWERS AND OTHER DRAINAGE APPURTENANCES. In addition to the installation of curbs or gutters along the streets, as required by **Section 34-3-4(C)** of this Article, storm sewer systems shall be constructed throughout the entire subdivision to carry off water from all inlets and catch basins, and shall be connected to an adequate outfall. Such sewers shall provide for an extension to land lying within the upland drainage area, whether such land is within the subdivision or not. Storm sewers shall be designed by currently accepted engineering methods, and copies of the design computations shall be submitted with the plans. Inlets shall be provided so that surface water is not carried across any intersection, nor for a distance of more than **four hundred (400) feet** in the gutter. The storm water drainage system shall be separate and independent of the sanitary sewer system. Surface water drainage patterns shall be shown for each and every individual lot and block. All maintenance to storm water drains on easements to side lots and back lots shall be the responsibility of the property owner. All storm sewers in Village right-of-way or under paved surfaces shall be concrete or material of comparable specifications

approved by the Village. All storm sewers outside Village right-of-way and outside of paved surfaces shall be polymer coated galvanized steel pipe with **two (2) feet** connection bands, HDPE smooth wall pipe with integral bells, reinforced concrete pipe with rubber gaskets, plastic pipe meeting the requirements of ASTM D-2241, ASTM D-3034 and ASTM F679 or AWWA C-900/C-905 or other pipe approved by the Village. **(Ord. No. 766; 10-20-09)**

34-3-6 PUBLIC UTILITY ENGINEERING REQUIREMENTS. All proposed water and sanitary sewer facilities shall comply with the minimum requirements and recommendations of the Illinois Environmental Protection Agency of the State of Illinois and the administrative officer. When a proposed subdivision is reasonably accessible to a public sewer system and/or distribution system, the subdivider shall provide the subdivision with a complete sanitary sewer system and/or water distribution system to be connected to the proper public system(s).

34-3-7 FIGURES. See end of Chapter.

34-3-8 - 34-3-10 RESERVED.

34-3-11 SANITARY SEWERS.

(A) All sewer plans and installations shall conform to the standards and specifications set forth in the **"Standard Specifications for Water and Sewer Main Construction in Illinois"**, as established by the Illinois Society of Professional Engineers and the design standards for sewage works established by the Illinois Environmental Protection Agency.

(B) Sanitary sewer lines shall be installed to serve all properties in the subdivision, except subdivision where individual sewage disposal systems are permitted by the Village Board.

(C) Where sanitary sewer mains of larger capacity than necessary to serve the subdivision as delineated in the preliminary plats are required to serve the future growth in the vicinity of the subdivision, as determined by the Village Board, the Village shall then require the subdivider to install the larger pipe at the expense of the subdivider or developer; said larger size to be determined by the Village Board.

(D) Each lot in the subdivision shall be provided at the property line with a connection to the public sanitary sewer system. The construction of the sewer system shall conform to the approved plans and specifications and all work should be properly inspected and approved by the Village Engineer.

(E) Sewage pumping stations shall be equipped with an automatic telephone dialer alarm system to notify the Village officials of improper operation.

(F) All force mains shall be installed with a #12 insulated copper tracer wire to aid in the location of the lines.

(G) Sewer pumping stations shall be equipped with an automatic generator specified by Village Engineer.

(H) Sewage pumps shall be specified by Village Engineer.

34-3-12 WATER SYSTEM.

(A) All water main plans and installations, including all appurtenances thereto, shall conform to the **"Standard Specifications for Water and Sewer Main Construction in Illinois"**, as established by the Illinois Society of Professional Engineers.

(B) Water distribution facilities including all pipe, fittings, hydrants, valves, vaults, etc., shall be installed to serve all properties within the subdivision.

(C) Where water mains of larger capacity than necessary to serve the subdivision as delineated in the preliminary plats are required to serve the future growth in the vicinity of the subdivision,

as determined by the Village Board, the Village shall then require the subdivider to install the larger pipe at the expense of the subdivider or developer; said larger size to be determined by the Village Board.

(D) The construction of the water system shall conform to the approved plans and specifications and all work shall be properly inspected and approved by the Village Engineer. Water service line shall be extended to each lot in the subdivision prior to the Village accepting the streets for maintenance.

(E) Fire hydrants shall be installed by the subdivider as part of the water distribution system. Installation of hydrants shall be accomplished in such manner that each lot is within **four hundred (400) feet** of the fire hydrant when measured along the centerline of the right-of-way. No fire hydrant shall be placed on a main smaller than **eight (8) inches** in diameter. There shall be no fire hydrant placed inside of the radius of a cul-de-sac, however, one fire hydrant shall be placed within **seventy-five (75) feet** of the outside of the radius. Only flushing hydrants will be permitted along the radius area. The Fire Chief of the Smithton Fire Protection District will sign off on all engineering plans. Hydrants installed shall be of the type approved by the Fire Chief of the Smithton Fire Protection District. **(Ord. No. 677; 08-02-05)**

(F) All water lines shall be installed with a #12 insulated copper tracer wire to aid in the location of the lines.

(G) All water service, whether for domestic, commercial, or industrial use shall be metered. All meters shall be so placed and installed as to render the same accessible at all times for the purpose of reading and repairing, and so to be free from danger of freezing. Meters outside of a building shall be set in a suitable meter box approved by the Village Engineer. Water will not be turned on for new connection until the meter has been installed and all other requirements of this Chapter on the part of the property owner have been fully complied with.

(H) The Village reserves the right to follow its own specifications for both material, construction and installation in all meters and at all locations within its jurisdiction, including the size, kind, type and condition of the utility piping to which connection will be made, and it is the duty of the Village Engineer to determine that specifications are followed, before accepting or connecting to any new work. When a pipe line is to be installed in a paved or unpaved street, a service line of **one (1) inch** Type K Copper is to be provided to the center line of each lot for a one-family dwelling. The service line is to terminate in a meter pit at a point within the Village right-of-way, with allowance for future sidewalks and at the discretion of the Village Engineer. No main shall be tapped closer than **twenty-four (24) inches** from both the back of the bell and the spigot insertion line. Multiple taps shall be staggered and kept at least **forty-eight (48) inches** apart lengthwise. Meter pits shall be located perpendicular to the main from the tap location. A separate trench or bore shall be used for each service line. **(Ord. No. 776; 12-15-09) (See Chapter 38, Article III)**

(I) **Three (3) inch** solid core SCH40 PVC pipe with glued joints for each service tap that crosses under the street shall be required. The casing shall extend **two (2) feet** behind the back of the curb or sidewalk. The ends of the casing shall be sealed with expanding foam sealant. **(Ord. No. 865; 12-01-15)**

34-3-13 STREET MARKERS AND TRAFFIC SIGNS. A permanent street marker may be placed at each intersection designating the names of the streets entering said intersection and shall comply with the specifications as provided by ordinance of the Village.

34-3-14 PUBLIC UTILITIES.

(A) All utility lines for telephone and electric service shall be placed in rear-line easements when carried on overhead poles.

(B) **Gas, Electric Power and Telephone.** All subdivisions shall be connected with the gas, electric power, and telephone utilities supplying service to the Village. All unsubdivided lands within the Village, whether developed by subdivision, record of survey, or parcels described by metes and bounds or otherwise, shall have the above-referred-to utilities installed entirely underground. The following utility lines are excepted from this provision:

(1) Electric lines rated at 33,000 volts or more.

(2) Electric lines designed or built to carry 2,000 kilovolt amperes or more.

(C) Where telephone, electric, and gas service lines are placed underground throughout a subdivision area, conduits, or cables shall be placed within easements or dedicated public ways in a manner which will not conflict with other underground services. Further, all pad-mounted transformers shall be located so as not to be unsightly or hazardous to the public.

34-3-15 SIDEWALKS.

(A) Concrete sidewalks not less than **four (4) inches** in thickness and **five (5) feet** in width shall be constructed within the street right-of-way and adjacent to the property line. Prior to the approval of the preliminary plat, permission to omit sidewalks on one [or both] side may be granted by the Village Board. No trees or shrubbery shall be planted within **ten (10) feet** of a sidewalk.

(B) In the event a crosswalk is required in accordance with **Section 34-2-12**, a concrete sidewalk not less than **four (4) inches** in thickness and **five (5) feet** in width shall be constructed and at a grade no steeper than **one (1) inch** in **twelve (12) inches**.

34-3-16 - 34-3-19 RESERVED.

DIVISION III - APPROVAL OF DESIGN PLANS

34-3-20 CHECKLIST. In order to qualify for approval, the engineering plans shall be accompanied by a properly executed checklist as shown in **Section 34-6-2, Schedule "B"**.

34-3-21 CHANGES OR REVISIONS. The Zoning Administrator may recommend, or the Village Board may require such changes or revisions as are deemed necessary in the interest and needs of the community.

34-3-22 APPROVAL, TENTATIVE. The Zoning Administrator may grant partial approval of the total required engineering plans by approval of plans covering only a portion of the land improvements (e.g., sanitary sewers and water) so as to facilitate immediate installations. This partial approval shall consist of a certificate on the plans covering each of the required improvements signed by the Zoning Administrator.

34-3-23 LETTER OF APPROVAL. Final approval of the complete set of engineering plans shall consist of a letter of approval from the Zoning Administrator, listing thereon:

(A) Type of improvement(s) covered by the plan.

(B) Name of designing engineer.

(C) Date of preparation and revision, if any.

34-3-24 - 34-3-25 RESERVED.

ARTICLE IV - FINAL PLATS

DIVISION I - PROCEDURE

34-4-1 SUBDIVIDER.

(A) Within **six (6) months** after receiving approval of the engineering plans and specifications by the Zoning Administrator, or a period of time beyond **six (6) months** that may be granted by the Village Board, there shall be submitted to the Village Clerk by the subdivider, the original drawing, **one (1) transparency print**, and **four (4) copies** of the final plat, which shall also contain all required signed certifications, other than signed certificates of approval by the Zoning Administrator, the Village Board, and the Village Engineer. It shall contain the necessary documents as may be necessary concerning the form of guarantees or performance bond to be used. The final plat shall retain the overall characteristics of the preliminary plat and may include all or part of the area shown on the preliminary plat. The Village Clerk shall refer the original drawing and **two (2) copies** of the final plat to the Zoning Administrator, and **one (1) copy** of the final plat to the Village Engineer, at least **ten (10) days** prior to their next regularly scheduled meeting for recommendation as to final approval. In the event of a special problem, the Zoning Administrator shall notify the owner or subdivider as to the time and place of the Zoning Administrator meeting at which time he will be afforded an opportunity of being heard.

(B) **Zoning Administrator Action.** The Zoning Administrator shall review the Final Plat and plans and transmit their report of findings and recommendations to the Village Board within **thirty (30) days** of the filing date of the Final Plat. The action of the Zoning Administrator, whether approval or disapproval of the Final Plat as well as the date of said action shall be noted in writing and attached to the Final Plat; if the Final Plat is disapproved, the reasons why shall be so stated.

(C) **Village Board Action.** The Village Board shall take action on the Final Plat within **sixty (60) days** from the date of the subdivider's filing of the last required document or other paper or within **sixty (60) days** from the date of the subdivider's filing application for approval of the Final Plat, whichever date is later, unless such time is extended by written mutual consent.

(D) **Disapproval.** If the Final Plat is disapproved by the Village Board, the reasons for such action will be noted in writing, stating the reasons for disapproval, specifying with particularity the aspects in which the Final Plat fails to conform with the Village's Ordinances.

(E) **Final Plat Filing Fee.** Upon approval of any final plat by the Village Board of Trustees before **March 1, 2007**, the subdivider shall, within **sixty (60) days** after said approval pay to the Village Clerk, a final plat filing fee in an amount equal to **One Thousand Dollars ($1,000.00)** per acre or portion of an acre. With respect to any final plat filed with the Clerk of the Village and approved on or after **March 1, 2007**, the subdivider shall, within **sixty (60) days** after said approval, pay to the Village Clerk, a final plat filing fee in an amount equal to **One Thousand Five Hundred Dollars ($1,500.00)** per acre or portion of an acre. However, for any final plat submitted and approved after execution of this Article, in which each lot is at least **three (3) acres** in size or more and pursuant to the terms and provisions of the Subdivision Code, constitutes and qualifies as a Subdivision Minor, the subdivider shall within **sixty (60) days** after its approval by the Board of Trustees, pay to the Village Clerk a final plat filing fee in an amount equal to **Five Hundred Dollars ($500.00)** per acre or portion of an acre. **(Ord. No. 764; 07-21-09)**

(F) **Posting Performance Bond.** Upon approval of the final plat by the Village Board, the subdivider shall post a performance guarantee bond as required by **Sections 34-4-8** and **34-4-9** of this Article.

(G) **Execution of Final Plat.** Until such time as the subdivider complies in full with the terms and provisions of paragraphs (E) and (F) as hereinabove specified and stated, the final plat shall be held by the Village Clerk. Upon receipt of the final plat filing fee specified in paragraph (E) and posting of the performance bond specified in paragraph (F), the Village President shall affix his signature to the Final Plat and attached thereto a notation that the Final Plat has received final approval by the Village Board; the Clerk shall attest the signature of the Village President and affix his seal and attach a certified copy of the Village Board's order or resolution of approval to the approved Final Plat. If the Final Plat filing fee specified in paragraph (E) is not paid, or if the performance bond specified in paragraph (F) is not posted by the subdivider within **sixty (60) days** of the date of approval by the Village Board, approval of said Final Plat shall thereupon expire and become null and void.

34-4-2 RESERVED.

DIVISION II - FINAL PLAT REQUIREMENTS

34-4-3 REQUIREMENTS BY SUBDIVIDER. The Final Plat to be provided by the subdivider shall meet the following specifications:

(A) The Final Plat may include all or only a part of the Preliminary Plat which has received approval.

(B) The plans of the Final Plat shall be drawn on mylar with waterproof ink to a scale of **one hundred (100) feet** to **one (1) inch** provided that if the resulting drawing would be greater than **thirty-six (36) inches** in the shortest dimension, a scale of up to **two hundred (200) feet** to **one (1) inch** may be used. **Four (4)** black or blue line prints shall be submitted with the original Final Plat, or, in order to conform to modern drafting and reproduction methods, **four (4)** black or blue line prints and reproducible film positives of the Final Plat shall be submitted. Prints filed with the Village shall include: **One (1)** mylar print made after recording of the Final Plat and bearing the official stamp attesting the fact of the recording.

(C) All dimensions shall be shown in feet and decimals of a foot and/or meters.

(D) All surveys for a Final Plat shall be made under the active and personal direction of an Illinois Professional Land Surveyor, and the following basic information shall be shown:

(1) Accurate boundary lines, with dimensions and bearings or angles, which provide a survey of the tract, closing with an error of closure of not more than **one (1) foot** in **five thousand (5,000) feet**.

(2) Accurate distances and directions to the nearest established official monument. Reference corners shall be accurately described on the Final Plat.

(3) All elevations shall be referenced to the established datum and the said reference shall be clearly stated on any plans or drawings showing such datum, provided that benchmarks are located within a reasonable distance.

(4) Accurate metes and bounds description of the boundary and the included area of the subdivision to the nearest **one-hundredth (1/100) of an acre**.

(5) Accurate locations of all existing and recorded streets intersecting the boundaries of the tract, shown by heavy solid lines.

(6) Right-of-way lines of all streets, easements and other rights-of-way and property lines and areas of lots and other tracts, with accurate dimensions, bearings and curve data, including radii, arcs or chords, points of tangency, and central angles.

(7) Name and right-of-way width for each street or other right-of-way.

(8) Location, dimensions and purposes of any easement, shown by light, dashed lines.

(9) Number to identify each lot or site.

(10) Purpose for which sites, other than residential lots, are dedicated or reserved.

(11) Lot dimensions and areas of each lot and building setback lines and dimensions.

(12) Location, type, material and size of all monuments and lot markers, including elevations related to mean sea level as established by the U.S. Geological Survey.

(13) Names of owners and mortgages accepting said Plat with owner or owners personally signing all plans.

(14) Names of owners of record of adjoining unplatted lands.

(15) Reference to recorded subdivision plats within **three hundred (300) feet** of adjoining platted land by record name, date, and number.

(16) Restrictions of all types which will run with the land and become covenants in the deeds of lots. Restriction lines should be shown by medium, dashed lines.

(17) Title or name of subdivision; Section, Township and Range numbers in which the subdivision is located; and north arrow, scale and date.
(18) Certification as required by **Section 34-4-4**.

34-4-4 APPROPRIATE CERTIFICATES. The following shall be completed as required by the Code:

(A)

SURVEYOR'S CERTIFICATE

State of Illinois) ss.
County of St. Clair)

This is to certify that I, _____, an Illinois Professional Land Surveyor No. _____, have surveyed and subdivided the following described property: _____
_____
_____

Given under my hand and seal at _____, this _____ day of _____ _____, _____.

(B)

OWNER'S CERTIFICATE

State of Illinois) ss.
County of St. Clair)

This is to certify that the undersigned is the owner of the land described in the annexed plat, and that he has caused the same to be surveyed and subdivided, as indicated thereon, for the uses and purposes therein set forth, and does hereby acknowledge and adopt the same under the style and title thereon indicated.

_____
(Name)
_____
_____
(Address)

Dated this _____ day of _____, _____.

(C)

COUNTY CLERK'S CERTIFICATE

State of Illinois) ss.
County of St. Clair)

I, _____, County Clerk of _____ County, Illinois, do hereby certify that there are no delinquent general taxes, no unpaid forfeited taxes and no redeemable tax sales against any of the land included in the annexed plat.

I further certify that I have received all statutory fees in connection with the annexed plat.

Given under my hand and seal at _____, this _____ day of _____ _____, _____.

(D)

NOTARY CERTIFICATE

State of Illinois) ss.
County of St. Clair)

I, _____, Notary Public, in and for said county, in the State aforesaid, do hereby certify that (owners) personally known by me to be the same persons whose names are subscribed to the foregoing instrument as such owners, appeared before me this date in person and acknowledged that they signed and delivered the annexed plat as their own free and voluntary act for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this _____ day of _____, _____.

_____
Notary Public

(E)

CERTIFICATE AS TO SPECIAL ASSESSMENTS

State of Illinois) ss.
County of St. Clair)

I do hereby certify that there are not delinquent or unpaid current or forfeited special assessments or any deferred installments thereof that have not been apportioned against the tract of land included in the plat.

_____
Collector of Special Assessments

Dated at _____, this _____day of _____, _____.

(F)

CERTIFICATE OF COUNTY SUPERINTENDENT OF HIGHWAYS
(If necessary)

State of Illinois) ss.
County of St. Clair)

I, _____, County Superintendent of Highways of said County, do hereby certify that the subject plat has been examined by me and found to comply with the highway requirements as set forth in the regulations governing plats of subdivided land adopted by the Village Board, with the following exceptions:

_____
County Superintendent of Highways

Dated this _____day of _____, _____.

(G)

ZONING ADMINISTRATOR CERTIFICATE

State of Illinois) ss.
County of St. Clair)

Recommended for approval this _____day of _____, _____.

_____
Village of Smithton

_____
Zoning Administrator

(H)

VILLAGE ENGINEER CERTIFICATE

State of Illinois) ss.
County of St. Clair)

I, _____, do hereby certify that the required improvements have been installed, or the required guarantee bond has been posted for the completion of all land improvements.

_____
Village Engineer

Dated at _____ this _____day of _____, _____.

(I)

VILLAGE BOARD CERTIFICATE

State of Illinois) ss.
County of St. Clair)

Approved and accepted this _____day of _____, _____.

_____
Village Board of Trustees

By: _____
Village President

ATTEST:

_____
Village Clerk

34-4-5 - 34-4-6 RESERVED.

DIVISION III - APPROVAL OF FINAL PLAT

34-4-7 REQUIREMENTS OF FINAL PLAT. In order to qualify for approval, the final plat shall be accompanied by the following:

(A) A properly executed checklist as shown in **Appendix "C"** in **Section 34-6-4**.

(B) Detailed specifications for all required land improvements other than those specifications submitted and approved with the engineering plans.

(C) A copy of the Illinois Environmental Agency's permit for the sanitary sewer installation.

(D) A copy of the Illinois Environmental Agency's approval for the water main installation.

(E) An affidavit executed by the owner and/or subdivider accepting the responsibility for the installation of the improvements as shown on the approved engineering plans and covered by the specifications and permits required above. This affidavit shall include a stipulation by the subdivider of the installation of all land improvements in the person of a licensed professional engineer.

(F) A certified estimate of cost of all required land improvements prepared by a licensed professional engineer.

(G) A description of the bond or guarantee collateral intended to be submitted as required below.

DIVISION IV - GUARANTEES

34-4-8 GUARANTEES TO VILLAGE. After the Village Board has approved the final plat with respect to the above qualifications, the subdivider shall be so notified by the Village Clerk. Final approval and signature by the Village President and the Village Engineer shall be contingent upon the receipt by the Village of guarantee by the owner and/or subdivider to the Village for the completion of all land improvements yet remaining to be installed, within **sixty (60) days** of the approval of the final plat. The guarantee shall be in one of the following described forms:

(A) Deposit with the Village a subdivider's bond in the amount of the estimated cost of the land improvements; said bond shall be in an amount **one and one-half (1 1/2) times** the estimated cost of the improvements remaining to be completed.

(B) Deposit with the Village cash in the amount of the estimated cost of the land improvements; said amount of cash shall be in an amount **one and one-half (1 1/2) times** the estimated cost of the improvements remaining to be completed. Subdivider shall execute "an undertaking in lieu of a bond" provided for in **Section 34-6-5** and an "irrevocable commitment" from a financial institution as provided for in **Section 34-6-5**.

(C) Deposit with the Village a lien to be recorded in the County Recorder's office on all property being subdivided, with the provision that partial release may be obtained when the loaning company executes with the Village an agreement to withhold **one and one-half (1 1/2) times** the estimated cost of the land improvements yet remaining to be installed, in escrow, until such time as all land improvements have been completed and accepted by the Village. All expenses incurred in determining the amounts apportioned against the land and the cost of releasing each lot or tract shall be paid by the subdivider.

(D) Deposit with the Village, other collateral equivalent to **one and one-half (1 1/2) times** the estimated cost of land improvements yet remaining to be installed, such collateral to be approved by the Village Board.

34-4-9 CONSTRUCTION TIME CONSTRAINTS. All required land improvements shall be installed and completed within a period of **two (2) years** after the recording of the final plat. Failure of the subdivider to complete all of the improvements within this **two (2) year** period shall result in forfeiture of the guarantee collateral unless an extension of time is requested by the subdivider and granted by the Village Board. In the event of failure to complete the improvements in the required period, as stated above, the Village Board may direct that no further building permits be issued for property in such subdivision pending satisfaction of the Village Board in regard to the status of the required land improvements.

34-4-10 INSPECTION. All required land improvements to be installed under the provisions of this Chapter shall be checked during the course of construction, by, or at the direction of the Village Engineer. The cost of any inspection shall be paid by the subdivider to the Village. The testing of any concrete, asphalt, soil, or other materials, and workmanship shall be done at the direction of the Village, and at the expense of the subdivider. The subdivider must notify the Village no later than **forty-eight (48) hours** prior to the start of all improvements.

34-4-11 RELEASE OF BOND. The subdivider's bond or guarantee collateral shall be released only upon fulfillment of the following conditions:

(A) The engineer for the Village certifies that all required improvements have been completed.

(B) The submission of **four (4) copies** of acceptable "as-built" drawings of all land improvements.

(C) An affidavit executed by the subdivider, that all materials, labor, and other costs of any kind or nature, which relate in any manner to construction and installation of said land improvements have been paid.

(D) The subdivider shall submit to the Village Clerk any and all certified lien waivers related to the construction and installation of all said land improvements.

(E) The subdivider shall execute an agreement drafted by the Village Attorney whereby the subdivider is obligated to hold the Village harmless and free from any obligation for the payment of and all costs related to construction and installation of all said land improvements.

(F) The subdivider shall execute a Maintenance Agreement related and pertaining to all curbs, streets and utilities (water, sewer & storm sewers) installed, constructed, and placed into service, that the length of said agreement shall be not less than **two (2) years** after completion of all improvements as determined and certified by the Village Engineer, that pursuant to the terms of said Agreement the subdivider shall guarantee the satisfactory condition of said streets and curbs for said **two (2) years**, that if at any time during said **two (2) years** said streets and curbs are found to be defective in any manner, it shall be the sole duty and responsibility of the subdivider to replace or repair said defective areas, that all costs and expenses incurred to implement, complete, or conduct all said repairs or replacement shall be paid by and be the sole responsibility of the subdivider, that the subdivider shall post the bond, irrevocable letter of credit approved by the Attorney for the Village, or cash escrow deposit in a sum equal to **ten percent (10%)** of the construction costs for said streets and curbs, the latter to be established by either certified bids, or a certified estimate by a professional engineer that has been submitted by the subdivider and approved by the engineer of the Village, that if the subdivider fails or refuses to repair or replace any defective areas or pay for all costs related thereto within **sixty (60) days** after notification and demand to do so by a duly authorized agent or representative of the Village, the Village may thereafter repair the defective areas and utilize the bond, irrevocable letter of credit, or cash escrow deposit to pay the same, that if the cost of any said repair or replacement exceeds the extent of the guarantee posted, the subdivider shall be liable for any excess. The construction bond will not be released until the Maintenance Bond is in place. **(Ord. No. 609; 02-05-02)**

(G) Final acceptance, by resolution by the Village Board of all land improvements. **(Ord. No. 588; 11-07-00)**

ARTICLE V - MISCELLANEOUS

34-5-1 VARIATIONS AND SPECIAL EXCEPTIONS. The Zoning Administrator may recommend a variance or special exception from all provisions of **Article II** of this Code, except **Section 34-2-3(B)(6)** of said **Article II**, provided, in each case that **three (3)** of the following provisions, including (A) and (B) are met.

(A) The subdivider shall apply in writing for such a variance or exception upon filing of the Preliminary Plat with the Village Clerk, and;

(B) Any variance or exception granted shall comply with the Intent and Purpose declared in **Section 34-1-3** of **Article I**, and;

(C) The subdivider shall show that because of topographical or other physical conditions peculiar to the site, the provisions of this Code would cause an unnecessary hardship if strictly adhered to, or;

(D) That in the opinion of the Zoning Administrator, the variation or exception will afford better site design and land utilization.

Variations granted shall be entered in the minutes of the Zoning Administrator stating all conditions requiring the variance and the exact terms of the variance clearly set forth; a copy shall be attached to the Preliminary Plat and forwarded to the Village Board. Any variance authorized by the Village Board shall be made by ordinance or resolution and a certified copy thereof shall be attached and made part of the Final Plat.

34-5-2 MINOR SUBDIVISIONS. Minor subdivisions may be exempted from the procedures and requirements for Preliminary Plats and the subdivider may proceed to filing of the Final Plat for review. Final Plat procedures and requirements shall be as specified in **Section 34-4-1** and **34-4-3** of **Article IV**.

34-5-3 RECORDING. The Village Clerk shall not accept a Final Plat for filing with the County Recorder of Deeds unless the following conditions are met:

(A) The Final Plat conforms to all requirements specified by the Village Board as conditions of approval.

(B) The Final Plat meets the Design Standards and engineering specifications set forth herein.

(C) The Final Plat meets all requirements of the laws of the State of Illinois.

(D) The subdivider or applicant establishes sufficient proof of his intent and ability to post a guarantee or performance bond or bonds with the Village equal to the estimated construction cost of all improvements intended to be dedicated to the Village for maintenance and operation.

(E) The subdivider has paid to the Village Clerk a Final Plat filing fee as specified in **Section 34-4-1(E)** of **Article IV**. **(Ord. No. 778; 03-16-10)**

No subdivision Plat or Re-Plat of land within the jurisdiction of the Village shall be filed for record or recorded in the Office of the Recorder of Deeds, unless and until the approval of the Village Board is endorsed thereon by the Village Clerk. (No lot shall be sold for such subdivision Plat or Re-Plat until it has been approved by the Village Board and filed for record in the Office of the Recorder of Deeds, as herein provided.)

The Village Clerk shall file the approved Final Plat and ordinance with the County Recorder of Deeds, not more than **thirty (30) days** from the date of posting of, and not prior to the posting of the performance guarantee or bond as required by **Sections 34-4-8** and **34-4-9** of **Article IV**; and not prior to payment by the subdivider to the Village Clerk of a Final Plat filing fee equal to the sum of **One Thousand Five Hundred Dollars ($1,500.00)** per acre or portion thereof; however, for any final plat in which each lot is at least **three (3) acres** in size or more, the final plat filing fee shall be **Five Hundred Dollars ($500.00)** per acre or portion of an acre; reference **Section 34-4-1(E)** of **Article IV**; **two (2) copies** of such Final Plat and ordinance shall be kept in file by the Village Clerk; **one (1)** such copy filed with the enforcement officer; and **one (1) copy** shall be returned to the subdivider.

It shall be unlawful for the County Recorder to accept for recording any plat of a subdivision within the incorporated area of the Village or unincorporated lands lying within the area of jurisdiction of the Village until the plat has been approved as required herein and such approval has been endorsed in writing on the plat.

The Village Board shall not permit any public improvements under its jurisdiction to be constructed or maintained within an area that has been subdivided after the adoption of this Code unless such subdivision has been approved in accordance with the requirements contained herein.

No building permit shall be issued by any governing official, Village or County, for the construction of any building, structure or improvement to the land or any lot within the subdivision as defined herein, until all requirements herein have been fully complied with.

34-5-4 PENALTIES. Any person, firm or corporation who constructs any public improvement or portion therein in violation of the provisions of this Code shall be, upon conviction, fined not more than **Seven Hundred Fifty Dollars ($750.00)** for each offense; and a separate offense shall be deemed committed on each day during, on or which a violation occurs or continues.

Any person who shall sell or offer for sale, lease or offer for lease, while this Code is in effect, any lot or lots or block or blocks, within the area of jurisdiction of the Village or any addition thereto, or any re-subdivision of any lot or block therein, before all of the requirements of this Code have been complied with shall be fined not more than **Seven Hundred Fifty Dollars ($750.00)** for each lot, block or part thereof so disposed of, offered for sale, or lease.

34-5-5 VALIDITY. If any section, subsection, clause or phrase of this Code is for any reason held to be unconstitutional or void, such decision shall not affect the validity of the remaining portion of the Code.

34-5-6 REPEAL OF CONFLICTING REGULATIONS. All regulations in conflict with this Code are hereby repealed; the terms and conditions under which preliminary plats approved prior to the adoption of this Code shall be binding and in effect except that the rights and privileges conferred upon the subdivider in **Section 34-2-3** of **Article II** herein shall be applicable.

ARTICLE VI - SCHEDULES AND BONDS

34-6-1 SCHEDULE "A" - CHECKLIST FOR PRELIMINARY PLAT.

_____(Name of Subdivision)
_____(Date of Submission)
_____(Due Date of Recommendation--60 Days)

[NOTE: To properly execute this checklist, the subdivider or his engineer shall:

(A) Insert the required information.
(B) Denote compliance with applicable ordinances by placing his initials in all spaces where applicable.
(C) Denote those items which the subdivider considers **"not applicable"** to this particular subdivision by the abbreviation **"N.A."]**

_____1. Ten (10) copies of preliminary plat submitted.
_____2. Plans are on 24 by 36 sheets**.**
_____3. Plan scale is not less than 1 inch to 100 feet.
_____4. Name of proposed subdivision shown.
_____5. Location given by town, range, section or other legal description.
_____6. Name and address of owner, trust, corporation, or subdivider having control of project is shown.
_____7. Name and seal of licensed professional engineer or surveyor who prepared topographic survey is shown.
_____8. Name and address of the designer of the plan is shown.
_____9. North direction is shown.
_____10. Date of preparation and date of revision, if any, is shown.
_____11. A location map is included indicating:
- _____a. A scale of not less than 1 inch to 100 feet.
- _____b. Boundary lines of adjoining land within an area bounded by the nearest arterial streets or other natural boundaries.
- _____c. Use of surrounding land.
- _____d. Ownership of the surrounding land.
- _____e. Alignment of existing streets
- _____f. Section and corporate lines.

_____12. Boundary lines of proposed subdivision is clearly shown.
_____13. Total approximate acreage is shown.
_____14. Existing zoning classification is indicated.
_____15. The following existing items, if within the boundaries of the subdivision, or located 100 feet or less outside the boundaries are shown:
- _____a. Previously platted streets and other right-of-way, with improvements, if any, indicating:
  - _____1. location
  - _____2. widths
  - _____3. names
- _____b. Railroad rights-of-way, indicating:
  - _____1. location
  - _____2. dimensions
- _____c. Utility rights-of-way, indicating:
  - _____1. location
  - _____2. widths
  - _____3. type

_____15. (Continued)

_____c. (Continued)

_____a. sewer
_____b. water
_____c. electric
_____d. other

_____d. Parks and other open spaces, indicating:
_____1. location
_____2. area

_____e. Easements, indicating:
_____1. location
_____2. width
_____3. purpose

_____f. Permanent buildings and structures, indicating:
_____1. location
_____2. setback lines
_____3. names of owners

_____g. Section and corporate lines

_____h. Sanitary sewers, indicating:
_____1. location
_____2. size
_____3. manholes
_____4. invert elevations at manholes

_____i. Water Mains, indicating:
_____1. location
_____2. size
_____3. valves, indicating
_____a. valve manhole, or
_____b. valve box
_____4. fire hydrants and auxiliary valves

_____j. Culverts, indicating
_____1. type
_____2. location
_____3. size
_____4. invert elevation

_____k. Storm sewers, indicating:
_____1. location
_____2. size
_____3. catch basins
_____4. invert elevations

_____l. Watercourses, indicating:
_____1. type
_____2. width of easement
_____3. location of easement

_____m. Marshes, indicating:
_____1. location
_____2. dimensions

_____n. Rock outcrops, indicating:
_____1. location
_____2. dimensions

_____o. Monuments and survey markers, indicating:
_____1. location
_____2. type

_____16. Topographic data is given in feet above mean sea level within the tract and to a distance of 100 feet beyond, indicating:

_____a. Existing contours at vertical intervals of not more than 2 feet.

_____c. Bench marks, indicating:

_____1. location

_____2. description

_____3. elevation

_____17. The following proposed items, if within the boundaries of the subdivision or located 100 feet or less outside of the boundaries, are shown:

_____a. Layout of streets, indicating:

_____1. Arterial streets, indicating:

_____a. 80 feet right-of-way width

_____b. 54 feet roadway width, back to back of curbs

_____2. Collector streets, indicating:

_____a. 60 feet right-of-way width

_____b. 40 feet roadway width back-to-back of curbs

_____3. Local streets, indicating:

_____a. 50 feet right-of-way width

_____b. 36 feet roadway width back-to-back of curbs

_____4. Cul-de-sac streets, indicating:

_____a. 50 feet right-of-way width.

_____b. 30 feet roadway width, back to back of curbs

_____c. The length does not exceed 500 feet unless there are less than 16 lots abutting the cul-de-sac street.

_____d. Terminus is circular or nearly so, and right-of-way is at least 100 feet in diameter.

_____e. Terminus roadway width is 80 feet in diameter.

_____5. Marginal access street, indicating:

_____a. 50 feet right-of-way width

_____b. 30 feet roadway width back to back of curbs

_____6. Through street shown extended to boundaries of subdivision.

_____7. Storm water runoff pattern on paving.

_____a. Names of streets:

___i. Not duplicating the name of any street heretofore used in the Village or its environs, unless the street is an extension of an already existing street, in which case, the name shall be used.

_____b. Street improvement plan showing location of all new street improvements, including those to the center line of previously dedicated rights-of-way, abutting the subdivision, in accordance with present Village standards.

_____17. (Continued)

_____c. Utility easements:
___1. Located at the rear of each lot and other necessary locations.
___2. Not less than 10 feet in width on each lot.
___3. Purpose is indicated.
___4. Storm water runoff is indicated.

_____d. Pedestrian ways, when required, indicating:
___1. Located at approximately the center of the blocks in excess of 900 feet in length.
___2. Width not less than 12 feet.
___3. Shrub or tree hedge at side boundary lines.

_____e. Block layout, indicating:
___1. Blocks do not exceed 1,200 feet in length.
___2. Additional access ways to parks, schools, etc., are shown in accordance with the Zoning Administrator's requirements.
___3. Blocks fit readily into the overall plan of the subdivision, with due consideration given to:
___a) topographical conditions
___b) lot planning
___c) traffic flow pattern
___d) public open space areas
___4. Block numbers
___5. Blocks intended for commercial, industrial or institutional use are so designated.

_____f. Lot layout, indicating:
___1. Lot dimensions.
___2. Lot areas, not less than those stipulated in the appropriated District regulations of the Zoning Code (areas may be listed by Schedule).
___3. Building setback lines shown and properly dimensioned.
___4. Proposed land use.
___5. Lot numbers.
___6. Corner lots are sufficiently larger than interior lots to allow maintenance of building setback lines on both street frontages and still allow a buildable width equal to that of the smallest interior lot in the block. (minimum width 90 feet)

_____17. (Continued)

___7. All lots abut a publicly dedicated street for a distance of not less than the minimum width of the lot.
___8. Lots are as nearly rectangular in shape as is practicable.
___9. Lots are not less than the provision of the Zoning Code.
___10. Lot lines are substantially at right angles to the street lines and radial to curved street lines.
___11. Double frontage lots only where:
- ___a) lots back upon an arterial street and front on an access street.
- ___b) topographic or other conditions make subdividing otherwise unreasonable.
- ___c) lots can be made an additional 20 feet deeper than average.
- ___d) a protective screen planting is indicated on one frontage.

___12. Lots abutting or traversed by a watercourse, drainageway, channel way, channel, or stream, indicate:
- ___a) additional width and depth to provide an acceptable building site.
- ___b) width of easement is at least 15 feet wider on each side of water at high water level.

___13. Due regard for natural features, such as:
- ___a) trees.
- ___b) watercourses.
- ___c) historic items.
- ___d) other similar conditions.

_____g. Areas intended to be dedicated for public use, indicating:
___1. Plan conforms to general development plan of the Village.
___2. Purpose.
___3. Acreage.

_____h. Source of domestic water supply, indicating:
___1. Connection to existing water mains.

_____17. (Continued)

___2. Location of site for community water plant.

_____i. Provision for sewage disposal, indicating:

___1. Connection to existing sanitary sewer mains.

___2. Location of site for community sewage disposal plant.

_____j. School sites, indicating:

___1. Location.

___2. Dimensions.

___3. Acreage.

_____k. Topographic information, indicating:

___1. Proposed changes in elevation of land showing that any flooding would be relieved.

___2. Adequate installation of storm sewers would remove the possibility of flooding.

_____l. Sanitary Sewer layout, indicating:

___1. Location.

___2. Size.

___3. Manhole locations.

_____m. Water Main layout, indicating:

___1. Location.

___2. Size.

___3. Looped pattern where practicable.

___4. Fire hydrants, spaced apart not more than 400 feet.

_____n. Storm sewer layout, indicating:

___1. Location.

___2. Catch basins at not more than 400 foot intervals.

___3. Storm water is not carried across or around any intersection.

___4. Surface water drainage pattern for individual lot and block.

_____o. Street light layout, indicating:

___1. Locations and typical street light detail, or

___2. Statement by subdivider that street lights will be installed in accordance with Village standards.

_____18. An outline of proposed covenants accompanies the plans, indicating the intention of the subdivider to have the covenants recorded with the final plat.

a. Protective against obstruction against drainage easements.

_____19. Typical street cross-section showing base construction, surfacing, concrete curb and sidewalk in accordance with the land improvements code.

_____20. Indication that sidewalks will be installed along all lot lines coincidental with street rights-of-way.

_____21. Indication on drawing or by certificate that subdivider is aware of his responsibility for installation of street signs and for seeding and tree planting in all parkways.

COMPLETED BY: _____(Name)
_____(Address)
_____(Date)

REVIEWED BY: _____(Village Engineer)
_____(Date)

CONSIDERED BY ZONING ADMINISTRATOR ON: _____(Date)
_____(Chairman)

34-6-2 SCHEDULE "B" - CHECKLIST FOR ENGINEERING PLANS.

_____(Name of Subdivision)
_____(Date of Submission)
_____(Due Date of Recommendation--45 Days)

[NOTE: To properly execute this checklist, the subdivider or his engineer shall:

(A) Insert the required information.
(B) Denote compliance with applicable ordinance by placing his initials in all spaces where applicable.
(C) Denote those items which the subdivider considers **"not applicable"** to this particular subdivision by the abbreviation **"N.A."]**

_____1. Plans have been submitted within 12 months of the date of approval by the Village Board of the Preliminary Plan.
_____2. Four (4) copies of engineering plans have been submitted.
_____3. Plans are on 24 by 6 inch sheets.
_____4. A title sheet is included with each set of plans, and includes:
  _____a. Name of subdivision and unit number.
  _____b. Type of work covered.
  _____c. Location map showing relation of area to be improved to existing streets.
  _____d. An index of sheets.
  _____e. A summary of quantities.
  _____f. Name, address, and seal of registered licensed professional preparing the plans.
  _____g. Date of preparation and revisions, if any, is shown.
_____5. Plan and profiles:
  _____a. Horizontal scale is not less than 1 inch to 50 feet.
  _____b. Vertical scale is no less than 1 inch to 5 feet.
_____6. North direction is shown for each separate plan view.
_____7. An adequate number of bench marks are shown with elevations referenced to mean sea level, to facilitate checking of elevations.
_____8. Delineation is shown of all easements necessary to serve all lots with underground and overhead utilities, and to allow for perpetual maintenance to these facilities.
_____9. An application for State Environmental Protection Agency permit for the sanitary sewer extension accompanies the plans.
_____10. Sanitary sewer plans and specifications are complete and conform to the standards and requirements of the Codes applicable thereto and denote all of the following:
  _____a. All properties in the subdivision are served and house service connections are provided.
  _____b. The minimum size main is 8 inches in diameter.

_____10. (Continued)

_____c. The plan conforms to the overall Village plan for any trunk sewers traversing the subdivision.

_____d. The distance between manholes does not exceed 400 feet.

_____e. The invert elevation of each manhole is shown.

_____f. The grade of each section of sewer is shown by percentage in accordance with accepted engineering practice.

_____g. Extra strength pipe and extra strength manhole wall construction is specified and shown on the plans and in the estimates of quantities where the depth of installation exceeds 12 feet.

_____h. Profile of existing and proposed ground surfaces.

_____i. Risers are shown for individual house service laterals where depths of main exceeds 12 feet.

_____j. Pipe joints are of permitted type.

_____k. Minimum manhole cover weights are correct

_____1. 540 pounds in collector streets.

_____2. 400 pounds in minor and cul-de-sac streets.

_____3. 335 pounds in rear-lot easements.

_____11. An application for State Environmental Protection Agency approval of the water main installation accompanies the plans.

_____12. Water distribution plans and specifications are complete and conform to the codes applicable thereto and include all of the following:

_____a. All properties in the subdivision are served.

_____b. The minimum size main is 8 inches I.D.

_____c. The plan conforms to the Village's overall plan for any trunk lines which traverse the subdivision.

_____d. Valve and hydrant spacing and location conform to the approved preliminary plan.

_____e. Materials and joint specifications comply with the Village's standards.

_____f. Specifications include provisions for testing and sterilization of all new water distribution facilities.

_____13. Street plans, including storm sewers, are complete and conform to the codes applicable thereto and include all of the following:

_____a. The location of streets and width of pavements conform to those indicated on the approved preliminary plan.

_____b. Plan shows curb, gutter and sidewalk locations, and include the following information:

_____1. Corner curb radius is not less than 15 feet.

_____2. Curve data for all horizontal curves.

_____3. Direction of flow along all curbs.

_____4. No surface water is carried across or around any street intersection, nor for a distance greater than 400 feet.

_____c. Profiles are submitted for all paving centerlines and storm sewers and indicate:

_____1. Catch basin invert elevations.

_____2. Minimum pipe size is 12 inches I.D.

_____3. The grade of each section of sewer is shown by percentage in accordance with accepted engineering practice.

_____4. Storm sewer elevations do not conflict with any other underground utilities.

_____5. Storm sewer is connected with an adequate outfall.

_____6. Curve data is given for vertical road curves.

_____13. (Continued)

_____d. The storm sewer system is designed to provide sufficient capacity for the drainage of upland areas contributing to the storm water runoff on the street.

_____1. Storm sewer design computations are submitted with plans.

_____e. A surface water drainage pattern is shown for each block.

_____f. Material specifications comply with Village standards and include:

_____1. paving base materials
_____2. paving surface materials
_____3. pipe materials

_____g. Typical details include the following:

_____1. Collector street
_____2. Minor or cul-de-sac street
_____3. Concrete curb and gutter
_____4. Concrete sidewalk
_____5. Standard manhole
_____6. Standard cover
_____7. Catch basin

_____14. Street light plans are complete and include the following:

_____a. Pole locations
_____b. Spacing

_____15. Parkway improvement specifications are complete and include provisions for:

_____a. Removal of stumps, trees that cannot be saved, boulders and all other similar items.
_____b. Grading, installation of topsoil and seeding or sodding.

COMPLETED BY: _____(Name)
_____(Address)
_____(Date)

REVIEWED BY:_____(Village Engineer)
_____(Date)

CONSIDERED BY ZONING ADMINISTRATOR ON: _____(Date)
_____(Chairman)

34-6-3 SCHEDULE "C" - CHECKLIST FOR FINAL PLAT.

_____(Name of Subdivision)
_____(Date of Submission)
_____(Due Date of Recommendations -- 30 days)

[NOTE: To properly execute this checklist, the subdivider or his engineer shall:

(A) Insert the required information.
(B) Denote compliance with applicable ordinances by placing his initials in all spaces where applicable.
(C) Denote those items which the subdivider considers **"not applicable"** to this particular subdivision by the abbreviation **"N.A.".]**

_____1. Plat has been submitted within 6 months after the approval of the engineering plan.
_____2. Plat has been submitted within 3 years after the approval of the Preliminary Plan [unless an extension of time has been requested of and granted by the Village Board].
_____3. One (1) original drawing of the final plat has been submitted.

_____4. One (1) transparency print of the final plat has been submitted.
_____5. Four (4) copies of the final plat have been submitted.
_____6. Plat is drawn with waterproof ink on mylar or equal.
_____7. North direction is shown.
_____8. Scale is shown [minimum 1 inch equals 100 feet].
_____9. Section corners and section lines are accurately tied into subdivision by distances and angles.
_____10. Official survey monuments are shown as required.
_____11. All necessary easements are shown and dimensioned.
_____12. Building setback lines are shown and dimensioned in accordance with the Zoning Code.
_____13. Lot areas are in accordance with the applicable zoning regulations.
_____14. Street names are shown.
_____15. Areas to be dedicated or reserved for public use are shown and described and the purpose is designated.
_____16. Protective covenants are lettered on the plat or are appropriately referenced.
_____17. Required certificates are shown and signed:
- _____a. Surveyor's Certificate [including legal description].
- _____b. Owner's Certificate.
- _____c. Notary Certificate.
- _____d. County Clerk Certificate.
- _____e. Certificate as to special assessments.
- _____f. Certificate of County Superintendent of Highways.
- _____g. Certificate of Illinois Department of Transportation.

_____18. Other required certificates are shown:
- _____a. Zoning Administrator Certificate.
- _____b. Village Engineer Certificate.
- _____c. Village Board Certificate.

_____19. The following items have been submitted with the final plat:
- _____a. Detailed specifications for all required land improvements not previously submitted and approved with the engineering plans.
- _____b. A copy of the **Illinois Environmental Protection Agency Permits** for the sanitary sewer installation.
- _____c. A copy of the **Illinois Environmental Protection Agency Permit** for the water main installation.
- _____d. An affidavit by the subdivider acknowledging responsibility for the proper installation of all required land improvements.
- _____e. A certified estimate of cost of all required land improvements prepared by a registered engineer.
- _____f. A description of the bond or guarantee collateral intended to be submitted after contingent approval is granted by the Village Board.

COMPLETED BY: _____(Name)
_____(Address)
_____(Date)

REVIEWED BY:_____(Village Engineer)
_____(Date)

CONSIDERED BY ZONING ADMINISTRATOR ON: _____(Date)
_____(Chairman)

34-6-4 SURETY BOND FOR IMPROVEMENTS.

"KNOW ALL MEN BY THESE PRESENTS THAT WE, _____ _____, (name of individual, corporation, etc.), as principal, and the _____ _____ (name of bonding company), a corporation authorized to do business in the State of _____ as surety, are held and firmly bound unto the **Village of** _____ _____, in the penal sum of _____ Dollars, lawful money of the United States for the payment of which we and each of us bind ourselves, our heirs, executors, administrators, successors and assigns jointly by these presents:

'The condition of this obligation is such that whereas, the said _____ _____ (name of individual, corporation, or principal) has agreed to construct and/or install at its expense the following improvements:

Street base and paving
Concrete curb and gutters
Water mains, appurtenances, and house services
Storm sewers, appurtenances, and house services
Sanitary sewers, appurtenances and house services
Concrete sidewalks)
Street lights)
Site improvements)

all in accordance with the specifications and Codes of the Village, and contained in plans and specifications prepared by _____ (named engineer), and approved by the Village Board at the following location:

_____

(DESCRIPTION OF PROPERTY)

'And has agreed to maintain such improvements constructed under this bond for a period of **two (2) years** from the date of acceptance of the same by the Village.

'NOW, THEREFORE, if the said principal shall well and truly perform in all respects in strict accordance with the requirements, and shall save the Village harmless from all loss, cost or damage, by reason of their failure to complete said work, or maintain said improvements, relating to the above described work, then this obligation to be void, otherwise to remain in full force and effect."

34-6-5 CASH BOND. The Zoning Administrator may permit a developer to file in lieu of the surety bond called for in **Section 34-3-20,** a cash bond guaranteeing that the improvements will be completed as follows:

(A) **Undertaking in Lieu of Completion Bond.**

WHEREAS, the statutes of the State of Illinois grant to a municipal corporation the right to require that a developer constructing certain improvements within that community guarantee the construction of such improvements by a completion bond or other security acceptable to the community; and **WHEREAS, _____** desires to construct a residential development within the _____ of _____, and that said municipality is willing to accept an undertaking from a financial institution in the nature of an irrevocable commitment in lieu of such completion bond.

NOW, THEREFORE, are the following representations made by the owner and/or developer to the _____ of _____, as follows:

1. **THAT** _____ is the owner and/or developer of the property legally described in Clause 2 of this undertaking, and shall hereinafter be referred to as **"OWNER";** and, **THAT** the _____ of _____ shall hereinafter be referred to as **"MUNICIPALITY".**

2. **THAT THE OWNER** is the legal title holder of the following described property:

_____

[LEGAL DESCRIPTION]

3. **THAT THE OWNER** shall be required to install and guarantee the installation of streets, sidewalks, street lights, sanitary sewers, storm sewers, water lines, recreational facilities (including structures), and common landscaping. In order to guarantee that such facilities shall be installed, the **OWNER** shall submit to the municipal engineer such specifications and estimated engineering costs as shall be required to meet with his approval. In aiding the municipal engineer in determining the amount of reasonably anticipated costs for the construction of such improvements, the **OWNER** may submit to the engineer signed contracts for the construction of such improvements. The municipal engineer, upon being satisfied that the design of the required improvements are in accordance with the ordinances of the **MUNICIPALITY** and in accordance with good engineering practices, shall estimate and certify an amount which shall represent **one hundred ten percent (110%)** of the reasonably estimated cost of completing the required improvements for which the **MUNICIPALITY** is requiring a completion guarantee.

4. **[THAT** except for the issuance of building permits for a reasonable number of models], the **OWNER** shall not be entitled to the issuance of [further] building permits until and unless said **OWNER** shall submit to the **MUNICIPALITY** an irrevocable financial commitment from a bank, savings and loan, or mortgage company approved by the **MUNICIPALITY** in the amount certified by the Municipal Engineer.

5. **THAT** the written irrevocable financial commitment shall be furnished by the **MUNICIPALITY** from a banking or lending institution in the form marked **Appendix "A"** and appended to this agreement.

6. **THAT THE OWNER** guarantees the workmanship of the public improvements to be installed upon the site for a period of **one (1) year** after their donation to the **MUNICIPALITY.** Upon final completion of the streets, sidewalks, street lights, sanitary sewers, storm sewers, and water mains, the **OWNER** shall execute a Bill of Sale for those items which are personal property. For a period of **one (1) year** after the granting of the Bill of Sale in the case of personal property, and the acceptance for maintenance in the case of streets and sidewalks, all necessary repairs to such facilities shall be the responsibility of the **OWNER.**

IN WITNESS WHEREOF _____ has hereunto set his hand and seal this _____ day of _____, _____.

_____
(OWNER)

APPROVED by the _____ of _____ this _____ day of _____, _____.

BY: _____
(MUNICIPALITY)

(B) **[Letterhead of Bank, Savings and Loan or Mortgage House]**

_____, _____

GENTLEMEN:

We hereby establish our irrevocable credit in favor of _____ [developer] _____, or the municipality of _____ in the amount of _____ Dollars (_____). We understand that this irrevocable credit is to be used to construct the following improvements in the residential development known as _____ to be constructed within the _____, Illinois:

streets; sidewalks; street lights; the portion of sanitary sewers, storm sewers, and water mains to become municipality-owned; recreational facilities (including a recreational building and a swimming pool and appurtenances thereof); and landscaping in common areas.

The development is legally described as follows:

_____

_____

[Legal Description]

We shall make payouts from this irrevocable commitment as follows:

If we have not been notified by the municipality of a default by the owner and/or developer, we shall disburse the funds for labor and materials furnished by contractors in accordance with the sworn statement on order of the owner, the submission of proper lien waivers from the contractors engaged in such work, and the certificate by the Municipal Engineer, _____ [his name] _____, that such work has been properly completed, however, that we shall withhold from each payment made under such sworn statement(s) or order(s) an amount equal to **ten percent (10%)** thereof until all improvements have been completed except final surfacing of the streets and sidewalks, at which time the **ten percent (10%)** sum withheld shall be disbursed less a sum equal to **one hundred twenty-five percent (125%)** of the cost of the final surfacing of the streets, which sum shall be finally disbursed when the work has been completed and the requirements of certification and lien waivers as has been hereinabove set out.

The required improvements shall be completed in accordance with the following schedule: **[Insert Schedule]**

If we receive a resolution of the corporate authorities of the municipality indicating that the owner and/or developer has failed to satisfactorily complete or carry on the work of the installation and construction of the required improvements, and such resolution indicates that the owner and/or developer has been notified that the municipality finds that a breach of the owner's and/or developer's obligations has occurred and have not been cured within a period of **thirty (30) days**, that in such case, we shall make payments for materials and labor to such contractor(s) or subcontractor(s) retained by the municipality who have completed the improvements in substantial accordance with the plans and specifications of the owner and/or developer; such payments shall be made upon the certification of the municipal engineer that the work has been completed and the submission of proper waiver of liens from the contractor(s) or subcontractor(s). The amount of the payouts shall be in accordance with the retention provisions as previously set out.

The irrevocable credit established by us shall be in force for a period of _____ years, and shall remain in effect without regard to any default in payments of sums owed by us by the owner and/or developer and without regard to other claims which we may have against the owner and/or developer. **Sixty (60) days** prior to the expiration of this irrevocable credit, we shall notify the corporate authorities

of the municipality, by registered letter, return receipt requested, of the impending expiration date. This commitment shall not terminate without such notice. If the work covered by this commitment has not been completed within the time set forth in this agreement, the municipality may, at its option, continue drawing funds as otherwise provided for an additional period of **one (1) year**. It is recognized that the municipality is according to the owner and/or developer the permission to proceed with the development project expressly upon the guarantee of the irrevocable nature of this commitment. It is further acknowledged that the consideration for this irrevocable commitment is provided by agreements between this financial institution and the developer. The sum of this credit shall, however, be reduced in the amount of disbursements made from time to time in accordance with the terms under which this credit is extended as set out above.

CHAPTER 36 - TAXATION

ARTICLE		*TITLE*	*PAGE*
I	*GENERALLY*		
	Section 36-1-1 -	*Corporate Rate*	*36-1*
	Section 36-1-2 -	*Police Tax*	*36-1*
	Section 36-1-3 -	*Audit Tax*	*36-1*
	Section 36-1-4 -	*F.I.C.A. Tax*	*36-1*
	Section 36-1-5 -	*I.M.R.F.*	*36-1*
	Section 36-1-6 -	*General Liability*	*36-1*
	Section 36-1-7 -	*Workmen's Compensation*	*36-1*
	Section 36-1-8 -	*Public Parks Tax*	*36-1*
	Section 36-1-9 -	*Street and Bridge*	*36-1*
II	*SIMPLIFIED TELECOMMUNICATIONS TAX*		
	Section 36-2-1 -	*Tax Imposed*	*36-2*
	Section 36-2-2 -	*Collection of Tax*	*36-2*
	Section 36-2-3 -	*Definitions*	*36-2*
	Section 36-2-4 -	*Resale of Telecommunications*	*36-4*
	Section 36-2-5 -	*Tax Return*	*36-4*
	Section 36-2-6 -	*Overpayment of Tax*	*36-5*
	Section 36-2-7 -	*Limitation on Actions to Recover Tax Due*	*36-5*
	Section 36-2-8 -	*Effective Date*	*36-5*
III	*MUNICIPAL GAS TAX*		
	Section 36-3-1 -	*Tax Imposed*	*36-6*
	Section 36-3-2 -	*Definitions*	*36-6*
	Section 36-3-3 -	*Businesses Excluded From Tax*	*36-6*
	Section 36-3-4 -	*To Be in Addition to Street Use Tax*	*36-6*
	Section 36-3-5 -	*Tax Return*	*36-6*
	Section 36-3-6 -	*Overpayment of Tax*	*36-7*
	Section 36-3-7 -	*Limitation on Actions to Recover Tax Due*	*36-7*
IV	*ELECTRIC UTILITY TAX*		
	Section 36-4-1 -	*Tax Imposed*	*36-8*
	Section 36-4-2 -	*Exceptions*	*36-8*
	Section 36-4-3 -	*Additional Taxes*	*36-8*
	Section 36-4-4 -	*Collection*	*36-8*
	Section 36-4-5 -	*Reports to Village*	*36-9*
	Section 36-4-6 -	*Credit for Over-Payment*	*36-9*
	Section 36-4-7 -	*Penalty*	*36-9*
V	*TAXPAYERS' RIGHTS CODE*		
	Section 36-5-1 -	*Title*	*36-10*
	Section 36-5-2 -	*Scope*	*36-10*
	Section 36-5-3 -	*Definitions*	*36-10*
	Section 36-5-4 -	*Notices*	*36-10*

ARTICLE	*TITLE*	*PAGE*
V	*TAXPAYERS' RIGHTS CODE (CONTINUED)*	
	Section 36-5-5 - Late Payment	*36-10*
	Section 36-5-6 - Payment	*36-11*
	Section 36-5-7 - Certain Credits and Refunds	*36-11*
	Section 36-5-8 - Audit Procedure	*36-11*
	Section 36-5-9 - Appeal	*36-12*
	Section 36-5-10 - Hearing	*36-13*
	Section 36-5-11 - Interest and Penalties	*36-13*
	Section 36-5-12 - Abatement	*36-13*
	Section 36-5-13 - Installment Contracts	*36-13*
	Section 36-5-14 - Statute of Limitations	*36-13*
	Section 36-5-15 - Voluntary Disclosure	*36-14*
	Section 36-5-16 - Publication of Tax Ordinances	*36-14*
	Section 36-5-17 - Liens	*36-14*
	Section 36-5-18 - Application	*36-14*

CHAPTER 36

TAXATION

ARTICLE I – GENERALLY

36-1-1 CORPORATE RATE. The maximum rate for general corporate purposes of the Village be and the same is hereby established at a rate of **.25%. (65 ILCS 5/8-3-1)**

36-1-2 POLICE TAX. The maximum rate for police protection purposes of the Village be and the same is hereby established at a rate of **.075%. (65 ILCS 5/11-1-3)**

36-1-3 AUDIT TAX. The Village Board may levy a "Municipal Auditing Tax" upon all taxable property in the Village which will produce an amount which will equal the cost of all auditing for the Village. **(65 ILCS 5/8-8-8)**

36-1-4 F.I.C.A. TAX. The Village Board may levy a tax upon all taxable property in the Village at whatever rate is necessary to participate in the federal Social Security System. **(40 ILCS 5/21-101 et seq.)**

36-1-5 I.M.R.F. The Village Board may levy a tax upon all taxable property in the Village at whatever rate is necessary to participate in the Illinois Municipal Retirement Fund. **(40 ILCS 5/7-132 et seq.)**

36-1-6 GENERAL LIABILITY. The Village Board may levy a tax upon all taxable property in the Village at whatever rate is necessary to purchase general liability insurance for the Village.

36-1-7 WORKMEN'S COMPENSATION. The maximum tax for Worker's Compensation and Occupational Diseases Claims purposes, be and the same is hereby established at a rate to pay for legal services, purchase insurance, purchase claim services, pay for judgments and settlements. **(745 ILCS 10/9-107)**

36-1-8 PUBLIC PARKS TAX. The maximum tax for Public Park purposes, be and the same is hereby established at a rate of **.075%**. **(65 ILCS 5/11-98-1)**

36-1-9 STREET AND BRIDGE. The maximum tax for Street and Bridge purposes, be and the same is hereby established at a rate of **.06%**. **(65 ILCS 5/11-81-1 and 5/11-81-2)**

ARTICLE II - SIMPLIFIED TELECOMMUNICATIONS TAX

36-2-1 TAX IMPOSED. A tax is imposed on the following acts or privileges:

(A) The act or privilege of originating in the Village or receiving in the Village intrastate telecommunications by a person at a rate of **six percent (6%)** of the gross charge for such telecommunications purchased at retail from a retailer by such person. However, such tax is not imposed on such act or privilege to the extent such act or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by municipalities in this State.

(B) The act or privilege of originating in the Village or receiving in the Village interstate telecommunications by a person at a rate of **six percent (6%)** of the gross charge for such telecommunications purchased at retail from a retailer by such person. To prevent actual multi-state taxation of the act or privilege that is subject to taxation under this Article, any taxpayer, upon proof that the taxpayer has paid a tax in another state on such event, shall be allowed a credit against any tax enacted pursuant to this Article to the extent of the amount of such tax properly due and paid in such other state which was not previously allowed as a credit against any other State or local tax in this State. However, such tax is not imposed on the act or privilege to the extent such act or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by municipalities in this State.

36-2-2 COLLECTION OF TAX.

(A) The tax authorized by this Article shall be collected from the taxpayer by a retailer maintaining a place of business in this State and making or effectuating the sale at retail and shall be remitted by such retailer to the Village. Any tax required to be collected pursuant to this Article and any such tax collected by such retailer shall constitute a debt owed by the retailer to the Village. Retailers shall collect the tax from the taxpayer by adding the tax to the gross charge for the act or privilege of originating or receiving telecommunications when sold for use. The tax authorized by this Article shall constitute a debt of the purchaser to the retailer who provides such taxable services until paid and, if unpaid, is recoverable at law in the same manner as the original charge for such taxable services.

(B) Whenever possible, the tax authorized by this Article shall, when collected, be stated as a distinct item separate and apart from the gross charge for telecommunications.

(C) The tax authorized by this Article may be collected from the taxpayer by a retailer not maintaining a place of business within this State upon application by such retailer, who to the satisfaction of the Village, furnishes adequate security to insure collection and payment of the tax. Such retailer shall be issued, without charge, a permit to collect such tax. When so authorized, it shall be the duty of such retailer to collect the tax upon all of the gross charges for telecommunications in such municipality in the same manner and subject to the same requirements as a retailer maintaining a place of business within such municipality.

36-2-3 DEFINITIONS. For the purpose of the taxes imposed by this Article, the following definitions shall apply:

"Amount Paid": The amount charged to the taxpayer's service address in the Village regardless of where such amount is billed or paid.

"Gross Charge": The amount paid for the act or privilege of originating or receiving telecommunications in the Village and for all services rendered in connection therewith, valued in money whether paid in money or otherwise, including cash, credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of the materials used, labor or service costs or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. However, "gross charge" shall not include:

(A) Any amounts added to a purchaser's bill because of a charge made pursuant to:
(1) the tax imposed by this Article,
(2) additional charges added to a purchaser's bill pursuant to Section 9-222 of the Public Utilities Act, 220 ILCS 5/9-222,
(3) the tax imposed by the Telecommunications Excise Tax Act, 35 ILCS 630/1 et seq., or
(4) the tax imposed by Section 4251 of the Internal Revenue Code, 26 U.S.C. 4251;

(B) Charges for a sent collect telecommunication received outside of the Village;

(C) Charges for leased time on equipment or charges for the storage of data or information or subsequent retrieval or the processing of data or information intended to change its form or content. Such equipment includes, but is not limited to, the use of calculators, computers, data processing equipment, tabulating equipment or accounting equipment and also includes the usage of computers under a timesharing agreement;

(D) Charges for customer equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are disaggregated and separately identified from other charges;

(E) Charges to business enterprises certified under Section 9-222.1 of the Public Utilities Act, 220 ILCS 5/9-222.1, to the extent of such exemption and during the period of time specified by the Department of Commerce and Community Affairs;

(F) Charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries when the tax imposed under this Article has already been paid to a retailer and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit for the corporation rendering such service;

(G) Bad debts means any portion of a debt that is related to a sale at retail for which gross charges are not otherwise deductible or excludable that has become worthless or uncollectible, as determined under applicable Federal Income Tax standards; if the portion of the debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion during the reporting period in which the payment is made;

(H) Charges paid by inserting coins in coin-operated telecommunication devices; or

(I) That amount paid for the act or privilege of originating or receiving telecommunications in the Village and all services rendered in connection therewith by any school district or units of local government.

"Interstate Telecommunications": All telecommunications that either originate or terminate outside this State.

"Intrastate Telecommunications": All telecommunications that originate and terminate within this State.

"Persons": Any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation or a receiver, trustee, guardian or other representative appointed by order of any court, the Federal and State governments, including State universities created by statute, or any city, town, county or other political subdivision of this State.

"Purchase at Retail": The acquisition, consumption or use of telecommunications through a sale at retail.

"Retailer": Every person engaged in the business of making sales at retail as defined in this Article.

"Retailer Maintaining a Place of Business in this State (or any like term)": Any retailer having or maintaining within this State, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State.

"Sale at Retail": The transmitting, supplying or furnishing of telecommunications and all services rendered in connection therewith for a consideration, to persons other than the Federal and State governments, and State universities created by statute and other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the tax has already been paid to a retailer and the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for resale.

"Service Address": The location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received by a taxpayer. If this is not a defined location, as in the case of mobile phones, paging systems, maritime systems, air-to-ground systems and the like, "service address" shall mean the location of a taxpayer's primary use of the telecommunication equipment as defined by telephone number, authorization code or location in Illinois where bills are sent.

"Taxpayer": A person who individually or through his agents, employees, or permittees engages in the act or privilege of originating in the Village or receiving in the Village telecommunications and who incurs a tax liability under this Article.

"Telecommunications": In addition to the usual and popular meaning, includes, but is not limited to, messages or information transmitted through use of local, toll and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange services, cellular mobile telecommunications service, specialized mobile radio services, paging service, or any other form of mobile and portable one-way or two-way communications, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities. The definition of "telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code and protocol of the information for purposes other than transmission. "Telecommunications" shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by him to the ultimate retail consumer who originates or terminates the taxable end-to-end communications. Carrier access charges, right of access charges, charges for use of inter-company facilities, and all telecommunications resold in the subsequent provision used as a component of, or integrated into, end-to-end telecommunications service shall be nontaxable as sales for resale.

36-2-4 RESALE OF TELECOMMUNICATIONS.

(A) If a person, who originates or receives telecommunications in the Village claims to be a reseller of such telecommunications, such person shall apply to the Village for a resale number. Such applicant shall state facts which will show the Village why such applicant is not liable for tax under this Article on any of such purchases and shall furnish such additional information as the Village may reasonably require.

(B) Upon approval of the application, the Village shall assign a resale number to the applicant and shall certify such number to the applicant. The Village may cancel any number which is obtained through misrepresentation, or which is used to send or receive such telecommunication tax-free when such actions in fact are not for resale, or which no longer applies because of the person's having discontinued the making of resales.

(C) Except as provided hereinabove in this Section, the act or privilege of sending or receiving telecommunications in this State shall not be made tax-free on the ground of being a sale for resale unless the person has an active resale number from the Village and furnishes that number to the retailer in connection with certifying to the retailer that any sale to such person is nontaxable because of being a sale for resale.

36-2-5 TAX RETURN. Each taxpayer shall make a return as required by this Article to the Village Treasurer on or before the **first (1st) day** of each month, stating:

(A) The name of the taxpayer.

(B) The principal place of business of the taxpayer.

(C) The gross receipts during the prior month upon the basis of which the tax is imposed.

(D) Amount of tax.

(E) Such other reasonable and related information as the corporate authorities may require.

The taxpayer making the return shall, at the time of making such return, pay to the Village Treasurer, the amount of tax herein imposed. In connection with any return the taxpayer may, if taxpayer so elects, report and pay an amount based upon total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings and the taxable gross receipts.

36-2-6 OVERPAYMENT OF TAX. If it shall appear that an amount of tax during under this Article has been paid which was not in fact due, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this Article from the taxpayer who made the erroneous payment. However, no amount erroneously paid more than **three (3) years** prior to the filing of a claim therefor shall be so credited.

36-2-7 LIMITATION ON ACTIONS TO RECOVER TAX DUE. No action to recover any amount of tax due under the provisions of this Article shall be commenced more than **three (3) years** after the due date of such amount.

36-2-8 EFFECTIVE DATE. This Article shall take effect after publication upon passage as provided by law. The tax provided for herein shall be based on the gross charges, defined herein, for taxable services billed on or after the **first (1st) day of December, 1994**.

(Ord. No. 743; 06-17-08)

ARTICLE III - MUNICIPAL GAS TAX

36-3-1 TAX IMPOSED. The tax is imposed on all persons engaged in the business of distributing, supplying, furnishing or selling gas for use or consumption within Village and not for resale, at the rate of **five percent (5%)** of the gross receipts therefrom.

36-3-2 DEFINITIONS. For the purpose of the taxes imposed by this Article, the following definitions shall apply:

"Gross Receipts" means the consideration received for distribution, supplying, furnishing or selling gas for use or consumption and not for resale, as the case may be; and for all services rendered in connection therewith valued in money, whether received in money or otherwise, including cash, credit, services and property of every kind and material and for all services rendered therewith; and shall be determined without any deduction of account of the cost of this service, product or commodity supplied, the cost of materials used, labor or service cost, or any other expenses whatsoever. "Gross receipts" shall not include any charges added to customers' bills pursuant to the provisions of Section 9-221 or 9-222 of the Illinois Public Utilities Act or any other separately stated charge added to customers' bills in respect of any tax or other governmental imposition, or receipts from the Village for the sale to that Village of any utility products or services. The term "gross receipts" shall also not include that portion of the consideration received for distributing, supplying, furnishing or selling gas to the school districts or units of local government.

"Person" means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, municipal corporation or political subdivision of this State or a receiver, trustee, conservator or other representative appointed by order of any court.

36-3-3 BUSINESSES EXCLUDED FROM TAX. No tax is imposed by this Article with respect to any transaction in interstate commerce or otherwise to the extent to which such business may not, under the Constitution and Statutes of the United States, be made subject to taxation by this State or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing or selling gas, be subject to taxation under the provisions of this Article for such transactions as are or may become subject to taxation under the provisions of this Section for such transactions as are or may become subject to taxation under the provisions of the "**Municipal Retailers' Occupation Tax Act" authorized by 65 ILCS 5/8-11-1 of** the Illinois Municipal Code.

36-3-4 TO BE IN ADDITION TO STREET USE TAX. The tax established by this Article shall be in addition to the payment of money, or value of products or services furnished to this Village by the taxpayer as compensation for the use of its streets, alleys, or other public places, or installation and maintenance therein, thereon or thereunder of poles, wires, pipes or other equipment used in the operation of the taxpayers' business.

36-3-5 TAX RETURN. Each taxpayer shall make a tax return as required by this Article to the Village Treasurer on or before the last day of each month, stating:

(A) The name of the taxpayer.

(B) The principal place of business of the taxpayer.

(C) The gross receipts during the prior month upon the basis of which the tax is imposed.

(D) Amount of tax.

(E) Such other reasonable and related information as the corporate authorities may require.

The taxpayer making the return shall, at the time of making such return, pay to the Village Treasurer, the amount of tax herein imposed. In connection with any return the taxpayer may, if taxpayer so elects, report and pay an amount based upon total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings and the taxable gross receipts.

36-3-6 OVERPAYMENT OF TAX. If it shall appear that an amount of tax due under this Article has been paid which was not in fact due, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this Article from the taxpayer who made the erroneous payment. However, no amount erroneously paid more than **three (3) years** prior to the filing of a claim therefor shall be so credited.

36-3-7 LIMITATION ON ACTIONS TO RECOVER TAX DUE. No action to recover any amount of tax due under the provisions of this Article shall be commenced more than **three (3) years** after the due date of such amount.

(65 ILCS 5/8-11-2)

(Ord. No. 543; 04-21-98)

ARTICLE IV - ELECTRIC UTILITY TAX

36-4-1 TAX IMPOSED. A tax is imposed on all persons engaged in the following occupations or privileges:

(A) The privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the Village at the following rates, calculated on a monthly basis for each purchaser:

(1)	First 2,000 KWH	0.61 cents per KWH
(2)	Next 48,000 KWH	0.40 cents per KWH
(3)	Next 50,000 KWH	0.36 cents per KWH
(4)	Next 400,000 KWH	0.35 cents per KWH
(5)	Next 500,000 KWH	0.34 cents per KWH
(6)	Next 2,000,000 KWH	0.32 cents per KWH
(7)	Next 2,000,000 KWH	0.315 cents per KWH
(8)	Next 5,000,000 KWH	0.310 cents per KWH
(9)	Next 10,000,000 KWH	0.305 cents per KWH
(10)	Over 20,000,000 KWH	0.300 cents per KWH

(B) Pursuant to **65 ILCS 5/8-11-2**, the rates set forth in subsection (A) above shall be effective **January 1, 2016**.

36-4-2 EXCEPTIONS. None of the taxes authorized by this Article may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which the business or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by this State or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing, or selling or transmitting gas, water, or electricity, or engaged in the business of transmitting messages, or using or consuming electricity acquired in a purchase at retail, be subject to taxation under the provisions of this Article for those transactions that are or may become subject to taxation under the provisions of the **"Municipal Retailer's Occupation Tax Act"** as authorized by **65 ILCS 5/8-11-1**; nor shall any tax authorized by this Article be imposed upon any person engaged in a business or on any privilege unless the tax is imposed in like manner and at the same rate upon all persons engaged in businesses of the same class in the Municipality. All accounts of the Village shall be exempt from the taxes imposed by this ordinance.

36-4-3 ADDITIONAL TAXES. Such tax shall be in addition to other taxes levied upon the taxpayer or its business.

36-4-4 COLLECTION. The tax authorized by this Article shall be collected from the purchaser by the person maintaining a place of business in this State who delivers the electricity to the purchaser. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and if unpaid, is recoverable in the same manner as the original charge for delivering the electricity. Any tax required to be collected pursuant to this Article and any such tax collected by a person delivering electricity shall constitute a debt owed to the Village by such person delivering the electricity. Persons delivering electricity shall collect the tax from the purchaser by adding such tax to the gross charge for delivering the electricity, and taxes so collected shall be remitted to the Village monthly. Persons delivering electricity shall also be authorized to add to such gross charge an amount equal to **three percent (3%)** of the tax to reimburse the person delivering electricity for the expense incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the Village upon request. If the person delivering electricity fails to collect the tax from the purchaser, then the purchaser shall pay the tax monthly, directly to the Village, in the manner prescribed by the Village.

36-4-5 REPORTS TO VILLAGE. On or before the last day of each month, each taxpayer shall make a return to the Village for the preceding month stating:

(A) His name.

(B) His principal place of business.

(C) His gross receipts and/or kilowatt-hour usage during the month upon the basis of which the tax is imposed.

(D) Amount of tax.

(E) Such other reasonable and related information as the corporate authorities may require.

The taxpayer making the return herein provided for shall, at the time of making such return, pay to the Village, the amount of tax herein imposed; provided that in connection with any return, the taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings, and the taxable gross receipts.

36-4-6 CREDIT FOR OVER-PAYMENT. If it shall appear that an amount of tax has been paid which was not due under the provisions of this Article, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this Article from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than **three (3) years** prior to the filing of a claim therefor shall be so credited.

No action to recover any amount of tax due under the provisions of this Article shall be commenced more than **three (3) years** after the due date of such amount.

36-4-7 PENALTY. Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than **One Hundred Dollars ($100.00)** nor more than **Two Hundred Dollars ($200.00)** and in addition, shall be liable in a civil action for the amount of tax due.

(65 ILCS 5/8-11-2)

(Ord. No. 550; 07-07-98)

ARTICLE V - TAXPAYERS' RIGHTS CODE

36-5-1 TITLE. This Article shall be known as, and may be cited as, the "Locally Imposed and Administered Tax Rights and Responsibility Code".

36-5-2 SCOPE. The provisions of this Article shall apply to the Village's procedures in connection with all of the Village's locally imposed and administered taxes.

36-5-3 DEFINITIONS. Certain words or terms herein shall have the meaning ascribed to them as follows:

(A) **Act.** "Act" means the "Local Government Taxpayers' Bill of Rights Act".

(B) **Corporate Authorities.** "Corporate Authorities" means the Mayor and Board of Trustees.

(C) **Locally Imposed and Administered Tax or "Tax".** "Locally Imposed and Administered Tax" or "Tax" means each tax imposed by the Village that is collected or administered by the Village not an agency or department of the State. It does not include any taxes imposed upon real property under the Property Tax Code or fees collected by the Village other than infrastructure maintenance fees.

(D) **Local Tax Administrator.** "Local Tax Administrator", the Village Clerk, is charged with the administration and collection of the locally imposed and administered taxes, including staff, employees or agents to the extent they are authorized by the local tax administrator to act in the local tax administrator's stead. The local tax administrator shall have the authority to implement the terms of this Code to give full effect to this Code. The exercise of such authority by the local tax administrator shall not be inconsistent with this Code and the Act.

(E) **Village.** "Village" means the Village of Worden, Illinois.

(F) **Notice.** "Notice" means each audit notice, collection notice or other similar notice or communication in connection with each of the Village's locally imposed and administered taxes.

(G) **Tax Ordinance.** "Tax Ordinance" means each ordinance adopted by the Village that imposes any locally imposed and administered tax.

(H) **Taxpayer.** "Taxpayer" means any person required to pay any locally imposed and administered tax and generally includes the person upon whom the legal incidence of such tax is placed and with respect to consumer taxes includes the business or entity required to collect and pay the locally imposed and administered tax to the Village.

36-5-4 NOTICES. Unless otherwise provided, whenever notice is required to be given, the notice is to be in writing mailed not less than **seven (7) calendar days** prior to the day fixed for any applicable hearing, audit or other scheduled act of the local tax administrator. The notice shall be sent by the local tax administrator as follows:

(A) First class or express mail, or overnight mail, addressed to the persons concerned at the persons' last known address, or

(B) Personal service or delivery.

36-5-5 LATE PAYMENT. Any notice, payment, remittance or other filing required to be made to the Village pursuant to any tax ordinance shall be considered late unless it is:

(A) physically received by the Village on or before the due date, or

(B) received in an envelope or other container displaying a valid, readable U.S. postmark dated on or before the due date, properly addressed to the Village, with adequate postage prepaid.

36-5-6 PAYMENT. Any payment or remittance received for a tax period shall be applied in the following order:

(A) first to the tax due for the applicable period;

(B) second to the interest due for the applicable period; and

(C) third to the penalty for the applicable period.

36-5-7 CERTAIN CREDITS AND REFUNDS.

(A) The Village shall not refund or credit any taxes voluntarily paid without written protest at the time of payment in the event that a locally imposed and administered tax is declared invalidly enacted or unconstitutional by a court of competent jurisdiction. However, a taxpayer shall not be deemed to have paid the tax voluntarily if the taxpayer lacked knowledge of the facts upon which to protest the taxes at the time of payment or if the taxpayer paid the taxes under duress.

(B) The statute of limitations on a claim for credit or refund shall be **four (4)** or less years after the end of the calendar year in which payment in error was made. The Village shall not grant a credit or refund of locally imposed and administered taxes, interest, or penalties to a person who has not paid the amounts directly to the Village.

(C) The procedure for claiming a credit or refund of locally imposed and administered taxes, interest or penalties paid in error shall be as follows:

(1) The taxpayer shall submit to the local tax administrator in writing a claim for credit or refund together with a statement specifying:

(a) the name of the locally imposed and administered tax subject to the claim;

(b) the tax period for the locally imposed and administered tax subject to the claim;

(c) the date of the tax payment subject to the claim and the cancelled check or receipt for the payment;

(d) the taxpayer's recalculation, accompanied by an amended or revised tax return, in connection with the claim; and

(e) a request for either a refund or a credit in connection with the claim to be applied to the amount of tax, interest and penalties overpaid, and, as applicable, related interest on the amount overpaid; provided, however, that there shall be no refund and only a credit given in the event the taxpayer owes any monies to the Village.

(2) Within **ten (10) days** of the receipt by the local tax administrator of any claim for a refund or credit, the local tax administrator shall either:

(a) grant the claim; or

(b) deny the claim, in whole or in part, together with a statement as to the reason for the denial or the partial grant and denial.

(3) In the event the local tax administrator grants, in whole or in part, a claim for refund or credit, the amount of the grant for refund or credit shall bear interest at the rate of **five percent (5%)** per annum, based on a year of **three hundred sixty-five (365) days** and the number of days elapsed, from the date of the overpayment to the date of mailing of a refund check or the grant of a credit.

36-5-8 AUDIT PROCEDURE. Any request for proposed audit pursuant to any local administered tax shall comply with the notice requirements of this Code.

(A) Each notice of audit shall contain the following information:

(1) the tax;

(2) the time period of the audit; and

(3) a brief description of the books and records to be made available for the auditor.

(B) Any audit shall be conducted during normal business hours and if the date and time selected by the local tax administrator is not agreeable to the taxpayer, another date and time may be requested by the taxpayer within **thirty (30) days** after the originally designated audit and during normal business hours.

(C) The taxpayer may request an extension of time to have an audit conducted. The audit shall be conducted not less than **seven (7) days** nor more than **thirty (30) days** from the date the notice is given, unless the taxpayer and the local tax administrator agreed to some other convenient time. In the event taxpayer is unable to comply with the audit on the date in question, the taxpayer may request another date within the **thirty (30) days**, approved in writing, that is convenient to the taxpayer and the local tax administrator.

(D) Every taxpayer shall keep accurate books and records of the taxpayer's business or activities, including original source documents and books of entry denoting the transactions which had given rise or may have given rise to any tax liability, exemption or deduction. All books shall be kept in the English Language and shall be subject to and available for inspection by the Village.

(E) It is the duty and responsibility of every taxpayer to make available its books and records for inspection by the Village. If the taxpayer or tax collector fails to provide the documents necessary for audit within the time provided, the local tax administrator may issue a tax determination and assessment based on the tax administrator's determination of the best estimate of the taxpayer's tax liability.

(F) If an audit determines there has been an overpayment of a locally imposed and administered tax as a result of the audit, written notice of the amount of overpayment shall be given to the taxpayer within **thirty (30) days** of the Village's determination of the amount of overpayment.

(G) In the event a tax payment was submitted to the incorrect local governmental entity, the local tax administrator shall notify the local governmental entity imposing such tax.

36-5-9 APPEAL.

(A) The local tax administrator shall send written notice to a taxpayer upon the local tax administrator's issuance of a protestable notice of tax due, a bill, a claim denial, or a notice of claim reduction regarding any tax. The notice shall include the following information:

(1) the reason for the assessment;

(2) the procedure for appealing the assessment; and

(3) the obligations of the Village during the audit, appeal, refund and collection process.

(B) A taxpayer who receives written notice from the local tax administrator of a determination of tax due or assessment may file with the local tax administrator a written protest and petition for hearing, setting forth the basis of the taxpayer's request for a hearing. The written protest and petition for hearing must be filed with the local tax administrator within **forty-five (45) days** of receipt of the written notice of the tax determination and assessment.

(C) If a timely written notice and petition for hearing is filed, the local tax administrator shall fix the time and place for hearing and shall give written notice to the taxpayer. The hearing shall be scheduled for a date within **fourteen (14) days** of receipt of the written protest and petition for hearing, unless the taxpayer requests a later date convenient to all parties.

(D) If a written protest and petition for hearing is not filed within the **forty-five (45) day** period, the tax determination, audit or assessment shall become a final bill due and owing without further notice.

(E) Upon the showing of reasonable cause by the taxpayer and the full payment of the contested tax liability along with interest accrued as of the due date of the tax, the local tax administrator may reopen or extend the time for filing a written protest and petition for hearing. In no event shall the time for filing a written protest and petition for hearing be reopened or extended for more than **ninety (90) days** after the expiration of the **forty-five (45) day** period.

36-5-10 HEARING.

(A) Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under **Section 36-5-9**, above, the local tax administrator shall conduct a hearing regarding any appeal.

(B) No continuances shall be granted except in cases where a continuance is absolutely necessary to protect the rights of the taxpayer. Lack of preparation shall not be grounds for a continuance. Any continuance granted shall not exceed **fourteen (14) days**.

(C) At the hearing the local tax administrator shall preside and shall hear testimony and accept any evidence relevant to the tax determination, audit or assessment. The strict rules of evidence applicable to judicial proceedings shall not apply.

(D) At the conclusion of the hearing, the local tax administrator shall make a written determination on the basis of the evidence presented at the hearing. The taxpayer or tax collector shall be provided with a copy of the written decision.

36-5-11 INTEREST AND PENALTIES. In the event a determination has been made that a tax is due and owing, through audit, assessment or other bill sent, the tax must be paid within the time frame otherwise indicated.

(A) **Interest.** The Village hereby provides for the amount of interest to be assessed on a late payment, underpayment, or nonpayment of the tax to be **five percent (5%)** per annum, based on a year of **three hundred sixty-five (365) days** and the number of days elapsed.

(B) **Late Filing and Payment Penalties.** If a tax return is not filed within the time and manner provided by the controlling tax ordinance, a late filing penalty, of **five percent (5%)** of the amount of tax required to be shown as due on a return shall be imposed; and a late payment penalty of **five percent (5%)** of the tax due shall be imposed. If no return is filed within the time or manner provided by the controlling tax ordinance and prior to the Village issuing a notice of tax delinquency or notice of tax liability, then a failure to file penalty shall be assessed equal to **twenty-five percent (25%)** of the total tax due for the applicable reporting period for which the return was required to be filed. A late filing or payment penalty shall not apply if a failure to file penalty is imposed by the controlling ordinance.

36-5-12 ABATEMENT. The local tax administrator shall have the authority to waive or abate any late filing penalty, late payment penalty or failure to file penalty if the local tax administrator shall determine reasonable cause exists for delay or failure to make a filing.

36-5-13 INSTALLMENT CONTRACTS. The Village may enter into an installment contract with the taxpayer for the payment of taxes under the controlling tax ordinance. The local tax administrator may not cancel any installment contract so entered unless the taxpayer fails to pay any amount due and owing. Upon written notice by the local tax administrator that the payment is **thirty (30) days** delinquent, the taxpayer shall have **fourteen (14) days** to cure any delinquency. If the taxpayer fails to cure the delinquency within the **fourteen (14) day** period or fails to demonstrate good faith in restructuring the installment contract with the local administrator, the installment contract shall be canceled without further notice to the taxpayer.

36-5-14 STATUTE OF LIMITATIONS. The Village, through the local tax administrator, shall review all tax returns in a prompt and timely manner and inform taxpayers of any amounts due and owing. The taxpayer shall have **forty-five (45) days** after receiving notice of the reviewed tax returns to make any request for refund or provide any tax still due and owing.

(A) No determination of tax due and owing may be issued more than **four (4) years** maximum after the end of the calendar year for which the return for the applicable period was filed or for the calendar year in which the return for the applicable period was due, whichever occurs later.

(B) If any tax return is not filed or if during any **four (4) year** period for which a notice of tax determination or assessment may be issued by the Village, the tax paid was less than **seventy-five percent (75%)** of the tax due, the statute of limitations shall be **six (6) years** maximum after the end of the calendar year in which return for the applicable period was due or end of the calendar year in which the return for the applicable period was filed.

(C) No statute of limitations shall not apply if a fraudulent tax return was filed by the taxpayer.

36-5-15 VOLUNTARY DISCLOSURE. For any locally imposed and administered tax for which a taxpayer has not received a written notice of an audit, investigation, or assessment form the local tax administrator, a taxpayer is entitled to file an application with the local tax administrator for a voluntary disclosure of the tax due. A taxpayer filing a voluntary disclosure application must agree to pay the amount of tax due, along with interest of **one percent (1%)** per month, for all periods prior to the filing of the application but not more than **four (4) years** before the date of filing the application. A taxpayer filing a valid voluntary disclosure application may not be liable for any additional tax, interest, or penalty for any period before the date the application was filed. However, if the taxpayer incorrectly determined and underpaid the amount of tax due, the taxpayer is liable for the underpaid tax along with applicable interest on the underpaid tax, unless the underpayment was the result of fraud on the part of the taxpayer, in which case the application shall be deemed invalid and void. The payment of tax and interest must be made by no later than **ninety (90) days** after the filing of the voluntary disclosure application or the date agreed to by the local tax administrator. However, any additional amounts owed as a result of an underpayment of tax and interest previously paid under this Section must be paid within **ninety (90) days** after a final determination and the exhaustion of all appeals of the additional amount owed or the date agreed to by the local tax administrator, whichever is longer.

36-5-16 PUBLICATION OF TAX ORDINANCES. Any locally administered tax ordinance shall be published via normal or standard publishing requirements. The posting of a tax ordinance on the Internet shall satisfy the publication requirements. Copies of all tax ordinances shall be made available to the public upon request at the Village Clerk's office.

36-5-17 LIENS. The local tax administrator shall establish an internal review procedure regarding any liens filed against any taxpayers for unpaid taxes. Upon a determination by the local tax administrator that the lien is valid, the lien shall remain in full force and effect. If the lien is determined to be improper, the local tax administrator shall:

(A) timely remove the lien at the Village's expense;

(B) correct the taxpayer's credit record; and

(C) correct any public disclosure of the improperly imposed lien.

36-5-18 APPLICATION. This Ordinance shall be liberally construed and administered to supplement all of the Village's tax ordinances. To the extent that any tax ordinance is in conflict with or inconsistent with this ordinance, this ordinance shall be controlling.

(Ord. No. 590; 01-16-01)

CHAPTER 38 - UTILITIES

ARTICLE		*TITLE*	*PAGE*
I	*DEPARTMENT ESTABLISHED*		
Section 38-1-1	-	*Department Established*	*38-1*
Section 38-1-2	-	*Street and Utility Committee*	*38-1*
Section 38-1-3	-	*Superintendent*	*38-1*
Section 38-1-4	-	*Duties of the Superintendent*	*38-1*
II	*UTILITY REGULATIONS*		
Section 38-2-1	-	*Contract for Utility Services*	*38-2*
Section 38-2-2	-	*Insufficient Funds*	*38-3*
Section 38-2-3	-	*Consumer Lists*	*38-4*
Section 38-2-4	-	*Liability for Charges*	*38-4*
Section 38-2-5	-	*Estimated Charge*	*38-4*
Section 38-2-6	-	*No Free Utility Service*	*38-4*
Section 38-2-7	-	*Utility Deposits*	*38-4*
III	*WATER SYSTEM*		
	Division I – General Regulations		
Section 38-3-1	-	*Definitions*	*38-5*
Section 38-3-2	-	*Application for Taps and Service Connections to the Waterworks System*	*38-6*
Section 38-3-3	-	*All Service to be by Meter*	*38-6*
Section 38-3-4	-	*Reserved*	
Section 38-3-5	-	*Installing and Maintaining Service Lines*	*38-7*
Section 38-3-6	-	*Inspection*	*38-7*
Section 38-3-7	-	*Indemnification by Village*	*38-7*
Section 38-3-8	-	*Private Property; Inspections*	*38-7*
Section 38-3-9	-	*Meter Damaged*	*38-8*
Section 38-3-10	-	*Damage Due to Interruption of Service; Liability*	*38-8*
Section 38-3-11	-	*Resale of Water*	*38-8*
Section 38-3-12	-	*Discontinuing Service - Dangerous Usage*	*38-8*
Section 38-3-13	-	*Electric Ground Wires*	*38-8*
Section 38-3-14	-	*Water for Building or Construction Purposes*	*38-9*
Section 38-3-15	-	*Fire Hydrants*	*38-9*
Section 38-3-16	-	*Limited Water Usage in Emergencies*	*38-9*
Section 38-3-17	-	*Shortage and Purity of Supply*	*38-9*
Section 38-3-18	-	*Non-Compliance With Rules and Regulations*	*38-10*
Section 38-3-19	-	*Easements*	*38-10*
Section 38-3-20	-	*Use of Water on Consumer's Premises*	*38-11*
Section 38-3-21	-	*Allocation of Maintenance Costs Between User and Village*	*38-11*
Section 38-3-22	-	*Village Not Liable for Interruption of Supply*	*38-11*
Section 38-3-23	-	*Water Well Permits Required*	*38-11*
Section 38-3-24	-	*Abandoned Connection*	*38-11*
Section 38-3-25	-	*Rules to Become Part of Contract*	*38-12*
Section 38-3-26	-	*38-3-30 Reserved*	

ARTICLE		TITLE	PAGE
III		WATER SYSTEM (CONTINUED)	
		Division II - Cross-Connection Administration	
	Section 38-3-31	- Approved Backflow Device	38-12
	Section 38-3-32	- Cross-Connection Prohibited; Exception	38-12
	Section 38-3-33	- Investigations by Superintendent	38-12
	Section 38-3-34	- Right to Enter Premises	38-13
	Section 38-3-35	- Notice to Customer; Reconnect Fee	38-13
	Section 38-3-36	- Contamination Costs and the Consumer	38-13
	Section 38-3-37	- 38-3-40 Reserved	
		Division III – Cross-Connection Control Code	
	Section 38-3-41	- Purpose	38-13
	Section 38-3-42	- Application	38-14
	Section 38-3-43	- Responsibility of Owner	38-14
	Section 38-3-44	- Definitions	38-14
	Section 38-3-45	- Water System	38-16
	Section 38-3-46	- Cross-Connection Prohibited	38-17
	Section 38-3-47	- Survey and Investigations	38-17
	Section 38-3-48	- Where Protection is Required	38-18
	Section 38-3-49	- Type of Protection Required	38-19
	Section 38-3-50	- Backflow Prevention Devices	38-19
	Section 38-3-51	- Inspection and Maintenance	38-19
	Section 38-3-52	- Booster Pumps	38-20
	Section 38-3-53	- Violations and Penalties	38-20
	Section 38-3-54	- 38-3-60 Reserved	
		Division IV – Extension of Mains	
	Section 38-3-61	- Application	38-21
	Section 38-3-62	- Plat of Proposed Extension	38-21
	Section 38-3-63	- Engineer to Prepare Plans	38-22
	Section 38-3-64	- Sealed Bids – Larger Pipe Required	38-22
	Section 38-3-65	- Contract	38-22
	Section 38-3-66	- 38-3-69 Reserved	
		Division V – Water Rates	
	Section 38-3-70	- Building Unit Defined	38-22
	Section 38-3-71	- Water Revenues	38-22
	Section 38-3-72	- Accounts	38-23
	Section 38-3-73	- Access to Books	38-23
	Section 38-3-74	- Annual Review of Rates	38-23
	Section 38-3-75	- Appeals	38-23
	Section 38-3-76	- Measurement of Flow	38-23
	Section 38-3-77	- Water Tap-On Fees	38-24
	Section 38-3-78	- Water Rates	38-24
	Section 38-3-79	- Meter Minimums	38-25
	Section 38-3-80	- Requested Shut-Off	38-25
	Section 38-3-81	- 38-3-82 Reserved	
IV		WASTEWATER SYSTEM	
		Division I – Definitions	
	Section 38-4-1	- Definitions	38-26
	Section 38-4-2	- 38-4-3 Reserved	

ARTICLE		TITLE	PAGE
IV		WASTEWATER SYSTEM (CONTINUED)	
		Division II - Use of Public Wastewaters Required	
	Section 38-4-4	- Deposit of Wastes	38-29
	Section 38-4-5	- Sewage in Natural Outlet	38-29
	Section 38-4-6	- Private System, Unlawful	38-29
	Section 38-4-7	- Discontinuance of Private Disposal System	38-29
	Section 38-4-8	- Easements	38-30
	Section 38-4-9	- Reserved	
		Division III - Private Sewage Disposal	
	Section 38-4-10	- Private Sewage System	38-30
	Section 38-4-11	- Health Department Approval	38-31
	Section 38-4-12	- Permit Approval	38-31
	Section 38-4-13	- Compliance with State Requirements	38-31
	Section 38-4-14	- Availability of Public Sewer	38-31
	Section 38-4-15	- Operation of Private System	38-31
	Section 38-4-16	- Additional Restrictions	38-31
	Section 38-4-17	- Time Constraints for Public Wastewater	38-31
	Section 38-4-18	- 38-4-20 Reserved	
		Division IV - Building Sewers and Connections	
	Section 38-4-21	- Disturbing System Unlawful	38-31
	Section 38-4-22	- Compliance with Regulating Authorities	38-32
	Section 38-4-23	- Classes of Permits	38-32
	Section 38-4-24	- Cost Borne by Owner	38-32
	Section 38-4-25	- Separate Wastewater: Exception	38-32
	Section 38-4-26	- Old Building Wastewater	38-32
	Section 38-4-27	- Construction Methods	38-33
	Section 38-4-28	- Plumbing Code Requirements	38-33
	Section 38-4-29	- Elevation	38-33
	Section 38-4-30	- Prohibited Connections	38-33
	Section 38-4-31	- Connections to Wastewater Mains	38-33
	Section 38-4-32	- Capacity of Wastewater	38-34
	Section 38-4-33	- Tap-In Supervision and Testing	38-34
	Section 38-4-34	- Inspection	38-34
	Section 38-4-35	- Protection of Property	38-34
	Section 38-4-36	- Bond Required	38-34
	Section 38-4-37	- Unlawful Discharges	38-34
	Section 38-4-38	- Public Sewer Connection	38-34
	Section 38-4-39	- 38-4-41 Reserved	
		Division V – Extension of Collecting Wastewaters	
	Section 38-4-42	- Permit Required; Authorized Personnel	38-35
	Section 38-4-43	- Extension Permits	38-35
	Section 38-4-44	- Materials	38-35
	Section 38-4-45	- Inspections of Construction	38-35
	Section 38-4-46	- Manholes Required	38-36
	Section 38-4-47	- 38-4-48 Reserved	

ARTICLE		TITLE	PAGE
IV		WASTEWATER SYSTEM (CONTINUED)	
		Division VI - Use of Public Sewers	
	Section 38-4-49	- Discharge of Storm Water	38-36
	Section 38-4-50	- Storm Water	38-36
	Section 38-4-51	- Regulations of Wastes	38-36
	Section 38-4-52	- Harmful Effects of Certain Materials	38-37
	Section 38-4-53	- Harmful Wastes; Approval	38-38
	Section 38-4-54	- Interceptors Provided	38-38
	Section 38-4-55	- Flow-Equalizing Facilities	38-39
	Section 38-4-56	- Industrial Wastes Control Manhole	38-39
	Section 38-4-57	- Industrial Waste Testing	38-40
	Section 38-4-58	- Measurements and Tests	38-40
	Section 38-4-59	- Special Arrangements	38-40
	Section 38-4-60	- 38-4-64 Reserved	
		Division VII - Inspections	
	Section 38-4-65	- Damage	38-40
	Section 38-4-66	- Inspection and Testing	38-40
	Section 38-4-67	- Liability of Village	38-41
	Section 38-4-68	- Private Property Inspections	38-41
	Section 38-4-69	- 38-4-70 Reserved	
		Division VIII – Penalties	
	Section 38-4-71	- Penalty	38-41
	Section 38-4-72	- Continued Violations	38-41
	Section 38-4-73	- Liability to Village	38-41
	Section 38-4-74	- 38-4-76 Reserved	
		Division IX – Wastewater Service Charges	
	Section 38-4-77	- Building Unit Defined	38-42
	Section 38-4-78	- Sewer Revenues	38-42
	Section 38-4-79	- Sewer Accounts	38-42
	Section 38-4-80	- Notice of Rates	38-42
	Section 38-4-81	- Access to Records	38-42
	Section 38-4-82	- Appeals	38-43
	Section 38-4-83	- Basis for Wastewater Service Charges	38-43
	Section 38-4-84	- Measurement of Flow	38-43
	Section 38-4-85	- User Charge System	38-44
	Section 38-4-86	- Computation of Wastewater Service Charge	38-44
	Section 38-4-87	- Surcharge Rate	38-44
	Section 38-4-88	- Sewer Tap-In Fee	38-45
	Section 38-4-89	- Reserved	
		Division X – Industrial Cost Recovery	
	Section 38-4-90	- Industrial Cost Recovery Required	38-45
	Section 38-4-91	- Determination of Industrial Population Equivalent	38-45
	Section 38-4-92	- Cost Per Capita	38-45
	Section 38-4-93	- Cost for Industrial User	38-46
	Section 38-4-94	- Charge for Industrial Cost Recovery	38-47
	Section 38-4-95	- Length of Industrial Cost Recovery Period	38-47

ARTICLE		TITLE	PAGE
IV		WASTEWATER SYSTEM (CONTINUED)	
		Division X – Industrial Cost Recovery (Continued)	
	Section 38-4-96	- Payments and Billing Periods for Industrial Cost Recovery	38-47
	Section 38-4-97	- Delinquency and Termination of Service	38-47
	Section 38-4-98	- Time of First Payment	38-48
	Section 38-4-99	- Adjustment of Charge Due to Strength of Volume Changes	38-48
	Section 38-4-100	- Adjustment of Charge Due to Plant Improvement Utilizing State Grant Funds	38-48
	Section 38-4-101	- No Charge for Unused or Unreserved Capacity	38-48
	Section 38-4-102	- Commitment for Increased Use	38-48
	Section 38-4-103	- Payment to the State of Illinois Required	38-48
	Section 38-4-104	- Disposition of Retained Amounts	38-48
	Section 38-4-105	- Investment of Retained Amounts Required	38-48
	Section 38-4-106	- Village Clerk Responsibility	38-48
	Section 38-4-107	- Village Treasurer Responsibility	38-49
	Section 38-4-108	- Monitoring Required	38-49
	Section 38-4-109	- Appeal and Arbitration	38-49
	Section 38-4-110	- Discontinuance of Use by Industrial Users	38-49
	Section 38-4-111	- Reserve Capacity	38-50
	Section 38-4-112	- 38-4-114 Reserved	
		Division XI – Use of Groundwater as Potable Water Supply Prohibited	
	Section 38-4-115	- Applicability	38-50
	Section 38-4-116	- Penalties	38-50
	Section 38-4-117	- Definitions	38-50

CHAPTER 38

UTILITIES

ARTICLE I – DEPARTMENT ESTABLISHED

38-1-1 DEPARTMENTS ESTABLISHED. There shall be an executive department of the Village known as the **Waterworks and Sewage Departments.** It shall include the Superintendent of Utilities and employees of the Department. The designated office shall be the Village Hall.

38-1-2 STREET AND UTILITY COMMITTEE. The Village Board standing committee on Street & Utility shall exercise a general supervision over the affairs of the Departments. They shall ascertain the condition and needs thereof; and shall, from time to time, report the same to the Mayor and Village Board so that a full understanding thereof shall be had; and generally, shall do all acts necessary to promote the efficiency of the Departments.

38-1-3 SUPERINTENDENT. The Superintendents of Utilities shall be subject to the supervision of the Street & Utility Committee and shall be hereinafter be referred to as the **"Superintendent".** He shall receive such salary as may be provided by the annual budget of the Village Board at the time of his appointment.

38-1-4 DUTIES OF THE SUPERINTENDENT. The Superintendent shall exercise general management and control over his respective department.

(A) He shall supervise over and be responsible for the conduct and performance of all employees of the department as a Department Head in accordance with the Employee Code, if any.

(B) He shall be responsible for the operation and maintenance of the Village's water system and sewer system as provided in this Code.

(C) He shall be the custodian of all vehicles, equipment, structures, and property provided by the Village for the use of his department.

(D) He shall enforce the provisions of this Chapter and make such inspections, measurements, and tests as necessary for that purpose.

(E) He shall perform such other duties as may be assigned to him by the provisions of this Code or by the Village Board.

ARTICLE II – UTILITY REGULATIONS

38-2-1 CONTRACT FOR UTILITY SERVICES.

(A) **Customer Accepts Service.** The rates, rules and regulations contained in this Chapter shall constitute and be considered a part of the contract with every person, company or corporation who is supplied with water and sewer services from the waterworks and sewer system and every person, company or corporation, hereinafter called a **"customer"** who accepts and uses Village water and sewer services shall be held to have consented to be bound thereby. The term **"utilities"** shall mean water service and sewer service provided by the Village.

(B) **Not Liable for Interrupted Service.** The Department shall endeavor at all times to provide a regular and uninterrupted supply of service, however, in case the supply of service shall be interrupted or irregular or defective or fail from causes beyond its control or through ordinary negligence of employees, servants or agents, the Departments shall not be liable therefor.

(C) **Using Services Without Paying.** Any person using utility services from the Village without paying therefor, or who shall be found guilty of breaking the seal of any meter or appurtenances, or bypassing any meter, shall be guilty of violating this Code, and upon conviction, shall be fined a sum as provided in **Section 1-1-20** of the Revised Code.

(D) **Destroying Property.** Any person found guilty of defacing, tampering, injuring or destroying, or in any manner, limiting the use or availability of any meter or any property of the waterworks system and sewer system, or erecting signs on the property of the Department without permission shall, upon conviction of such act, be fined as provided in **Section 1-1-20** of the Revised Code.

(E) **Service Obtained By Fraud.** All contracts for water and sewer services shall be made in the name of the head of the household, firm or corporation using the established spelling of that person's or firm's name. Attempts to obtain service by the use of other names, different spellings or by substituting other persons or firms shall be considered a subterfuge and service shall be denied. If service has been discontinued because of nonpayment of bills, or any unpaid obligation and service has again been obtained through subterfuge, misrepresentation or fraud, that service shall be promptly disconnected and the whole or such part of the advanced payment as may be necessary to satisfy the unpaid obligation shall be retained by the Village and credited to the appropriate account.

(F) **Failure to Receive Bill.** Failure to receive a bill shall not excuse a customer from his obligation to pay within the time specified. Should the Department be unable to bill a customer for services used during any month, the following billing shall include the charges for services used during the unbilled month.

(G) **Request to Discontinue Service.** Services shall have been deemed to have been supplied to any property connected to the Water and Sewer Systems during a month unless the customer notifies the Village prior to the first day of the new billing month in which the services are to be discontinued.

(H) **Discontinuing Service.** Water and sewer service may be shut off and discontinued to any property in which an owner/consumer/customer/tenant has allowed billing charges to become delinquent as hereinafter defined. It shall be the responsibility of any party requesting the restoration of water and sewer service to pay all fees, deposits, and delinquent charges attributable to the property for which the water and sewer is provided. When the ownership of property is transferred to a new owner, it shall be the responsibility of the new owner to pay all fees, deposits and delinquent charges prior to water and sewer service being turned on or otherwise restore to property.

(I) **Removal of Meters.** All meters shall remain the property of the Department and may be removed from the customer's premises at any time without notice for the purpose of testing and repairing the same or upon discontinuances of service. Upon discovery of any unlawful act by any customer, his agent, or employee herein prohibited or upon failure to comply with any other rules and regulations of the Department, such service shall be disconnected.

(J) **Billing; Utility Shut-off.**

(1) All utility bills shall be mailed to customers on or before the **fifth (5th) day** of each month and shall be due and payable upon receipt thereof,

which is presumed to be no later than **four (4) days** after the date said utility bill is mailed.

(2) If any said utility bill is not paid by the **twentieth (20th) day** of each month, the amount due shall be declared delinquent. When the last day of any payment period falls on a Saturday, Sunday, or legal holiday, such period shall be automatically extended to include the following first full business day.

(3) All utility bills shall be payable at the Village Hall.

(4) If a bill is not paid by the **twentieth (20th) day** of each month, a penalty equal to **ten percent (10%)** of the amount due on said bill shall be added thereto. This penalty shall be in addition to the charges heretofore established for the utility services provided.

(5) Any customer who fails to pay the utility bill forwarded and presented by the Village within the time herein provided and specified, shall have said utility services disconnected.

(6) If the customer who has been notified for nonpayment of utility bills is not the owner of record, then the Village shall also notify the owner of the property by first-class mail.

(7) Once utility services have been disconnected the same shall not again be connected or utilized until all delinquent accounts and bills for services previously rendered are paid in full, including a fee of **One Hundred Dollars ($100.00)** for each connection for each utility service, plus expenses incurred with regard to reconnecting said utility services. **(Ord. No. 914; 5-1-18)**

(K) **Lien Notice.** Whenever a bill for utility services remains unpaid for **sixty (60) days** after it has been rendered, the Village Clerk or Village Attorney shall file with the County Recorder of Deeds a statement of lien claim. This statement shall contain the legal description of the premises served, the amount of the unpaid bill, and a notice that the municipality claims a lien for this amount to the period covered by the bill.

If the consumer of utility services whose bill is unpaid is not the owner of the premises and the Village Clerk has notice of this, then notice shall be mailed to the owner of the premises if his address is known to the Village Clerk whenever such bill remains unpaid for a period of **thirty (30) days** after it has been rendered.

The failure of the Village Clerk to record such lien or to mail such notice, or the failure of the owner to receive such notice shall not affect the right to foreclose the lien for unpaid utility bills as mentioned herein.

The Village shall be entitled to collect all reasonable attorney's fees incurred to prepare the Lien and the Release of Lien and all recording fees including, but not limited to, the recording of the Lien and recording of the Release of Lien from any person liable for utility services and any property subject to a lien for unpaid utility charges including, but not limited to, principal and penalties. All charges for unpaid utility charges, attorney's fees, and recording fees shall be paid in full prior to the recording of any Release of Lien. **(65 ILCS 5/11-139-8)**

(L) **Foreclosure of Lien.** Property subject to a lien for unpaid water charges may be sold for non-payment of the same, and the proceeds of such sale shall be applied to pay the charges, after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be by bill-in-equity in the name of the Village.

The Village Attorney is hereby authorized to institute such proceedings in the name of the Village in any Court having jurisdiction over such matters against any property for which the bill for water service has remained unpaid **ninety (90) days** after it has been rendered. **(65 ILCS 5/11-139-8)**

38-2-2 INSUFFICIENT FUNDS. A **Twenty-Five Dollar ($25.00)** fee shall be charged for any check returned to the Village due to insufficient funds. The offender will be notified by first-class mail and given **twenty-four (24) hours** to reimburse the Village in the amount of the insufficient check and fee. If the offender does not reimburse the Village within the given time, water service shall be terminated at the residence of the offender until the Village is reimbursed for the full

amount of the insufficient check and fees. All such payments shall be accepted only if made by cash, money order or cashier's check. This fee shall not apply to the owner of any lot, parcel of land or premises, unless said owner is the user of the utility services. Except as otherwise provided herein, the owner, occupant, and user shall be jointly and severally liable for all other charges as more fully stated in **Section 38-2-4**.

38-2-3 CONSUMER LISTS. It is hereby made the duty of the Clerk to prepare or cause to be prepared a complete and accurate list of all premises and properties receiving water service, showing the name and address of the occupant and the owner of the same. The list shall be kept up-to-date, and shall be corrected from time to time to allow changes in the occupancy or ownership of any such property or premises. It shall be presented at the regular monthly meeting if requested.

38-2-4 LIABILITY FOR CHARGES. The owner of any lot, parcel of land or premises and the user of the services shall be jointly and severally liable for the payment of the services to such lot, parcel of land or premises, and all services are rendered to the premises by the Village only on the condition that such owner, occupant and user shall be jointly and severally liable therefor to the Village.

38-2-5 ESTIMATED CHARGE. Whenever any meter, by reason of its being out of repair or from any cause fails to properly register the utilities passing through the same, the consumer shall be charged the average charge of the **previous three (3) months usage.** If no record of the previous **three (3) months** exists, then it shall be the duty of the Water Clerk to estimate the amount of utilities consumed during the time the meter fails to operate and the consumer shall be charged with such estimated amount. Bills may be estimated whenever it is impossible to read the meters during inclement weather.

38-2-6 NO FREE UTILITY SERVICE. No free water service shall be furnished to any person, public or private, and all rates and charges shall be non-discriminatory, provided that the Mayor and Village Board reserve the right to impose special rates and charges in cases where particular circumstances render the regular rates inadequate or unjust.

38-2-7 UTILITY DEPOSITS.

(A) **Residential Owner.** A utility deposit of **Two Hundred Dollars ($200.00)** shall be paid to the Clerk by any applicant who is not the record owner of residential property, before any water will be turned on to any premises. The deposit shall be retained by the Village until the user discontinues water use from the Village at which time the deposit will be returned to the user, provided however, that said user shall have a good payment record, making all monthly payments timely. **(Ord. No. 789; 10-05-10)**

(B) **Commercial.** If the customer is a commercial or industrial user the deposit shall be a minimum of **Two Hundred Fifty Dollars ($250.00)** or an amount equal to **three (3) months** consumption. **(Ord. No. 621; 09-03-02)**

(C) **Security for Payment - No Interest.** The deposits made under the provisions of this Chapter shall be held by the Village as security for the payment of utility services used by the applicant upon the premises to which his application pertains, and may be so applied when any default is made in the payment in the utilities bill in accordance with this Chapter. The depositor shall earn no interest on the deposit. **(Ord. No. 471; 04-25-95)**

(D) **Liability for Deposit.** The owner of the premises and the tenant thereof shall be jointly and severally liable to pay the required deposit herein established before water and sewer services shall be made available to the tenant-occupied premises. In the case a portion of the deposit is used as aforesaid, the tenant or owner of the premises shall immediately deposit with the Village Clerk an amount sufficient to bring the deposit to the established rate of deposit.

ARTICLE III - WATER SYSTEM

DIVISION I - GENERAL REGULATIONS

38-3-1 DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of the terms used in this Chapter shall be as follows:

(A) **Federal Government.**

(1) *"Federal Act"* means the federal 1996 Safe Drinking Water Acts Amendments.

(2) *"Administrator"* means the Administrator of the U.S. Environmental Protection Agency.

(B) **State Government.**

(1) *"State Act"* means the Illinois Anti-Pollution Bond Act of 1970.

(2) *"Director"* means the Director of the Illinois Environmental Protection Agency.

(3) *"State Loan"* shall mean the State of Illinois participation in the financing of the construction of water works as provided for by the Illinois Anti-Pollution Bond Act and for making such loans as filed with the Secretary of State of the State of Illinois.

(C) **Local Government.**

(1) *"Approving Authority"* means the Board of Trustees of the Village of Smithton or where such authority is specifically delegated, the Superintendent of the Water and Sewer Department.

(D) *"Person"* shall mean any and all persons, natural or artificial, including any individual, firm or company, municipal, or private corporation, association, society, institution, enterprise, governmental agency or other entity.

(E) **Clarification of Word Usage.** *"Shall"* in mandatory; *"may"* is permissible.

(F) **Water and Its Characteristics.**

(1) *"ppm"* shall mean parts per million by weight.

(2) *"milligrams per liter"* shall mean a unit of the concentration of water constituent. It is 0.001 g of the constituent in 1,000 ml of water. It has replaced the unit formerly used commonly, parts per million, to which it is approximately equivalent, in reporting the results of water analysis.

(3) *"PH"* shall mean the logarithm (base 10) of the reciprocal of the hydrogen-ion concentration expressed by one of the procedures outlined in the IEPA Division of Laboratories Manual of Laboratory Methods.

(G)

(1) *"Curb Cock"* shall mean a shutoff valve attached to a water service pipe from a water main to a building installed near the curb, which may be operated by a valve key to start or stop flow in the water-supply lines of a building. Also called a curb stop.

(2) *"Easement"* shall mean an acquired legal right for the specific use of land owned by others.

(3) *"Service Box"* shall mean a valve box used with corporation or curb cock.

(H) **Types of Charges.**

(1) *"Water Service Charge"* shall be the charge per quarter or month levied on all users of the Water Facilities. The service charge shall be computed as outlined in this Article, and shall consist of the total of the Basic User Charge and the Local Capital Cost if applicable.

(2) *"User Charge"* shall mean a charge levied on users of water works for the cost of operation, maintenance and replacement.

(3) *"Basic User Charge"* shall mean the basic assessment levied on all users of the public water system.

(4) ***"Debt Service Charge"*** shall be the amount to be paid each billing period for payment of interest, principal and coverage of (loan, bond, etc.) outstanding.

(5) ***"Capital Improvement Charge"*** shall mean a charge levied on users to improve, extend or reconstruct the water works.

(6) ***"Local Capital Cost Charge"*** shall mean charges for costs other than the operation, maintenance and replacement costs, i.e. debt service and capital improvement costs.

(7) ***"Replacement"*** shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances, which are necessary during the useful life of the works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

(8) ***"Useful Life"*** shall mean the estimated period during which the water works will be operated.

(9) ***"Water and Sewer Fund"*** is the principal accounting designation for all revenues received in the operation of the water system.

38-3-2 APPLICATION FOR TAPS AND SERVICE CONNECTIONS TO THE WATERWORKS SYSTEM. An applicant desiring a water tap or service connection with the Waterworks System of the Village shall file a written application at the Village Hall, signed by the owner of the property for which the tap or service connection is desired, or by the duly authorized agent of such owner. The application shall be accompanied by payment of the fee hereinafter prescribed to cover the cost of such service connection. In the event the application is made by an agent for the owner, then the application shall also be accompanied by the written authority of the owner to the agent for the making of the application. **(See Appendix #1)**

No water tap or service connection to the waterworks system shall be allowed, made or extended to any property outside, beyond, or which is not included in the official geographic boundaries of the Village, however, a water tap or service connection can be specified, provided for or agreed upon in a written contract or agreement executed and entered into by and between the corporate authorities of the Village and the individual, association, corporation, or other owner or owners of said property which is outside, beyond or not included in the official geographic boundaries of the Village. **(Ord. No. 517B; 04-15-97)**

38-3-3 ALL SERVICE TO BE BY METER.

(A) All water service, whether for domestic, commercial or industrial use shall be metered. All meters shall be so placed and installed as to render the same accessible at all times for the purpose of reading or repairing and so as to be free from danger of freezing. Meters outside of a building shall be set in a suitable meter box approved by the Water and Sewer Committee. Water shall not be turned on for new connections until the meter has been installed and all other requirements of this Chapter on the part of the property owner have been fully complied with.

(B) **Irrigation Meters.** In the circumstances only where a user does not discharge water into a sanitary sewer system, said user shall purchase a water meter from the Village that will meter the volume of water that is consumed but does not enter the system. Said meter shall be installed in compliance with the Illinois State Plumbing Code and shall include a RPZ, Reduced Pressure Principle Backflow Prevention Device.

All RPZs shall be inspected at least annually by a CCCDI, Cross Connection Control Device Inspector that has been certified by the Illinois Environmental Protection Agency in accordance with 35 Ill. Adm. Code 653.802 to inspect, test, maintain and repair cross connection control devices and assemblies.

If the user wishes to receive a credit for the sewage treatment portion of their water usage that did not enter the sewage treatment system, a picture of the meter register or the meter itself shall be returned to the Village Hall by November 15 of each year. A copy of the annual RPZ inspection along

with the certification of the CCCDI will be required to be presented with the meter reading. Once the meter reading and inspection have been verified by a Village Hall representative a credit will be issued to your water/sewer account.
(Ord. No. 927; 12-17-19)

38-3-4 RESERVED.

38-3-5 INSTALLING AND MAINTAINING SERVICE LINES. The user shall be responsible for and pay in full the entire cost of all materials and labor incurred for the installation of any water service lines which run from the water main to the meter as well as the entire cost of labor and materials for the installation and maintenance of any water service lines which run between the meter and any residence or business. Such service lines must be at least **one (1) inch** in diameter and must be installed at a minimum depth of **three (3) feet**. Service lines must have a minimum working pressure rating of **160 psi at 73.4 degrees F** and must be constructed of one of the following types of material: Copper, (Type K), polyvinyl chloride (PVC), or polyethylene. Service lines shall not be covered until they are inspected and approved by the Superintendent. **(Ord. No. 654; 10-19-04)**

38-3-6 INSPECTION.

(A) **Access to Premises.** The Village shall have access to all portions of the premises of the consumer at any reasonable time for inspection of the use of water and the consumer's pipe, fixtures, plumbing, and any other apparatus in any manner connected to the Waterworks System of the Village. The Village shall have the right and option to demand change or stopping of use or to require any repair, change, removal or improvement of any pipe, fixture, plumbing or other apparatus that would in any manner affect the water supply or system of the Village or the supply or fixtures of other consumers.

(B) **Meters to be Open to Inspection.** All water meters and water fixtures, connections and appurtenances on private property connected with the Waterworks System of the Village shall be open to the inspection of the proper officers and employees of the Village at all reasonable hours.

38-3-7 INDEMNIFICATION BY VILLAGE. While performing the necessary work on private properties referred to in **Section 38-3-6** above the Village or duly authorized employees of the Village and the Illinois Environmental Protection Agency shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the Village employees and the Village shall indemnify the company against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operating, except as such may be caused by negligence or failure of the company to maintain conditions as required in this Code.

38-3-8 PRIVATE PROPERTY; INSPECTIONS. The Village and other duly authorized employees of the Village bearing proper credentials and identification shall be permitted to enter all private properties through which the Village holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of

the waterworks lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

38-3-9 METER DAMAGED. Whenever it is determined that a meter has been damaged, when said damage has been caused by or results from hot water being forced back into the meter from the consumer's hot water or heating apparatus of any kind or nature, or from any other cause of any kind or nature determined to have resulted from the negligence or intentional act of the consumer or any other individual acting on behalf of said consumer, the consumer shall pay the Village and be solely responsible for all costs related to the removal, repair and replacement of the damaged meter, all previous water bills shall be corrected on an estimated basis to cover such period as it appears that the meter was out of order due to and as a result of such damage. **(Ord. No. 832; 12-18-12)**

38-3-10 DAMAGE DUE TO INTERRUPTION OF SERVICE; LIABILITY. All connections for the water services applied for hereunder and all connections now attached to the present Village Waterworks System and all use or service of the system shall be upon the express condition that the Village shall not be liable for nor shall any claim be made against it for damages or injury caused by reason of the breaking of any main, service, pipe, apparatus or appurtenance connected with the Waterworks System or for any interruption of the supply of water by reason of the breaking of machinery or by reason of stoppages, alterations, extensions or renewals.

38-3-11 RESALE OF WATER. No water supplied by the waterworks system shall be resold by any user. No water user may supply water to other families or allow them to take it, except for use on the premises and for the purpose specified in such user's approved application, nor after water is introduced into any building or upon any premises shall any person make or employ any other person to make any tap or connection with work upon the premises for alterations, repairs, extension or attachments without written permit therefore. Resale or unauthorized use of water shall be grounds for discontinuance of water service to the user, or the premises, or both.

38-3-12 DISCONTINUING SERVICE - DANGEROUS USAGE. The Village shall have the right to refuse water service or to discontinue water service, without notice, at any time to any consumer if the Village finds any apparatus or appliances, the operation of which will be detrimental to the water system of the Village or to any or all of its consumers. Standpipes, hydrants, gate valves and any other apparatus that cause water hammer or any danger to the water system or other customer's plumbing shall be immediately repaired or removed upon notice from the Village or, at its option, the Village may immediately discontinue service without notice and without any liability for direct or resulting damages therefrom.

38-3-13 ELECTRIC GROUND WIRES. All persons are strictly forbidden to attach any electric ground wire to any plumbing or water piping which is or may be connected to any water service pipe, water meter, or water main belonging to the Village.

The Village shall hold the owner of the premises responsible and liable for any damage to the property or injury to the employees of the Village caused by such ground wire. Any and all owners and consumers shall remove any existing ground wires immediately upon written notice from the Village. If not so disconnected **five (5) days** after notice, the Village, through its officials, may enter the property and remove such ground wires and the consumer shall pay all costs.

38-3-14 WATER FOR BUILDING OR CONSTRUCTION PURPOSES. Applicants desiring to use water from the Village Waterworks System for building or construction purposes shall make application therefor to the Superintendent on a form provided by the Water and Sewer Department for that purpose.

Upon a permit being granted, the service pipe shall be carried at the expense of the applicant to the inside of the curb line where a service cock and meter shall be placed with pipe leading to the surface and a faucet placed at the end thereof above the surface. When the building or construction is completed, the faucet and meter shall be removed and the water shut off unless permanent connection is made in accordance with the provisions of this Chapter. Charge for the use and connection of the meter shall be prescribed by the Superintendent.

38-3-15 FIRE HYDRANTS.

(A) All public fire hydrants with gate valves, tees, and connections from the main, inside the Village Limits, shall be owned, maintained and used only by the Village and shall be solely responsible for same. Use of water from fire hydrants by contractors and others shall be only upon permission by the Village and after approved application to the Village.

(B) The Village shall not be held liable and will not assume any responsibility for the condition of any fire hydrant inside or outside of the Village Limits or the pressure or amount of water obtainable therefrom or any damage either direct or resultant because of the condition, pressure or amount of water available at any fire hydrant.

(C) All public fire hydrants located outside the Village Limits owned by the Village shall be maintained in as good order as reasonably possible, but the Village will not undertake or assume any responsibility or liability for their condition or use or abuse. Such public fire hydrants shall be used only for the purpose of extinguishing fires except when the Village may issue a special permit for their use to contractors who shall then be responsible for the hydrants and the use of water from them.

(D) The Fire Department shall pay into the Water Fund, **Twenty-Five Dollars ($25.00)** per annum for each fire hydrant (excluding any contracted for and financed by private individual, groups or corporations) installed and part of the system.

38-3-16 LIMITED WATER USAGE IN EMERGENCIES.

(A) The Mayor is hereby authorized to proclaim the existence of an emergency whenever it appears that the Village water supply is inadequate for all general uses and purposes, which proclamation shall be published in a newspaper of general circulation in the community and the Mayor is further authorized to declare in similar manner the end of an emergency period.

(B) From and after the publication of a proclamation as provided for in subsection (A) of this Section, the following uses of water shall be prohibited:

(1) the washing of cars and other vehicles;
(2) the sprinkling of lawns and shrubbery;
(3) the watering of gardens;
(4) other nonessential uses;

and it shall be unlawful for any person to so use water from the Village supply during such an emergency.

38-3-17 SHORTAGE AND PURITY OF SUPPLY. The Village shall not be held responsible for or in any manner liable to any person, company, consumer or public body for any claim or damage, either direct or resultant because of any shortage of water supply, any shutoff of water for any reason, any bursting or leakage of either the consumer's or Village's mains, pipes and fixtures, any pollution or impurity in water supply or any fire or water damage.

38-3-18 NON-COMPLIANCE WITH RULES AND REGULATIONS. If any consumer fails to comply with any of the rules and regulations in force, the Village shall notify the consumer of such failure. If the consumer does not remedy the same as the rules provide and within a reasonable time, the Village shall have the right to discontinue service. Except in case of non-payment, emergency, necessity, or as otherwise provided, the Village will not discontinue service for violation of any rule until **five (5) days** after notice has been given and the violation has not been remedied.

38-3-19 EASEMENTS.

(A) Consumers shall grant any and all easements and right of ways which the Village Board of Trustees may determine from time to time in its discretion are necessary to further a public purpose or enhance or preserve the general welfare of the people. Consumers shall further grant the agents, representatives or employees of the municipality access to any and all said easements or right of ways for the purpose of constructing, repairing, maintaining, relocating or expanding the municipal water or sewer system or for such any other reason or purpose related directly or indirectly to the operation of said systems.

(B) Whenever the Village Board of Trustees shall, in its discretion, determine that it is prudent or necessary to install, maintain, expand, relocate or replace in whole or in part any portion of the municipal water or sewer systems, including but not limited to the lines servicing same and any driveway or sidewalk located in, on or over a public easement or right of way is removed by the Village in order to facilitate said work, the Village shall replace said driveway or sidewalk, or portion thereof, or reimburse the owner of the property so affected, but only to the following extent:

(1) Irrespective of the thickness, tinting, texture or finish of any concrete affected by work performed by the Village, said concrete shall be replaced with a **four (4) inch** thick reinforced, untinted broom finish in accordance with the Illinois Department of Transportation's Standard Specifications for Road and Bridge Construction latest edition, Section 423, for Portland Cement Concrete Drive Pavement and/or 424 for Portland Cement Concrete Sidewalk, in the alternative, the Village may, in its discretion, reimburse the owner of the property affected, the cost of said repair or replacement in accordance with the specifications stated herein.

(2) Irrespective of the thickness, tinting, texture or finish of any asphalt affected by work performed by the Village, said asphalt shall be replaced with **two (2) inches** of smooth surface hot mix asphalt in accordance with the Illinois Department of Transportation's Standard Specifications for Road and Bridge Construction latest edition, "Section 408, Incidental Hot Mix Asphalt Surfacing", in the alternative, the Village may in its discretion reimburse the owner of the property affected, the cost of said repair or replacement in accordance with the specifications stated herein.

(3) The Municipality may in its discretion reuse rock removed or displaced during construction, however, any additional rock will be **one and one-half (1 1/2) inches** minus crushed limestone.

(4) Oil and chip surfaces will only be replaced during the period provided pursuant to the municipal yearly motor fuel tax oil and chip maintenance program.

(5) The Municipality shall not, under any circumstances whatsoever, replace precast pavers which are removed. The Municipality shall only reimburse the homeowner the cost of providing concrete as specified in paragraph (1) herein.

(Ord. No. 835; 02-05-13)

38-3-20 USE OF WATER ON CONSUMER'S PREMISES. The Village shall reserve the right to use the water from the consumer's facilities at any time deemed necessary. No charge shall be made by the consumer for the use of the facilities and no charge shall be made by the Village for the water used by the Village.

38-3-21 ALLOCATION OF MAINTENANCE COSTS BETWEEN USER AND VILLAGE. The Village shall maintain and repair all water service pipes between the water mains and the water meters. Any repairs to service lines or taps between the water mains and the meters shall be the Village's expense. Any repairs or renewals of water service pipes between the water meter and the owner's premises shall be made at the sole expense of the consumer or owner of the premises.

38-3-22 VILLAGE NOT LIABLE FOR INTERRUPTION OF SUPPLY. The Village shall have the right to shut off the supply of water whenever it is necessary to make repairs, improvements, enforce rules or for any notice as circumstances allow, will be given to consumers but in emergencies, the water may be shut off without notice. All hot water faucets shall be left open during any shut-off to prevent damage to plumbing. Such necessary work will be done as rapidly as may be practical and whenever feasible at such times as will cause the least inconvenience. The Village shall not be held responsible for or liable because of any shut-off of supply for any direct or resultant damages to any person, company or consumer or to any pipe, fixtures, or plumbing.

Water for steam boilers, gas engines, ice plants, or other industrial use, shall not be furnished by direct pressure from the mains, but only to tanks holding ample reserve supply. Should any equipment be supplied direct from mains, then in case of any shutoff of water, the Village will not be held responsible or liable for any direct or resulting damage because of interrupted supply, insufficient pressure, or otherwise.

Whenever water mains, pipes and service connections are taken up, shut-off or interfered with by reason of any Village street improvements, the Village will endeavor to maintain service so far as reasonably possible, but will not be directly or indirectly liable for any interruption, poor pressure, or damage of any kind either to consumers, adjacent or to other consumers affected thereby.

The Village expressly stipulates with all its consumers and other persons that it will not insure or be responsible or liable in any manner for any losses, or damages, direct or resultant by reason of any fire, and all water service furnished shall always be conditional upon acts of God, inevitable accidents, fire, strikes, riots, war, or any other cause not within the reasonable control of the Village.

38-3-23 WATER WELL PERMITS REQUIRED. It shall be unlawful to drill a water-well in the Village without the proper permits from the State of Illinois and the Village Board. All wells shall comply with the Cross-Connection Code in this Chapter. No wells shall be drilled when the property is within **two hundred (200) feet** of the municipal water main.

38-3-24 ABANDONED CONNECTION. Whenever any connection to the waterworks system is abandoned, because the building to which the water connection is made has been abandoned, destroyed or removed, the Superintendent may remove the meter and any pipe or connections in the public right-of-way or easement, and cap, plug or otherwise seal the pipe or main. Before taking any such steps the Superintendent shall notify the owner of the real estate if the owner's name and address is known, and shall notify the person shown on the real estate tax records as having paid taxes on the property the last time taxes were paid. Such notice shall be made by mail, at least **thirty (30) days** before any action is taken under this Section. If water is leaking, the Superintendent shall take immediate action, and send the notices within **three (3) working days** of the time action was taken.

38-3-25 RULES TO BECOME PART OF CONTRACT. All of the rules and regulations concerning the use of the facilities of the water system and the consumption of water shall be adopted and the same shall become part of the contract with every water consumer and every water consumer shall be considered to take water from the Village, subject thereto and bound thereby.

38-3-26 - 30-3-30 RESERVED.

DIVISION II - CROSS-CONNECTION ADMINISTRATION

38-3-31 APPROVED BACKFLOW DEVICE. All plumbing installed within the Village shall be installed in accordance with the Illinois Plumbing Code, 77 Ill. Adm. Code 890. If, in accordance with the Illinois Plumbing Code or in the judgment of the Inspector, an approved backflow prevention device is necessary for the safety of the public water supply system, the Inspector shall give notice to the water customer to install such an approved device immediately. The water customer shall, at his own expense, install such an approved device at a location and in a manner in accordance with the Illinois Plumbing Code, Illinois Environmental Protection Agency and all applicable local regulations, and shall have inspections and tests made of such approved devices upon installation and as required by the Illinois Plumbing Code, Illinois Environmental Protection Agency and local regulations.

38-3-32 CROSS-CONNECTION PROHIBITED; EXCEPTION. No person shall establish or permit to be established or maintain or permit to be maintained any connection whereby a private, auxiliary or emergency water supply other than the regular public water supply enters the supply or distribution system of the Village, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the Superintendent and the Illinois Environmental Protection Agency.

38-3-33 INVESTIGATIONS BY SUPERINTENDENT. It shall be the duty of the Superintendent to cause surveys and investigations to be made of commercial industrial and other properties served by the public water supply to determine whether actual or potential hazards to the public water supply may exist. Such surveys and investigations shall be made a matter of public record and shall be repeated at least every **two (2) years** or as often as the Inspector shall deem necessary. Records of such surveys shall be maintained and available for review for a period of at least **five (5) years.**

38-3-34 RIGHT TO ENTER PREMISES. The approved cross-connection control device inspector shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system for the purpose of verifying the presence or absence of cross-connections and that the Inspector or his authorized agent shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system for the purpose of verifying information submitted by the customer regarding the required cross-connection control inspection. On demand, the owner, lessee or occupants of any property so served shall furnish to the Inspector any information which he may request regarding the piping system or systems or water use on such property. The refusal of such information when demanded shall, within the discretion of the Inspector, be evidence of the presence of improper connections as provided in this Chapter.

38-3-35 NOTICE TO CUSTOMER; RECONNECT FEE.

(A) The Village Clerk is hereby authorized and directed to discontinue, after reasonable notice to the occupant thereof, the water service to any property wherein any connection in violation of the provisions of this Chapter is known to exist, and to take such other precautionary measures as he may deem necessary to eliminate any danger of contamination of the public water supply distribution mains. Water service to such property shall not be restored until such conditions have been eliminated or corrected in compliance with the provisions of this Chapter and until a reconnection fee of **One Hundred Dollars ($100.00)** is paid to the Village Clerk.

(B) Immediate disconnection with verbal notice can be effected when the Inspector is assured that imminent danger of harmful contamination of the public water supply system exists. Such action shall be followed by written notification of the cause of disconnection. Immediate disconnection without notice to any party can be effected to prevent actual or anticipated contamination or pollution of the public water supply, provided that, in the reasonable opinion of the Inspector or the Illinois Environmental Protection Agency, such action is required to prevent actual or potential contamination or pollution of the public water supply.

(C) The public water supply, the Inspector or the agents or assigns shall not be liable to any customer for any injury, damages or lost revenues which may result from termination of the customer's water supply in accordance with the terms of this Chapter, whether or not said termination was with or without notice.

38-3-36 CONTAMINATIONS COST AND THE CONSUMER. The consumer responsible for back siphoned material or contamination through backflow, if contamination of the potable water supply system occurs through an illegal cross-connection or an improperly installed, maintained or repaired device, or a device which has been bypassed, shall bear the cost of clean-up of the potable water supply system.

38-3-37 - 38-3-40 RESERVED.

DIVISION III - CROSS-CONNECTION CONTROL CODE

38-3-41 PURPOSE. The purpose of these Rules and Regulations is:

(A) To protect the public water supply system from contamination or pollution by isolating within the customer's water system contaminants or pollutants which could backflow through the service connection into the public water supply system.

(B) To promote the elimination or control of existing cross-connections, actual or potential, between the public or consumer's potable water system and non-potable water systems, plumbing fixtures and sources or systems containing substances of unknown or questionable safety.

(C) To provide for the maintenance of a continuing program of cross-connection control which will prevent the contamination or pollution of the public and consumer's potable water systems.

38-3-42 APPLICATION. These Rules and Regulations shall apply to all premises served by the public potable water supply system of the Village.

38-3-43 RESPONSIBILITY OF OWNER. The owner or official custodian shall be responsible for protection of the public water supply system from contamination due to backflow or back-siphonage of contaminants through the customers water service connection. If, in the judgment of the Superintendent or his authorized representative, an approved backflow prevention device is necessary for the safety of the public water supply system, the Superintendent shall give notice to the consumer to install such approved backflow prevention device at each service connection to the premises. The consumer shall immediately install such approved device or devices at his own expense; failure, refusal or inability on the part of the consumer to install such device or devices immediately shall constitute grounds for discontinuing water service to the premises until such device or devices have been installed. The consumer shall retain records of installation, maintenance, testing and repair as required in **Section 38-4-37(D)** below for a period of at least **five (5) years**. The Superintendent may require the consumer to submit a cross-connection inspection report to the Village to assist in determining whether or not service line protection will be required. All cross-connection inspections shall be conducted by a Cross-Connection Control Device Inspector certified by the Illinois Environmental Protection Agency.

38-3-44 DEFINITIONS. The following definitions shall apply in the interpretation and enforcement of these regulations:

"Fixed Proper Air Gap" means the unobstructed vertical distance through the free atmosphere between the water discharge point and the flood level rim of the receptacle.

"Agency" means Illinois Environmental Protection Agency.

"Approved" means backflow prevention devices or methods approved by the Research Foundation for Cross-Connection Control of the University of Southern California, Association of State Sanitary Engineers, American Water Works Association, American National Standards Institute or certified by the National Sanitation Foundation.

"Auxiliary Water System" means any water source or system on or available to the premises other than the public water supply system and includes the water supplied by the system. These auxiliary waters may include water from another purveyor's public water supply system; or water from a source such as wells, lakes, or streams or process fluids; or used water. These waters may be polluted or contaminated or objectionable or constitute a water source or system over which the water purveyor does not have control.

"Backflow" means the backflow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water system from any source other than the intended source of the potable water supply.

"Backflow Prevention Device" means any device, method, or type of construction intended to prevent backflow into a potable water system. All devices used for backflow prevention in Illinois must meet the standards of the Illinois Plumbing Code and the Illinois Environmental Protection Agency.

"Consumer" or "Customer" means the owner, official custodian or person in control of any premises supplied by or in any manner connected to a public water system.

"Consumer's Water System" means any water system located on the customer's premises. A building plumbing system is considered to be a customer's water system.

"Contamination" means an impairment of the quality of the water by entrance of any substance to a degree which could create a health hazard.

"Cross-Connection" means any physical connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other a substance of unknown or questionable safety or quality, whereby there may be a flow from one system into the other.

"Direct Cross-Connection" means a cross-connection formed when a water system is physically joined to a source of unknown or unsafe substance.

"Indirect Cross-Connection" means a cross-connection through which an unknown substance can be forced, drawn by vacuum or otherwise introduced into a safe potable water system.

"Double Check Valve Assembly" means an assembly composed of single, independently acting check valves approved under ASSE Standard 1015. A double check valve assembly and suitable connections for testing the water-tightness of each check valve.

"Health Hazard" means any condition, device or practice in a water system or its operation resulting from a real or potential danger to the health and well-being of consumers. The word "severe" as used to qualify "health hazard" means a hazard to the health of the user that could be expected to result in death or significant reduction in the quality of life.

"Inspection" means a plumbing inspection to examine carefully and critically all materials, fixtures, piping and appurtenances, appliances and installations of a plumbing system for compliance with requirements of the Illinois Plumbing Code, 77 Ill. Admn. Code 890.

"Non-potable Water" means water not safe for drinking, personal, or culinary use as determined by the requirements of 35 Ill. Adm. Code 604.

"Plumbing" means the actual installation, repair, maintenance, alteration or extension of a plumbing system by any person. Plumbing includes all piping, fixtures, appurtenances and appliances for a supply of water for all purposes, including without limitation lawn sprinkler systems, from the source of a private water supply on the premises or from the main in the street, alley or at the curb to, within and about any building or buildings where a person or persons live, work or assemble. Plumbing includes all piping, from discharge of pumping units to and including pressure tanks in water supply systems. Plumbing includes all piping, fixtures, appurtenances, and appliances for a building drain and a sanitary drainage and related ventilation system of any building or buildings where a person or persons live, work or assemble from the point of connection of such building drain to the building sewer or private sewage disposal system **five (5) feet** beyond the foundation walls.

"Pollution" means the presence of any foreign substance (organic, inorganic, radiological, or biological) in water that tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water.

"Potable Water" means water which meets the requirements of 35 Ill. Adm. Code 604 for drinking, culinary, and domestic purposes.

"Potential Cross-Connection" means a fixture or appurtenance with threaded hose connection, tapered spout, or other connection which would facilitate extension of the water supply line beyond its legal termination point.

"Process fluid(s)" means any fluid or solution which may be chemically, or biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health, pollutional, or system hazard if introduced into the public or a consumer's potable water system. This includes but is not limited to:

(A) polluted or contaminated waters;

(B) process waters;

(C) used waters originating from the public water supply system which may have deteriorated in sanitary quality;

(D) cooling waters;

(E) questionable or contaminated natural waters taken from wells, lakes, streams, or irrigation systems;

(F) chemicals in solution or suspension;

(G) oils, gases, acids, alkalis and other liquid and gaseous fluids used in industrial or other processes, or for fire fighting purposes.

"Public Water Supply" means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 service connections or which regularly serve at least 25 persons at least 60 days per year. A public water supply is either a "community water supply" or a "non-community water supply".

"Reduced Pressure Principle Backflow Prevention Device" means a device containing a minimum of two independently acting check valves together with an automatically operated pressure differential relief valve located between the two check valves and approved under ASSE Standard 1013. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves at less than the supply pressure. The unit must include tightly closed shutoff valves located at each end of the device, and each device shall be fitted with properly located test cocks.

"Service Connection" means the opening, including all fittings and appurtenances, at the water main through which water is supplied to the user.

"Survey" means the collection of information pertaining to a customer's piping system regarding the location of all connections to the public water supply system and must include the location, type and most recent inspection and testing date of all cross-connection control devices and methods located within that customer's piping system. The survey must be in written form, and should not be an actual plumbing inspection.

"System Hazard" means a condition through which an aesthetically objectionable or degrading material not dangerous to health may enter the public water supply system or a consumer's potable water system.

"Used Water" means any water supplied by a public water supply system to a consumer's water system after it has passed through the service connection and is no longer under the control of the water supply official custodian.

"Water Purveyor" means the owner or official custodian of a public water system.

38-3-45 WATER SYSTEM.

(A) The water system shall be considered as made up of two parts: the public water supply system and the consumer's water system.

(B) The public water supply system shall consist of the source facilities and the distribution system, and shall include all those facilities of the potable water system under the control of the Superintendent up to the point where the consumer's water system begins.

(C) The source shall include all components of the facilities utilized in the production, treatment, storage, and delivery of water to the public water supply distribution system.

(D) The public water supply distribution system shall include the network of conduits used to deliver water from the source to the consumer's water system.

(E) The consumer's water system shall include all parts of the facilities beyond the service connection used to convey water from the public water supply distribution system to points of use.

38-3-46 CROSS-CONNECTION PROHIBITED.

(A) Connections between potable water systems and other systems or equipment containing water or other substances of unknown or questionable quality are prohibited except when and where approved cross-connection control devices or methods are installed, tested and maintained to insure proper operation on a continuing basis.

(B) No physical connection shall be permitted between the potable portion of a supply and any other water supply not of equal or better bacteriological and chemical quality as determined by inspection and analysis by the Agency.

(C) There shall be no arrangement or connection by which an unsafe substance may enter a supply.

38-3-47 SURVEY AND INVESTIGATIONS.

(A) The consumer's premises shall be open at all reasonable times to the approved cross-connection control device inspector for the inspection of the presence or absence of cross-connections within the consumer's premises, and testing, repair and maintenance of cross-connection control devices within the consumer's premises.

(B) On request of the Superintendent, or his authorized representative, the consumer shall furnish information regarding the piping system or systems or water use within the customer's premises. The consumer's premises shall be open at all reasonable times to the Superintendent for the verification of information submitted by the inspection consumer to the public water supply custodian regarding cross-connection inspection results.

(C) It shall be the responsibility of the water consumer to arrange periodic surveys of water use practices on his premises to determine whether there are actual or potential cross-connections to his water system through which contaminants or pollutants could backflow into his or her public potable water system. All cross-connection control or other plumbing inspections must be conducted in accordance with Ill. Comp. Stat., Ch. 225, Sec. 320/3.

(D) It is the responsibility of the water consumer to prevent backflow into the public water system by ensuring that:

(1) All cross-connections are removed; or approved cross-connection control devices are installed for control of backflow and back-siphonage.

(2) Cross-connection control devices shall be installed in accordance with the manufacturer's instructions.

(3) Cross-connection control devices shall be inspected at the time of installation and at least annually by a person approved by the Agency as a cross-connection control device inspector (CCCDI). The inspection of mechanical devices shall include physical testing in accordance with the manufacturer's instructions.

(4) Testing and Records

(a) Each device shall be tested at the time of installation and at least annually or more frequently if recommended by the manufacturer.

(b) Records submitted to the community public water supply shall be available for inspection by Agency personnel in accordance with Ill. Comp. Stat., Ch. 415, Sec. 5/4(e).

(c) Each device shall have a tag attached listing the date of most recent test, name of CCCDI, and type and date of repairs.

(d) A maintenance log shall be maintained and include:

1. date of each test;
2. name and approval number of person performing the test;
3. test results;
4. repairs or servicing required;
5. repairs and date completed; and
6. serving performed and date completed.

38-3-48 WHERE PROTECTION IS REQUIRED.

(A) An approved backflow device shall be installed on all connections to the public water supply as described in the Plumbing Code, 77 Ill. Adm. Code 890 and the Agency's regulations 35 Ill. Adm. Code 680. In addition, an approved backflow prevention device shall be installed on each service line to a consumer's water system serving premises, where in the judgment of the Superintendent, actual or potential hazards to the public water supply system exist.

(B) An approved backflow prevention device shall be installed on each service line to a consumer's water system serving premises where the following conditions exist:

(1) Premises having an auxiliary water supply, unless such auxiliary supply is accepted as an additional source by the Superintendent and the source is approved by the Illinois Environmental Protection Agency.

(2) Premises on which any substance is handled which can create an actual or potential hazard to the public water supply system. This shall include premises having sources or system containing process fluids or waters originating from the public water supply system which are no longer under the sanitary control of the Superintendent.

(3) Premises having internal cross-connections that, in the judgment of the Superintendent, are not correctable or intricate plumbing arrangements it make which impractical to determine whether or not cross-connections exist.

(4) Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross-connection survey.

(5) Premises having a repeated history or cross-connections being established or reestablished.

(C) An approved backflow device shall be installed on all connections to the public water supply as described in the Plumbing Code, 77 Ill. Adm. Code 890 and the Agency's regulations 35 Ill. Adm. Code 653. In addition, an approved backflow prevention device shall be installed on each service line to a consumer's water system serving, but not necessarily limited to, the following types of facilities unless the Superintendent determines that no actual or potential hazard to the public water supply system exists:

(1) Hospitals, mortuaries, clinics, nursing homes.
(2) Laboratories.
(3) Piers, docks, waterfront facilities.
(4) Sewage treatment plants, sewage pumping stations or storm water pumping stations.
(5) Food or beverages processing plants.
(6) Chemical plants.
(7) Metal plating industries.
(8) Petroleum processing or storage plants.

(9) Radioactive material processing plants or nuclear reactors.
(10) Car washes.
(11) Pesticide, or herbicide or extermination plants and trucks.
(12) Farm service and fertilizer plants and trucks.

38-3-49 TYPE OF PROTECTION REQUIRED.

(A) The type of protection required under **Section 38-3-38** of these regulations shall depend on the degree of hazard which exists as follows:

(1) An approved fixed proper air gap separation shall be installed where the public water supply system may be contaminated with substances that could cause a severe health hazard.
(2) An approved fixed proper air gap separation or an approved reduced pressure principle backflow prevention assembly shall be installed where the public water supply system may be contaminated with a substance that could cause a system or health hazard.
(3) An approved fixed proper air gap separation or an approved reduced pressure principle backflow prevention assembly or a double check valve assembly shall be installed where the public water supply system may be polluted with substances that could cause a pollution hazard not dangerous to health.

(B) The type of protection required under **Section 38-3-38** of these regulations shall be an approved fixed proper air gap separation or an approved reduced pressure principle backflow prevention connected to the public water supply when:

(C) Where a public water supply or an auxiliary water supply is used for a fire protection system, reduced pressure principle backflow preventers shall be installed on fire safety systems connected to the public water supply when:

(1) The fire safety system contains antifreeze, fire retardant or other chemicals;
(2) water is pumped into the system from another source; or
(3) water flows by gravity from a non-potable source; or water can be pumped into the fire safety system from any other source;
(4) there is a connection whereby another source can be introduced into the fire safety system.

(D) All other fire safety systems connected to the potable water supply shall be protected by a double check valve assembly on metered service lines and a double detector check valve assembly on unmetered service lines.

38-3-50 BACKFLOW PREVENTION DEVICES.

(A) All backflow prevention devices or methods required by these rules and regulations shall be approved by the Research Foundation for Cross-Connection Control of the University of Southern California, American Water Works Association, American Society of Sanitary Engineering, or American National Standards Institute or certified by the National Sanitation Foundation to be in compliance with applicable industry specification.

(B) Installation of approved devices shall be made in accordance with the manufacturer's instructions. Maintenance as recommended by the manufacturer of the device shall be performed. Manufacturer's maintenance manual shall be available on-site.

38-3-51 INSPECTION AND MAINTENANCE.

(A) It shall be the duty of the consumer at any premises on which backflow prevention devices required by these regulations are installed to have inspection, tests, maintenance and repair made in accordance with the following schedule or more often where inspections indicate a need or are specified in manufacturer's instructions.

(1) Fixed proper air gap separations shall be inspected to document that a proper vertical distance is maintained between the discharge point of the service line and the flood level rim of the receptacle at the time of installation and at least annually thereafter. Corrections to improper or by passed air gaps shall be made within 24 hours.

(2) Double check valve assemblies shall be inspected and tested at time of installation and at least annually thereafter, and required service performed within **five (5) days**.

(3) Reduced pressure principle backflow prevention assemblies shall be tested at the time of installation and at least annually or more frequently if recommended by the manufacturer, and required service performed within **five (5) days**.

(B) Testing shall be performed by a person who has been approved by the Agency as competent to service the device. Proof of approval shall be in writing.

(C) Each device shall have a tag attached listing the date of most recent test or visual inspection, name of tester, and type and date of repairs.

(D) A maintenance log shall be maintained and include:

(1) date of each test or visual inspection;

(2) name and approval number of person performing the test or visual inspection;

(3) test results;

(4) repairs or servicing required;

(5) repairs and date completed; and

(6) servicing performed and date completed.

(E) Whenever backflow prevention devices required by these regulations are found to be defective, they shall be repaired or replaced at the expense of the consumer without delay as required by **Section 38-3-41(A)**.

(F) Backflow prevention devices shall not be bypassed, made inoperative, removed or otherwise made ineffective without specific authorization by the Superintendent.

38-3-52 BOOSTER PUMPS.

(A) Where a booster pump has been installed on the service line to or within any premises, such pump shall be equipped with a low pressure cut-off device designed to shut-off the booster pump when the pressure in the service line on the suction side of the pump drops to 20 psi or less.

(B) It shall be the duty of the water consumer to maintain the low pressure cut-off device in proper working order and to certify to the Superintendent, at least once a year, that the device is operable.

38-3-53 VIOLATIONS AND PENALTIES.

(A) The Superintendent shall deny or discontinue, after reasonable notice to the occupants thereof, the water service to any premises wherein any backflow prevention device required by these regulations is not installed, tested, maintained and repaired in a manner acceptable to the Superintendent, or if it is found that the backflow prevention device has been removed or bypassed, or if an unprotected cross-connection exists on the premises, or if a low pressure cut-off required by these regulations is not installed and maintained in working order.

(B) Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with these regulations and to the satisfaction of the Superintendent, and the required reconnection fee is paid.

(C) Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects on conformance with these Regulations and to the satisfaction of the Superintendent.

(D) Neither the Village, the Superintendent, or its agents or assigns, shall be liable to any customers of the Village for any injury, damages or lost revenues which may result from termination of said customer's water supply in accordance with the terms of this ordinance, whether or not said termination of the water supply was with or without notice.

(E) The consumer responsible for back-siphoned material or contamination through backflow, if contamination of the potable water supply system occurs through an illegal cross-connection or an improperly installed, maintained or repaired device, or a device which has been bypassed, must bear the cost of clean-up of the potable water supply system.

(F) Any person found to be violating any provision of this Code shall be served with written notice stating the notice of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violation.

(G) Any person violating any of the provisions of this Code in addition to the fine provided, shall become liable to the Village for any expense, loss or damage occasioned by the Village by reason of such violation, whether the same was caused before or after notice.

38-3-54 - 38-3-60 RESERVED.

DIVISION IV - EXTENSION OF MAINS

38-3-61 APPLICATION. Any person within the service areas of the water system and desiring the extension of the water main to the premises shall make application therefore to the Village Clerk and in making the application, shall present to the Village Clerk, a plat showing the area to be served by the main extension. **(See Chapter 34 – Subdivision for Water and Sewer Extensions)**

38-3-62 PLAT OF PROPOSED EXTENSION. The plat shall be submitted by the Village Clerk to the Engineer and Utilities Committee of the Village Board for determination of the size and lengths of the water mains, location of fire hydrants, water service valves and other appurtenances to be installed based upon the following requirements:

(A) Mains shall be sized so that fire protection service may be rendered to all lots or premises to be served by the main and any possible extension thereof.

(B) Fire hydrants shall be so located that no premises will be more than **four hundred (400) feet** from a fire hydrant.

(C) In determining the length of pipe lines to be installed to serve a main extension, the main shall be extended to fully cover the front of the property, and if the last lot to be served is a corner lot or a lot immediately adjacent to a corner lot, the terminal point of the extension made hereunder shall be located so that the main laid hereunder ties with the existing main located in the intersecting street; and further provided that if there is no main located on the intersecting street, or no intersecting street, the terminal point of the extension made hereunder shall be located at the nearest street line of the intersecting street, or extend to the furthest end of the development.

(D) The Village may require the proposed main to be connected to its distribution system at a point which, in its judgment, is necessary to adequately furnish water to premises to be served and nothing herein shall require the Village to allow connection to the closest point of existing service, if such service is inadequate for the extension proposed. Main trunk lines may be installed by the Village at no cost to the developer, however, lots or properties fronting directly thereon which may be served by a service connection to the main will be charged the average amount per connection as found in subdivisions currently being constructed.

(E) The Village reserves the right to further extend its water mains from and beyond the terminus of each water main extension made under this Chapter. The applicant, or the applicant's agent paying for an extension shall not be entitled to any refund for the attaching of customers to any further extension or branch mains so involved.

(F) Extensions made under this rule shall be and remain the property of the Village.

(G) Before the Village mains will be laid hereunder in any new subdivision, it is understood and agreed that the street surface shall be brought to the extended sub-grade and the applicant, developer of such new subdivision shall furnish the Village with a right-of-way agreement in suitable form to the Village, unless the streets of the new subdivision have been dedicated to public use.

(H) Installing pipe lines in paved or unpaved streets. When a pipe line is to be installed in a paved or unpaved street, a service line of **one (1) inch** Type "K" Copper is to be provided to the center line of each lot for a one-family dwelling. The service line is to terminate in a meter pit at a point within the Village right-of-way, with allowance for future sidewalks and at the discretion of the Superintendent of Utilities.

When a business or an apartment house is to be serviced, contact the Utilities Department to obtain the proper size for the street.

38-3-63 ENGINEER TO PREPARE PLANS. After approval of design, plans and specifications shall be prepared in accordance with the foregoing and with specifications for utility main extensions from time to time adopted by the Village Board. The plans and specifications shall be prepared by the Village Engineer, or a Civil Engineer acceptable to the Village Board.

38-3-64 SEALED BIDS – LARGER PIPE REQUIRED. Sealed bids shall be received by the Village Board after advertisement not less than **ten (10) days** prior to the date of the receiving of the bids and after receipt thereof, the applicant shall deposit with the Village Clerk the entire cost, based upon the lowest responsible bid; the cost to include the entire cost of the proposed extension, including pipes, valves, fittings, fire hydrants, all other material and all costs of engineering and inspection. Excepting that if the Village should require the installation of a size of pipe larger than is found by the Village Engineering standard to be necessary for the subdivision; then the deposit shall be based upon the cost of installing the size determined to be necessary for the subdivision, with the Village standing the additional cost for a larger line.

38-3-65 CONTRACT. Upon deposit of the moneys by the applicant as hereinbefore required, a contract shall be entered into between the applicant and the Village as provided by the Village.

38-3-66 - 38-3-69 RESERVED.

DIVISION V – WATER RATES

38-3-70 BUILDING UNIT DEFINED. All persons or families residing in a building under one roof, be it an apartment or homes converted into more than one dwelling place, each family or individual resident residing therein shall be deemed an individual customer or such homes or apartments or dwellings shall be billed for at least one minimum water and/or sewer account according to the number of families or individual residents residing therein.

38-3-71 WATER REVENUES. All revenues and moneys derived from the operation of the Water system shall be deposited in the water account of the water fund. All such revenues and moneys shall be held by the Village Treasurer separate and apart from its private funds and separate and apart from all other funds of the Village Treasurer not more than **ten (10) days** after receipt of the same, or at such more frequent intervals as may from time to time be directed by the Board of Trustees. The Village Treasurer shall receive all such revenues from the water system and all other funds and

moneys incident to the operation of such system as the same may be delivered to him and deposit the same in the account of the fund designated as the "Water and Sewer System Fund of the Village". The Treasurer shall administer such fund in every respect in the manner provided by **65 ILCS 5/3.1-35-40 et seq.**

38-3-72 ACCOUNTS. The Treasurer shall establish a proper system of accounts and shall keep proper books, records and accounts in which complete and correct entries shall be made of all transactions relative to the water and sewer systems and at regular annual intervals, he shall cause to be made an audit by an independent auditing concern of the books to show the receipts and disbursements of the water and sewer systems.

In addition to the customary operating statements, the annual audit report shall also reflect the revenues and operating expenses of the wastewater facilities, including a replacement cost, to indicate that sewer service charges under the waste cost recovery system and capital amounts required to be recovered under the industrial cost recovery system do, in fact, meet these regulations. In this regard, the financial information to be shown in the audit report shall include the following:

(A) Flow data showing total gallons received at the wastewater plant for the current fiscal year.

(B) Billing data to show total number of gallons billed.

(C) Debt service for the next succeeding fiscal year.

(D) Number of users connected to the system.

(E) Number of non-metered users.

(F) A list of users discharging non-domestic wastes (industrial users) and volume of waste discharged.

38-3-73 ACCESS TO BOOKS. The Illinois Environmental Protection Agency, United States Environmental Protection Agency, or its authorized representative shall have access to any books, documents, papers and records of the Village which are applicable to the Village's system of user charges or industrial cost recovery for the purpose of making audit, examination, excerpts and transcriptions thereof to insure compliance with the terms of the Special and General Conditions to any State Grant.

38-3-74 ANNUAL REVIEW OF RATES. The adequacy of the water service charge shall be reviewed, not less often than annually, by Certified Public Accountants for the Village in their annual audit report. The water service charge shall be revised periodically to reflect a change in local capital costs or O, M & R costs.

38-3-75 APPEALS. The method for computation of rates and service charges established for user charges in **Article IV** shall be made available to a user within **fifteen (15) days** of receipt of a written request for such. Any disagreement over the method used, or in the computation thereof, shall be remedied by a third party selected by both parties within **ninety (90) days** after notification of a formal written appeal outlining the discrepancies.

38-3-76 MEASUREMENT OF FLOW. The volume of flow used for computing basic user charges shall be the metered water consumption round to the nearest even increments of **one hundred (100) gallons**. If the person procures any part or all of his water from sources other than the Public Waterworks System, the following shall apply:

(A) The person shall install and maintain, at his expense, water meters of a type approved by the Village for the purpose of determining the volume of water obtained from these other sources.

(B) Devices for measuring the volume of water may be required of the user by the Village if these volumes cannot otherwise be determined from the metered water consumption records.

(C) Metering devices for determining the volume shall be installed, owned, and maintained by the person. Following approval and installation, such meters may not be removed, unless service is canceled, without the consent of the Village.

(D) The volume of flow used for computing basic user charges and surcharges shall be the metered water consumption read to the lowest even increments of **one hundred (100) gallons** or **one thousand (1,000) gallons**, depending on which meter is installed.

38-3-77 WATER TAP-ON FEES.

(A) **Inside Village.** Applicants requesting water service within the geographic boundaries of the Village for premises to be used as a residence or any accessory structure, shall pay the following charges, costs and expenses:

(1) A charge of **One Thousand Dollars ($1,000.00)** for each tap-in;

(2) The entire cost of a water meter, the size, make and model of which shall be determined and specified by the Municipality;

(3) The cost of any and all materials and hardware, including but not limited to, connecting pipes, water meter vaults and covers, valves and all other items deemed necessary and appropriate by the Municipality for the connection thereof;

(4) The cost of all labor incurred for the purpose of acquiring said water service.

(B) **Commercial.** Applicants requesting water service within the geographic boundaries of the Village for a premises to be utilized in whole or in part for commercial purposes shall pay the following charges, costs and expenses:

(1) A charge of **One Thousand Five Hundred Dollars ($1,500.00)** for each water tap-on;

(2) The entire cost of a water meter, size, make and model of which shall be determined and specified by the Municipality;

(3) The cost of any and all materials and hardware, including but not limited to, connecting pipes, water meter vaults and covers, valves and all other items deemed necessary and appropriate by the Municipality for the connection thereof;

(4) The cost of all labor incurred for the purpose of acquiring said water service.

(Ord. No. 821; 08-07-12)

(C) Any homeowner requesting water and sewer service with a pre-annexation agreement will be charged **two (2) times** the normal tap-in rate.

(D) **Illinois Plumbing Code.** All water tap and service connections made to the mains of the Waterworks System shall conform to the regulations of this Code and of the Illinois Plumbing Code and installed by a Licensed Plumber.

(E) **Maintenance of Water Lines.** The Village shall replace all water mains when it has been deemed necessary to do so in order to maintain service in the Village. The Village shall limit its responsibility to maintaining water lines to the water mains and to the service lines up to the meter. The property owner shall be responsible for the service line from the meter into the premises served.

(Ord. No. 876; 06-21-16)

38-3-78 WATER RATES. There shall be established the following rates and charges for the use of the water system of the Village, based upon the amount of water consumed as follows:

(A) **Inside Village Limits.**

$7.50 Minimum for the first 1,000 gallons for 5/8" meter
6.25 per 1,000 gallons over 1,000 gallons
$9.50 Minimum for the first 1,000 gallons for 1" meter
6.25 per 1,000 gallons over 1,000 gallons

(B) **Outside Village Limits.**

$11.50 Minimum for the first 1,000 gallons
10.50 per 1,000 gallons over 1,000 gallons

(Ord. No. 759; 06-16-09)

(C) **Bulk Sales.**

$1.00 per 250 gallons per month

(Ord. No. 726; 08-21-07)

38-3-79 METER MINIMUMS. The minimum charge per month for all water services (meter) larger than a **five-eighths (5/8) inch** meter shall be as follows:

Three-fourths (3/4) inch meter	$8.50
One (1) inch meter	9.50
One and one-half (1 ½) inch meter	17.50
Two (2) inch meter	29.50
Four (4) inch meter	60.00

The rate for any meters larger than a **four (4) inch** shall be determined by special agreement with the Village Board.

(Ord. No. 726; 08-21-07)

38-3-80 REQUESTED SHUT-OFF. If user requests water to be shut off, there will be a **Fifty Dollar ($50.00)** fee to have the water turned on again.

38-3-81 - 38-3-82 RESERVED.

ARTICLE IV - WASTEWATER SYSTEM

DIVISION I - DEFINITIONS

38-4-1 DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be as follows:

"GOVERNMENT, FEDERAL".

(A) **"Administrator"** means the Administrator of the U.S. Environmental Protection Agency.

(B) **"Federal Act"** means the Federal Clean Water Act **(33 U.S.C. 466 et seq)** as amended, **(Pub. L. 95-217).**

(C) **"Federal Grant"** shall mean the U.S. government participation in the financing of the construction of treatment works as provided for by Title II-Grants for Construction of Treatment Works of the Act and implementing regulations.

"GOVERNMENT, LOCAL".

(A) **"Approving Authority"** shall mean the Superintendent of the Village or his authorized deputy, agent, or representative.

(B) **"NPDES Permit"** means any permit or equivalent document or requirements issued by the Administrator, or, where appropriated by the Director, after enactment of the Federal Clean Water Act to regulate the discharge of pollutants pursuant to Section 402 of the Federal Act.

(C) **"Person"** shall mean any and all persons, natural or artificial including any individual, firm, company, municipal or private cooperation, association, society, institution, enterprise, governmental agency or other entity.

(D) **"Inspector"** shall mean the Superintendent or other person or persons duly authorized by the Village to inspect and approve the installation of building sewer and their connection to the sanitary sewer system.

"GOVERNMENT, STATE".

(A) **"Director"** means the Director of the Illinois Environmental Protection Agency.

(B) **"State Act"** means the Illinois Anti-Pollution Bond Act of 1970.

(C) **"State Grant"** shall mean the State of Illinois participation in the financing of the construction of treatment works as provided for by the Illinois Anti-Pollution Bond Act and for making such grants as filed with the Secretary of State of State of Illinois.

"CLARIFICATION OF WORD USAGE". "Shall" is mandatory; "may" is permissible.

"SEWER TYPES AND APPURTENANCES".

(A) **"Building Drain"** shall mean that part of the lowest piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer or other approved point of discharge, beginning **five (5) feet (1.5 meters)** outside the inner face of the building wall.

(B) **"Building Sewer"** shall mean the extension from the building drain to the public sewer or other place of disposal.

(C) **"Combined Sewer"** shall mean a sewer which is designed and intended to receive sewer, storm, surface and groundwater drainage.

(D) **"Easement"** shall mean an acquired legal right for the specific use of land owned by other.

(E) **"Public Sewer"** shall mean a sewer provided by or subject to the jurisdiction of the Village. It shall also include sewer within or outside the Village boundaries that serve **one (1)** or more persons and ultimately discharge into the Village sanitary sewer or combined sewer system, even though those sewer may not have been constructed with Village funds.

(F) **"Sanitary Sewer"** shall mean a sewer that conveys sewage or industrial wastes or a combination of both, and into which storm, surface and groundwaters or unpolluted industrial wastes are not intentionally admitted.

(G) **"Sewage"** shall mean a pipe or conduit for conveying sewage or any other waste liquids, including storms, surface and groundwater drainage.

(H) **"Sewer"** shall mean the system of sewer and appurtenances for the collection, transportation and pumping of sewage.

(I) **"Storm Sewer"** shall mean a sewer that carries storm, surface and groundwater drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.

(J) **"Stormwater Runoff"** shall mean that portion of the precipitation that is drained into the sewer.

"TREATMENT":

(A) **"Pretreatment"** shall mean the treatment of sewer from sources before introduction into the sewer treatment works.

(B) **"Sewer Treatment Works"** shall mean an arrangement of devices and structures for treating sewer, industrial wastes, and sludge. Sometimes used as synonymous with "waste treatment plant" or "sewer treatment plant" or "pollution control plant".

"TYPES OF CHARGES":

(A) **"Basic User Charge"** shall mean the basic assessment levied on all users of the public sewer system.

(B) **"Capital Improvement Charge"** shall mean the charge levied on users to improve, extend or reconstruct the sewage treatment works.

(C) **"Debt Service Charge"** shall be the amount to be paid each billing period for payment of interest, principal and coverage of (loan, bond, etc.) outstanding.

(D) **"Local Capital Cost Charge"** shall mean charges for costs other than the Operation, Maintenance and Replacements costs, i.e. debt service and capital improvement costs.

(E) **"Replacement"** shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

(F) **"Sewer Fund"** is the principal accounting designation for all revenues received in the operation of the sewer system.

(G) **"Surcharge"** shall mean the assessment in addition to the basic user charge and debt service charge which is levied on those persons whose wastes are greater in strength than average concentration values as established by code.

(H) **"Useful Life"** shall mean the estimated period during which the collection system and/or treatment works will be operated.

(I) **"User Charge"** shall mean a charge levied on users of treatment works for the cost operation, maintenance and replacement.

(J) **"Sewer Service Charge"** shall be the charge per quarter or month levied on all users of the Sewer Facilities. The service charge shall be computed as outlined in Article IV of this Code and shall consist of the total or the Basic User Charge, the local capital cost and a surcharge, if applicable.

(K) **"Reserve Fund Charge"** shall mean a revolving fund for expansion and construction of the sewer system.

"USER TYPES":

(A) **"Control Manhole"** shall mean a structure located on a site from which industrial wastes are discharged. Where feasible, the manhole shall have an interior drop. The purpose of a "control manhole" is to provide access for the Village representative to sample and/or measure discharges.

(B) **"Industrial User"** shall include establishments engaged in manufacturing activities involving the mechanical or chemical transformation of materials of substance into products.

(C) **"Residential User"** shall mean all dwelling units such as houses, buildings, mobile homes, apartments, permanent multi-family dwellings.

(D) **"User Class"** shall mean the type of user either "residential or commercial" (non-industrial) or "industrial" as defined herein.

(E) **"Commercial User"** shall include transit lodging, retail and wholesale establishments or places engaged in selling merchandise, or rendering services.

(F) **"Institutional/Governmental User"** shall include schools, churches, penal institutions, and users associated with Federal, State and local governments.

"WASTEWATER FACILITIES" shall mean the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and transport effluent to a watercourse.

"WATERCOURSE AND CONNECTIONS":

(A) **"Watercourse"** shall mean a channel in which a flow of water occurs, either continuously or intermittently.

(B) **"Natural Outlet"** shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

"WASTEWATER AND ITS CHARACTERISTICS":

(A) **"BOD"** (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in **five (5) days** at **20 degrees centigrade (20°C)**, expressed in milligrams per liter.

(B) **"Effluent Criteria"** are defined in any applicable "NPDES Permit".

(C) **"Floatable Oil"** is oil, fat, or grease in a physical state such that it will separate by gravity from sewer by treatment in an approved pretreatment facility. A sewer shall be considered free of floatable fat if it is properly pretreated and the sewer does not interfere with the collection system.

(D) **"Garbage"** shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

(E) **"Industrial Waste"** shall mean any solid, liquid or gaseous substance discharged, permitted to flow or escaping from any industrial, manufacturing, commercial or business establishment or process or from the development, recovery or processing of any natural resource as distinct from sanitary sewage.

(F) **"Major Contributing Industry"** shall mean an industrial user the publicly owned treatment works that:

(1) Has a flow of 50,000 gallons or more per average work day; or

(2) Has a flow greater than **ten percent (10%)** of the flow carried by the municipal system receiving the waste; or

(3) Has in its waste, a toxic pollutant in toxic amounts as defined in standards issued under Section 307(a) of the Federal Act; or

(4) Is found by the permit issuance authority, in connection with the issuance of the NPDES permit to the publicly owned treatment works receiving the waste, to have significant impact, either singly or in combination with other contributing industries, on that treatment works or upon the quality of effluent from that treatment works.

(G) **"Milligrams per Liter"** (mg/1) shall mean a unit of the concentration of water or sewer constituent. It is 0.001 gram of the constituent in 1,000 milliliter of water. It has replaced the unit formerly used commonly, parts per million, to which it is approximately equivalent, in reporting the results of water and sewer analysis.

(H) **"pH"** shall mean the logarithm (base 10) of the reciprocal of the hydrogen-ion concentration expressed by one of the procedures outlined in the IEPA Division of Laboratories Manual of Laboratory Methods.

(I) **"Population Equivalent"** is a term used to evaluate the impact of industrial or other waste on a treatment works or stream. One population equivalent is 100 gallons of sewage per day, containing 0.17 pounds of BOD and 0.20 pounds of suspended solids.

(J) **"ppm"** shall mean parts per million by weight.

(K) **"Properly Shredded Garbage"** shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewer, with no particle greater than **one (1/2) half inch (1.27 centimeters)** in any dimension.

(L) **"Sewage"** is used interchangeably with "sewer".

(M) **"Slug"** shall mean any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than **fifteen (15) minutes more than five (5) times** the average **twenty-four (24) hour** concentration or flows during normal operation.

(N) **"Suspended Solids"** (SS) shall mean solids that either float on the surface of, or are in suspension in water, sewage, or industrial waste, and which are removable by a laboratory filtration device. Quantitative determination of suspended solids shall be made in accordance with procedures set forth in the I.E.P.A. Division of Laboratories Methods.

(O) **"Unpolluted Water"** is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewer and sewer treatment facilities provided.

(P) **"Sewer"** shall mean the spent water of a community. From this standpoint of course, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.

(Q) **"Water Quality Standards"** are defined in the Water Pollution Regulations of Illinois.

38-4-2 - 38-4-3 RESERVED.

DIVISION II - USE OF PUBLIC WASTEWATERS REQUIRED

38-4-4 DEPOSIT OF WASTES. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the Village or in any area under the jurisdiction of the Village, any human or animal excrement, garbage or other objectionable waste.

38-4-5 SEWAGE IN NATURAL OUTLET. It shall be unlawful to discharge to any natural outlet within the Village, or in area under the jurisdiction of the Village, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.

38-4-6 PRIVATE SYSTEM, UNLAWFUL. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

38-4-7 DISCONTINUANCE OF PRIVATE DISPOSAL SYSTEM. The owner of all the houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the Village and abutting on any street, alley, right-of-way in which there is now located or may in the future be located any public sanitary (or combined) sewer of the Village is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Code, within **ninety (90) days** after date of official notice to do so, provided that said public sewer is within **one hundred (100) feet** of the property line and adequate to handle the additional connection where determined to be required.

38-4-8 EASEMENTS.

(A) Consumers shall grant any and all easements and right of ways which the Village Board of Trustees may determine from time to time in its discretion are necessary to further a public purpose or enhance or preserve the general welfare of the people. Consumers shall further grant the agents, representatives or employees of the municipality access to any and all said easements or right of ways for the purpose of constructing, repairing, maintaining, relocating or expanding the municipal water or sewer system or for such any other reason or purpose related directly or indirectly to the operation of said systems.

(B) Whenever the Village Board of Trustees shall, in its discretion, determine that it is prudent or necessary to install, maintain, expand, relocate or replace in whole or in part any portion of the municipal water or sewer systems, including but not limited to the lines servicing same and any driveway or sidewalk located in, on or over a public easement or right of way is removed by the Village in order to facilitate said work, the Village shall replace said driveway or sidewalk, or portion thereof, or reimburse the owner of the property so affected, but only to the following extent:

(1) Irrespective of the thickness, tinting, texture or finish of any concrete affected by work performed by the Village, said concrete shall be replaced with a **four (4) inch** thick reinforced, untinted broom finish in accordance with the Illinois Department of Transportation's Standard Specifications for Road and Bridge Construction latest edition, Section 423, for Portland Cement Concrete Drive Pavement and/or 424 for Portland Cement Concrete Sidewalk, in the alternative, the Village may, in its discretion, reimburse the owner of the property affected, the cost of said repair or replacement in accordance with the specifications stated herein.

(2) Irrespective of the thickness, tinting, texture or finish of any asphalt affected by work performed by the Village, said asphalt shall be replaced with **two (2) inches** of smooth surface hot mix asphalt in accordance with the Illinois Department of Transportation's Standard Specifications for Road and Bridge Construction latest edition, "Section 408, Incidental Hot Mix Asphalt Surfacing", in the alternative, the Village may in its discretion reimburse the owner of the property affected, the cost of said repair or replacement in accordance with the specifications stated herein.

(3) The Municipality may in its discretion reuse rock removed or displaced during construction, however, any additional rock will be **one and one-half (1 1/2) inches** minus crushed limestone.

(4) Oil and chip surfaces will only be replaced during the period provided pursuant to the municipal yearly motor fuel tax oil and chip maintenance program.

(5) The Municipality shall not, under any circumstances whatsoever, replace precast pavers which are removed. The Municipality shall only reimburse the homeowner the cost of providing concrete as specified in paragraph (1) herein.

(Ord. No. 836; 02-05-13)

38-4-9 RESERVED.

DIVISION III - PRIVATE SEWAGE DISPOSAL

38-4-10 PRIVATE SEWAGE SYSTEM. Where a public sanitary sewer is not available under the provisions of **Section 38-4-7**, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this division.

38-4-11 HEALTH DEPARTMENT APPROVAL. Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit from the appropriate Health Department. The application for such permit shall be made on a form furnished by the Village **(reference Appendix #3)** which the applicant shall supplement by any plans, specifications and other information as deemed necessary by the Superintendent. A permit and inspection fee of **One Hundred Dollars ($100.00)** shall be paid to the Village at the time the application is filed.

38-4-12 PERMIT APPROVAL. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within **forty-eight (48) hours** of the receipt of written notice by the Superintendent.

38-4-13 COMPLIANCE WITH STATE REQUIREMENTS. The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the State of Illinois Private Sewage Disposal Licensing Act and Code and with the State of Illinois Environmental Protection Agency. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than **five thousand (5,000) square feet.** No septic tank or cesspool shall be permitted to discharge to any natural outlet.

38-4-14 AVAILABILITY OF PUBLIC SEWER. At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in **Section 38-4-7**, a direct connection shall be made to the public sewer in compliance with this Code, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

38-4-15 OPERATION OF PRIVATE SYSTEM. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, and at no expense to the Village.

38-4-16 ADDITIONAL RESTRICTIONS. No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the Local Health Officer.

38-4-17 TIME CONSTRAINTS FOR PUBLIC WASTEWATER. When a public sewer becomes available, the building sewer shall be connected to said sewer within **sixty (60) days** and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

38-4-18 - 38-4-20 RESERVED.

DIVISION IV - BUILDING SEWERS AND CONNECTIONS

38-4-21 DISTURBING SYSTEM UNLAWFUL. No unauthorized person shall uncover, make any connections with, or opening into; use; alter; or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Village.

38-4-22 COMPLIANCE WITH REGULATING AUTHORITIES. All disposal by any person into the sewer system is unlawful except those discharges in compliance with Federal Standards promulgated pursuant to the Federal Act and more stringent State and local standards.

38-4-23 CLASSES OF PERMITS.

(A) There shall be **two (2)** classes of building sewer permits:

(1) for residential and commercial service, and

(2) for service to establishments producing industrial wastes.

(B) In either case, the owner or his agent shall make application on a special form furnished by the Village. **(See Appendix #4)** The permit application shall be supplemented with any plans, specifications, or other information considered pertinent in the judgment of the Village. A permit and inspection fee shall be paid pursuant to this Article.

(C) The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. The industry, as a condition of permit authorization, shall provide information describing its wastewater constituents, characteristics and type of activity.

38-4-24 COST BORNE BY OWNER. All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Village from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

38-4-25 SEPARATE WASTEWATER: EXCEPTION. A separate and independent building sewer shall be provided for every building, except that where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, except for sewer connection charges accruing from such buildings or properties.

38-4-26 OLD BUILDING WASTEWATER. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Village to meet all requirements of this Code.

38-4-27 CONSTRUCTION METHODS. The size, slope, depth and alignment, of the building sewer shall be subject to the approval of the Superintendent. In no case shall the inside diameter of the building sewer be less than **four (4) inches**. If **six (6) inch** diameter pipe is used, the slope shall not be less than **one-eighth (1/8) inch** per foot. If **four (4) inch** or **five (5) inch** diameter pipe is used, the slope shall not be less than **one-fourth (1/4) inch** per foot. The depth of the building sewer shall be sufficient to afford protection from frost. The building sewer shall be laid at a uniform grade and in straight alignment, insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings, unless the break in alignment is made at a manhole facilitating servicing. Installation shall be in accordance with Standard Specifications for Water and Sewer Main Construction in Illinois.

All building sewer shall be constructed of materials approved by the Village. Generally all building sewer shall be constructed of the following materials:

(A) Cast or ductile iron pipe

(B) ABS solid wall plastic pipe (6" diameter maximum)

(C) PVC solid wall plastic pipe (6" diameter maximum SDR-35

All pipe joints must be gastight and watertight and are subject to the approval of the Village. Transition joints from one pipe material to another shall be made using fittings manufactured for such transitions.

38-4-28 PLUMBING CODE REQUIREMENTS. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Village. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society of Testing Materials, **Water Pollution Control Federation Manual of Practice No. 9**, and the latest edition of the **Standard Specifications for Water and Sewer Main Construction in Illinois** shall apply.

38-4-29 ELEVATION. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by a means which is approved in accordance with **Section 38-4-22** and discharged to the building sewer.

38-4-30 PROHIBITED CONNECTIONS. No person(s) shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

38-4-31 CONNECTIONS TO WASTEWATER MAINS. Building sewer connections with any sewer shall be made only at manholes or other such junctions as may be provided or designated by the Village, and then only in such manner as directed. The connection of the building sewer shall be made at a wye branch, if such branch is available. The building service sewer shall generally enter the sewer main or lateral by way of an existing wye. In the event of absence of the wye, the connection to the sewer main or lateral shall be made by one of the methods indicated below.

(A) Installation of a manhole

(B) Circular saw-cut sewer main by proper tools ("Sewer Tap" machine or similar), and proper installation of hub wye saddle, in accordance with manufacturer's recommendation. This method shall not be allowed when the wye branch is larger than **four (4) inches** in diameter. The entire sewer main in the location of the wye and the wye shall be encased in concrete.

(C) Using the pipe cutter only, neatly and accurately cut out desired length of pipe for insertion of proper fitting. Remove both hub and bell ends, or other compression couplings from wye branch fitting to allow the wye branch to be inserted with no more than a total of **one-half (1/2) inch** gap. Use "Band Seal" couplings, or similar couplings, and shear rings and clamps to fasten the inserted fitting and hold it firmly in place. The entire section shall then be encased in concrete having a minimum thickness of **four (4) inches** and extending **eight (8) inches** beyond each joint.

If another method is desired, a detail shall be submitted for review and approval by the Village before the connection is made. Indiscriminate breaking of the sewer main pipe is not allowed.

On Site Inspection. After the wye branch has been inserted and jointed, and before any additional fittings have been placed in the service line, the installation shall be approved by the Superintendent, or his authorized representative. After approval is granted the contractor shall encase the work area as specified herein.

Backfill. To be placed in accordance with The Standard Specifications for Water and Sewer Main Construction in Illinois, Current Edition. In addition, any building sewer crossing any street, or traveled alley shall be backfilled with CA-86 backfill material.

Concrete Encasement. When a riser is constructed and its height is **four (4) feet** or more measured from the flowline of the sewer main to the top of the riser pipe, the wye connection shall be

encased in concrete to a height of at least **one foot six inches (1'6")** above the flowline of the sewer main. When the height of the riser is less than **four (4) feet** above the flowline of the sewer main, the wye connection shall be backfilled to the top of the riser pipe with carefully placed and compacted granular backfill.

38-4-32 CAPACITY OF WASTEWATER. A building sewer permit will only be issued and a sewer connection shall only be allowed if it can be demonstrated that the downstream sewer facilities, including sewer, pump stations and sewer treatment facilities, have sufficient reserve capacity to adequately and efficiently handle the additional anticipated waste load.

38-4-33 TAP-IN SUPERVISION AND TESTING. The applicant for the building sewer permit shall notify the Village when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Village.

38-4-34 INSPECTION. After the building sewer has been constructed in the trench but before the sewer is backfilled, the applicant for the building sewer permit shall notify the Superintendent that the building sewer is ready for inspection. If the sewer has been constructed properly, permission will be given to backfill the trench. If the sewer construction is found to be unsuitable, the permit applicant will correct the installation to meet Village's requirements.

38-4-35 PROTECTION OF PROPERTY. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Village at no expense to the Owner.

38-4-36 BOND REQUIRED. If the applicant for the building sewer permit does not have a general bond on file with the Village, the applicant shall furnish a corporate surety bond in an amount **one and one-half (1 ½) times** the cost of the contemplated work for which the permit is to be issued.

Any experienced sewer builder or drain layer may furnish to the Village a continuing surety bond in the sum of **Five Thousand Dollars ($5,000.00)** to apply to all building sewer permits issued to such builder or to the principals thereof for a term of **one (1) year** from the date thereof subject to renewal from year to year, and such continuing bond may be accepted in behalf of the Village in lieu of a special bond to cover each permit issued during the term of the bond.

38-4-37 UNLAWFUL DISCHARGES. All disposal by any person into the sewer system is unlawful except those ordinances in compliance with Federal Standards promulgated pursuant to the Federal Act and more stringent State and local standards.

38-4-38 PUBLIC SEWER CONNECTION. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code, or other applicable rules and regulations of the Village, or the procedures set forth in appropriate specifications of the American Society of Testing Materials, Water Pollution Control Federation Manual of Practice No. 9, and Standard Specifications for Water and Sewer Main Construction in Illinois. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Village before installation.

38-4-39 - 38-4-41 RESERVED.

DIVISION V - EXTENSION OF COLLECTING WASTEWATERS

38-4-42 PERMIT REQUIRED; AUTHORIZED PERSONNEL. No person, other than an authorized employee of the Village, shall make any connection with, uncover, alter or disturb a Village sewer, or open any manhole, intercepting chamber, or any appurtenance thereof without first obtaining a written permit to do so from the Village, and no person shall make any connection or opening into any sewer, the flow of which is directly or indirectly discharged into any Village sewer, without first obtaining a written permit to do so from the Village. **(See Appendix #2)**

38-4-43 EXTENSION PERMITS. Issuance of sewer extension permits shall be initiated by an application for construction permit. The application shall be made on the forms provided by the IEPA, shall be fully completed by the applicable persons or parties, and shall be accompanied by a set of plans, specifications, and any other information as may be required by the Village.

Plans and specifications shall be prepared by a registered professional engineer and approval thereof must be obtained from the Village and IEPA.

If the application is in proper form, and the sewer extension indicated therein appears to be in accordance with this ordinance and all state and federal requirements, the Village shall issue the permit for construction of the sewer. If otherwise, the application for permit shall be denied by the Village. There shall be no fee charged for sewer extension application or permits.

If the application is denied by the Village, they shall state the reason or reasons therefore in writing, mailed or personally delivered to the applicant. The applicant shall have the right to amend such application in conformity with the reasons given for denial, and resubmit it to the Village for further consideration.

All permits issued under this Article V shall have an expiration date of **two (2) years** after the date of issuance. Any sewer not constructed prior to the date of expiration shall have a new application submitted and a new permit issued prior to their construction.

The applicant for the permit shall furnish a corporate surety bond in an amount **one and one-half (1 1/2) times** the cost of the contemplated work for which the permit is to be issued.

38-4-44 MATERIALS. All sewer extensions shall be constructed of the following materials:

(A) Sewer pipe with diameters **eight (8) inches** and larger shall be one of the following:

(1) ABS composite pipe conforming to ASTM D-2680 with solvent weld joints or O-ring rubber gasket joints as referenced in ASTM D-2680.

(2) PVC sewer pipe SDR-35 conforming to ASTM 03033 or D3034 with joints conforming to ASTM D3212.

(B) Laterals and fittings from the sewer to the property lines shall be **six (6) inch** diameter and

(1) of comparable material to the sewer main for VCP and PVC pipe.

(2) for ABS pipe use ABS solid wall pipe SDR-23.5 conforming to ASTM D-2751.

38-4-45 INSPECTIONS OF CONSTRUCTION. Construction of the sewer shall be inspected under competent supervision supplied by a registered professional engineer and upon completion of construction, accurate detailed plans as constructed ("record drawings") shall be certified and submitted by the professional engineer to the Village before any applications for building sewer permits are filed; all at the expense of the Owner. These plans shall show all elevations as installed as well as accurate measurements showing the locations of service connections. The Engineer shall also submit a certified statement showing the source, place and volume of foreign waters.

All sewer shall be subjected to:

(A) A lamp test which shall provide that from one manhole to another, at least **one-half (1/2)** of the pipe end area shall be visible.

(B) Infiltration or exfiltration test with acceptable allowance of 200 gallons per day per inch diameter per mile;

(C) Under special circumstances, when approved by the Village, air pressure testing with allowance to be specified by the Village.

When any sewer line fails to pass the infiltration test, the exfiltration test, or an air pressure test, the sewer line shall be televised in the presence of the Village 's representatives to determine points of faulty construction. The Owner shall repair all defects; the method of repair shall be subject to the approval of the Village. **(See Appendix #5)**

38-4-46 MANHOLES REQUIRED. Manholes shall be installed at all changes in grade and/or direction and at distances not greater than **four hundred (400) feet** apart. All manhole covers shall be watertight and self-sealing, incorporating an "O" ring gasket. All covers shall have concealed pick holes. Where manhole covers may be subjected to frequent and extreme submergence, additional watertightness shall be ensured by using bolt down covers.

38-4-47 - 38-4-48 RESERVED.

DIVISION VI - USE OF PUBLIC SEWERS

38-4-49 DISCHARGE OF STORM WATER. No person shall discharge, or cause to be discharged, any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

38-4-50 STORM WATER. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Village. Industrial cooling water or unpolluted process waters may be discharged on approval of the Village and other agencies having lawful jurisdiction, to a storm sewer, combined sewer, or natural outlet.

38-4-51 REGULATIONS OF WASTES. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(A) Any gasoline, benzene, naptha, fuel oil, or other flammable or explosive liquid, solid, or gas.

(B) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.

(C) Any waters or wastes having a pH lower than 6.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

(D) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

38-4-52 HARMFUL EFFECTS OF CERTAIN MATERIALS. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Village that such wastes can harm either the sewers, sewage treatment process or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Village will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and maximum limits established by regulatory agencies. The substances prohibited are:

(A) Any liquid or vapor having a temperature higher than **One Hundred Fifty degrees Fahrenheit (150°F), (65°C).**

(B) Any waters or wastes containing toxic or poisonous materials; or oils, whether emulsified or not, in excess of **One Hundred (100) mg/l** or containing substances which may solidify or become viscous at temperatures between **Thirty-Two (32) and One Hundred Fifty degrees Fahrenheit (150°F), (O and 65°C).**

(C) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of **three-fourths (3/4) horsepower (0.76 hp metric)** or greater shall be subject to the review and approval of the Village.

(D) Any waters or wastes containing strong acid, iron pickling wastes, or concentrated plating solution whether neutralized or not.

(E) Any waters or wastes containing iron, chromium, copper, zinc, or similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Village for such materials.

(F) Any waters or wastes containing phenols or other waste or odor-producing substances, in such concentrations exceeding limits which may be established by the Village as necessary after treatment of the composite sewage, to meet the requirements of the State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

(G) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Village in compliance with applicable State or Federal regulations.

(H) Any waters or wastes having a pH in excess of 9.5.

(I) Any mercury or any of its compounds in excess of **0.0005 mg/l as Hg** at any time except as permitted by the Village in compliance with applicable State and Federal regulations.

(J) Any cyanide in excess of 0.025 mg/l at any time except as permitted by the Village in compliance with applicable State and Federal regulations.

(K) Materials which exert or cause:

(1) unusual concentrations or inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate);

(2) excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions);

(3) unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works;

(4) unusual volume of flow or concentrations of wastes constituting "slugs" as defined herein. **(Reference Appendix #7)**

(L) Waters or wastes containing substances which are not amendable to treatment or reduction by the sewage treatment processes employed, or are amendable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of agencies having jurisdiction over discharge to the receiving waters.

38-4-53 HARMFUL WASTES; APPROVAL.

(A) If any waters or wastes are discharged or are proposed to be discharged to the public sewer, which waters contain the substances or possess the characteristics enumerated in **Section 38-4-52** of this Division, and/or which are in violation of the standards for pretreatment provided in 40 CFR 403, June 26, 1978 and any amendments thereto, and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

(1) reject the wastes;

(2) require pretreatment to an acceptable condition for discharge; and/or

(3) require control over the quantities and rates for discharge; and/or

(4) require payment to cover the added costs of handling and treating the wastes not covered by existing taxes or sewer charges, under the provisions of **Section 38-4-42.**

(B) If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, ordinances, and laws.

(C) The owner of the pretreatment or equalization facilities shall obtain construction and operating permits from the Illinois Environmental Protection Agency prior to the issuance of final approval by the Superintendent.

(D) Where multiple process or discharges are present or contemplated at an industry, the Village shall have the authority to require the owner or person to furnish and install more than one control manhole with appurtenances and/or require that all sewer be discharged through a single control manhole or structure with appurtenances described herein.

38-4-54 INTERCEPTORS PROVIDED.

(A) Grease, oil, and sand interceptors shall be provided in accordance with the Illinois State Plumbing Code to assure the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Village and shall be located as to be readily and easily accessible for cleaning and inspection. All grease interceptors shall be serviced and emptied of accumulated waste content as required or at a minimum of once every **four (4) months** in order to maintain minimum design capability or effective volume of the grease interceptor and to prevent carry over of grease into the sanitary sewer system. All fast food and sit-down restaurants shall install a grease interceptor with a capacity of at least **one thousand five hundred (1,500) gallons**, and designed in accordance with **Appendix "A"**. Food establishments that serve a minimum amount of fried foods such as deli sandwich shops, shall install a grease interceptor with a capacity of at least **one thousand (1,000) gallons**, and designed in accordance with **Appendix "B"**.

(B) Users whose operations cause or allow excessive grease to discharge or accumulate in the Village wastewater collection and treatment system may be liable to the Village for costs related to service calls for sewer line blockages, line cleaning, line and pump repairs, etc. including all labor, materials, and equipment. Failure to pay all service related charges may also be grounds for sewer service discontinuance.

(C) **Maintenance Log.** A grease trap cleaning/maintenance log indicating each pumping for the previous **twenty-four (24) months** shall be maintained by each Food Service Facility. This log shall include the date, time, amount pumped, hauler, and disposal site and shall be kept in a conspicuous location for inspection. Said log shall be made available to the Village or his representative upon request.

(D) **Submittal of Records.** Each user shall submit all cleaning and maintenance records to the Village. The maintenance records shall include the following information:

(1) Facility name, address, contact person, and phone number.

(2) Company name, address, phone number, and contact name of person responsible for performing the maintenance, cleaning, pumping, or repair of grease trap.

(3) Types of maintenance performed.
(4) Dates maintenance was performed.
(5) Date of next scheduled maintenance.
(6) Copies of manifests.
(7) The user shall be required to submit maintenance records to the Village on an annual basis. Records shall be submitted by **September 1st** of each year. The records shall be submitted to:
Attn: Wastewater Superintendent

(E) The Village will perform periodic inspections of these facilities and shall notify the user of any additional required maintenance or repairs. Upon written notification by the Village, the user shall be required to perform the maintenance and records of said maintenance within **fourteen (14) calendar days**. Upon inspection by the Village the user may be required to install, at his expense, additional controls to provide a complete system which prevents discharges of undesirable materials into the wastewater collection system.

(F) **Control Plan for Fats, Oils, Greases (FOG) and Food Waste.**

(1) Any new construction, renovation, or expansion of Food Service Facilities shall be required to submit to the Village a FOG and food waste control plan that will effectively control the discharge of undesirable materials into the wastewater collection system.
(2) Any existing Food Service facilities shall also be required to submit a FOG and food waste control plan that will effectively control the discharge of undesirable materials into the wastewater collection system. Existing facilities shall not be exempt from the requirements of this Section. There will be no "Grandfathering".

(G) **Exceptions to the Above.** Should existing facilities be hampered by space constraints or restrictions caused by unchangeable plumbing, an alternative interceptor may be approved, provided that:

(1) Said interceptor and installation is endorsed by a licensed plumbing contractor in regard to its operability.
(2) Said interceptor and installation is endorsed by the Village Engineer.
(3) Said interceptor and installation is approved by the Superintendent and the Water and Sewer Committee.

Such installations may be subject to more stringent inspections and maintenance schedules.

38-4-55 FLOW-EQUALIZING FACILITIES. Where preliminary treatment or flow-equalizing facilities are provided, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

38-4-56 INDUSTRIAL WASTES CONTROL MANHOLE. Each industry shall be required to install a control manhole and, when required by the Village, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessible and safety located, and shall be constructed in accordance with plans approved by the Village. The manhole shall be installed by the owner at his expense and shall be maintained by him in proper and satisfactory operating condition so as to be safe and accessible at all times. Where multiple process or discharges are present or contemplated at an industry, the Village shall have the authority to require the owner or person to furnish and install more than one control manhole with appurtenances and/or require that all wastewater be discharged through a single control manhole or structure with appurtenances described herein.

38-4-57 INDUSTRIAL WASTE TESTING.

(A) The owner of any property serviced by a building sewer carrying industrial wastes shall provide laboratory measurements, tests, and analyses of waters and wastes to demonstrate compliance with this Code and any special conditions for discharge established by the Village or regulatory agencies having jurisdiction over the discharge.

(B) The number, type, and frequency of laboratory analyses to be performed by the owner shall be as stipulated by the Village, but no less than once per year the industry must supply a complete analysis of the constituents of the wastewater discharge to assure that compliance with the Federal, State, and local standards are being met. The owner shall report the results of measurements and laboratory analyses to the Village at such times and in such a manner as prescribed by the Village. The owner shall bear the expense of all measurements, analyses, and reporting required by the Village. At such times as deemed necessary the Village reserves the right to take measurements and samples for analysis by an outside laboratory service.

38-4-58 MEASUREMENTS AND TESTS. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Code shall be determined in accordance with the latest edition of **"Standard Methods for the Examination of Water and Wastewater",** published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a **twenty-four (24) hour** composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from **twenty-four (24) hour** composites of all outfalls, whereas pH's are determined from periodic grab samples.)

38-4-59 SPECIAL ARRANGEMENTS. No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the Village and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Village for treatment, subject to payment therefore, in accordance with the Chapter, hereof, by the industrial concern, provided such payments are in accordance with Federal and State guidelines for User Charge System and Industrial Cost Recovery System.

38-4-60 - 38-4-64 RESERVED.

DIVISION VII - INSPECTIONS

38-4-65 DAMAGE. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, or tamper with any structure, appurtenance, or equipment which is part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

38-4-66 INSPECTION AND TESTING.

(A) The Village and other duly authorized employees of the Village, the Illinois Environmental Protection Agency, and the U.S. Environmental Protection Agency, bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Code.

(B) The Village or his representative shall have no authority to inquire into any processes, including metallurgical, chemical, oil refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterway or facilities for waste treatment. **(See Appendix #5)**

38-4-67 LIABILITY OF VILLAGE. While performing the necessary work on private properties referred to in **Section 38-4-66** above, the Village or duly authorized employees of the Village, the Illinois Environmental Protection Agency, and the U.S. Environmental Protection Agency shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the Village employees and the Village shall indemnify the company against loss or damage to its property by Village employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain conditions as required in **Section 38-4-57.**

38-4-68 PRIVATE PROPERTY INSPECTIONS. The Village and other duly authorized employees of the Village bearing proper credentials and identification shall be permitted to enter all private properties through which the Village holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within the easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

38-4-69 - 38-4-70 RESERVED.

DIVISION VIII - PENALTIES

38-4-71 PENALTY. Any person found to be violating any provision of this Code except **Section 38-4-65** shall be served by the Village with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

The Village may revoke any permit for sewage disposal as a result of any violation of any provision of this ordinance, or violation of regulations of other agencies having lawful jurisdiction. Upon revocation of any permit to discharge, the person violating the ordinance or regulation shall cease and desist discharge of wastewater or industrial waste to the public sewer system and treatment works, and shall not continue the discharge in any manner which would violate State, Federal or local pollution control laws and regulations.

38-4-72 CONTINUED VIOLATIONS. Any person who shall continue any violation beyond the time limit provided for in **Section 38-4-71** shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding **Seven Hundred Fifty Dollars ($750.00)** for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

38-4-73 LIABILITY TO VILLAGE. Any person violating any of the provisions of this Chapter shall become liable to the Village by reason of such violation.

38-4-74 - 38-4-76 RESERVED.

DIVISION IX - WASTEWATER SERVICE CHARGES

38-4-77 BUILDING UNIT DEFINED. All persons or families residing in a building under one roof, be it an apartment or homes converted into more than one dwelling place, each family or individual resident residing therein shall be deemed an individual customer or such homes or apartments or dwellings shall be billed for at least one minimum water and/or sewer account according to the number of families or individual residents residing therein.

38-4-78 SEWER REVENUES. All revenues and moneys derived from the operation of the sewer system shall be deposited in the Combined Water and Sewer Fund. All such revenues and moneys shall be held by the Treasurer separate and apart from his private funds and separate and apart from all other funds of the Village and all of said sum, without any deductions whatever, shall be delivered to the Treasurer not more than **ten (10) days** after receipt of the same, or at such more frequent intervals as may, from time to time, be directed by the Village Board.

The Treasurer shall receive all such revenues from the water and sewer systems and all other funds and moneys incident to the operation of such system as the same may be delivered to him and deposit the same in the account of the fund designated as the "Water and Sewage Fund of the Village".

The Treasurer shall administer such fund in every respect in the manner provided by **65 ILCS 5/3.1-35-40 et seq.**

38-4-79 SEWER ACCOUNTS. The Treasurer shall establish a proper system of accounts and shall keep proper books, records, and accounts in which complete and correct entries shall be made of all transactions relative to the water and sewer systems and at regular annual intervals, he shall cause to be made an audit by an independent auditing concern of the books to show the receipts and disbursements of the water and sewer systems.

In addition to the customary operating statements, the annual audit report shall also reflect the revenues and operating expenses of the sewer facilities, including a replacement cost, to indicate that sewer service charges under the waste cost recovery system and capital amounts required to be recovered under the industrial cost recovery system do, in fact, meet these regulations. In this regard, the financial information to be shown in the audit report shall include the following:

(A) Flow data showing total gallons received at the sewer plant for the current fiscal year.

(B) Billing data to show total number of gallons billed.

(C) Debt service for the next succeeding fiscal year.

(D) Number of users connected to the system.

(E) Number of non-metered users.

(F) A list of users discharging non-domestic wastes (industrial users) and volume of waste discharged.

38-4-80 NOTICE OF RATES. A copy of this Article, properly certified by the Village Clerk, shall be filed in the office of the County Recorder of Deeds and shall be deemed notice to all owners of real estate of the charges of the sewer system of the Village on their properties. Each user shall be notified at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to sewer treatment services.

38-4-81 ACCESS TO RECORDS. The Illinois Environmental Protection Agency, United States Environmental Protection Agency, or its authorized representative shall have access to any books, documents, papers and records of the Village which are applicable to the Village's system of user charges or industrial cost recovery for the purpose of making audit, examination, excerpts and transcriptions thereof to insure compliance with the terms of the special and general conditions to any state grant.

38-4-82 APPEALS. The method for computation of rates and service charges established for user charges shall be made available to a user within **fifteen (15) days** of receipt of a written request for such. Any disagreement over the method used, or in the computation thereof, shall be remedied by a third party selected by both parties within **ninety (90) days** after notification of a formal written appeal outlining the discrepancies.

38-4-83 BASIS FOR WASTEWATER SERVICE CHARGES. The wastewater service charge for the use of and for service supplied by the wastewater facilities of the Village shall consist of a basic user charge, applicable surcharges, and debt service charge.

(A) The **debt service charge** is computed by dividing the annual debt service of all outstanding bonds by the number of users.

(B) The **basic user charge** shall be based on water usage as recorded by water meters for wastes having the following normal domestic concentrations:

(1) A **five (5) day twenty degree centigrade (20°C)** biochemical oxygen demand **BOD of 200 mg/1.**

(2) A suspended solids (SS) content of **250 mg/l.**

(C) It shall be computed as follows:

(1) Estimate wastewater volume, pounds of SS and pounds of BOD to be treated.

(2) Estimate the projected annual revenue required to operate and maintain the wastewater facilities including a replacement fund for the year, for all work categories.

(3) Proportion the estimated operation, maintenance and replacement (OM&R) costs to each user class by volume, BOD, and SS.

(4) Proportion the estimated operation, maintenance and replacement (OM&R) costs to wastewater facility categories by Volume, Suspended Solids and BOD.

(5) Compute costs per 1000 gallons for normal sewage strength.

(6) Compute surcharge costs per pound per 1000 gallons in excess of normal sewage strength for BOD and SS.

(D) A **surcharge** will be levied to all users whose wastewaters exceed the normal domestic concentrations of **BOD (200 mg/l) and SS (225 mg/l).** The surcharge will be based on water usage as recorded by water meters or sewage meters for all wastes which exceed the **200 mg/l and 225 mg/l** concentration for BOD and SS respectively. **(Section 38-4-80** specifies the procedure to compute a surcharge.)

(E) The **adequacy of the wastewater service charge** shall be reviewed, not less often than annually, by Certified Public Accountants for the Village in their annual audit report. The wastewater service charge shall be revised periodically to reflect a change in operation and maintenance costs, replacement costs and reserve fund costs.

(F) The **capital improvement charge** is levied on users to provide for capital improvements, extensions or reconstruction of the sewage treatment works. The capital improvement charge is computed by apportioning the annual amount to be accrued as a charge per 1000 gallons.

(G) The **users** of wastewater treatment services will be notified annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to the wastewater treatment operation, maintenance and replacement.

38-4-84 MEASUREMENT OF FLOW. The volume of flow used for computing basic user charges and surcharges shall be the metered water consumption read to the lowest even increments of **one hundred (100) gallons** or **one thousand (1,000) gallons**, depending on which meter is installed.

(A) If the person discharging wastes into the public sewers procures any part, or all, of his water from sources other than the Public Waterworks System, all or a part of which is discharged into the public sewers, the person shall install and maintain, at his expense, water meters of a type

approved by the Village for the purpose of determining the volume of water obtained from these other sources.

(B) Devices for measuring the volume of waste discharged may be required by the Approving Authority if these volumes cannot otherwise be determined from the metered water consumption records.

(C) Metering devices for determining the volume of waste shall be installed, and maintained by the person and owned by the Village. Following approval and installation, such meters may not be removed, unless service is canceled, without the consent of the Village.

38-4-85 USER CHARGE SYSTEM.

(A) The following rates and charges for use and services of the sanitary sewer system tributary to the North Collection System of the Village, based on the amount of water consumed, are hereby established:

Flat Fee (Minimum) July 1, 2011	$12.00 per month
Each 1,000 gallons or fractions thereof	$5.50 per month

(B) All sanitary sewer connections inside the corporate limits of the Village tributary to the Wildwood Lagoon Lift Station shall be charged the following:

Flat Fee (Minimum) July 1, 2011	$18.00 per month
Each 1,000 gallons or fractions thereof	$5.50 per month

When the debt service on the IEPA loan for the Wildwood Lagoon System (1998-2018) is paid in full, the flat fee minimum rate will be frozen until the rates for the North Collection System customers equal the rate for the Wildwood Lagoon lift station customers.

(C) All sanitary sewer connections outside of the corporate limits of the Village shall be charged the following:

Flat Fee (Minimum) July 1, 2011	$24.00 per month
Each 1,000 gallons or fractions thereof	$5.50 per month

The service charge is based on the accounting system as outlined in **Appendix #8**. This projected accounting system shall be reviewed on an annual basis by the Village accountant at the time of the Village's Fiscal Audit. The accountant's recommendations shall be reflected in necessary ordinances to assure the system revenues meet the requirements of the operation and maintenance, the depreciation account, and the debt service of the sanitary sewer system as outlined in **Appendix #8**.

38-4-86 COMPUTATION OF WASTEWATER SERVICE CHARGE. The wastewater service charge shall be computed by the following formula:

$$CW = CC + CD + CM + (Vu-X)CU + CS$$

Where	CW	=	Amount of waste service charge ($) per bill period.
	CC	=	Capital Improvement Charge
	CD	=	Debt Service Charge
	CM	=	Minimum Charge for Operation, Maintenance and Replacement.
	Vu	=	Wastewater Volume for the billing period.
	X	=	Allowable consumption in gallons for the minimum charge.
	CU	=	Basic User Rate for Operation, Maintenance and Replacement.
	CS	=	Surcharge, if applicable. **(Section 38-4-83)**.

38-4-87 SURCHARGE RATE. The rates for surcharges for BOD and SS shall be as follows:

Per lb. of BOD:	$0.26 in excess of 200 mg/l
Per lb. of SS:	$0.39 in excess of 225 mg/l

38-4-88 SEWER TAP-IN FEE.

(A) **Residential.** Any premise connected to the sewerage system, a charge of **Two Thousand Dollars ($2,000.00)** shall be made for each connection to system. However, if no riser exists and main line has to be tapped, the customer shall be liable for all expenses, including labor and materials.

(B) **Commercial.** Any commercial premises connected to the sewerage system, a charge of **Two Thousand Five Hundred Dollars ($2,500.00)** shall be made for each connection to the system. However, if no riser exists and main line has to be tapped, the customer shall be liable for all expenses, including labor and materials.

(Ord. No. 822; 08-07-12)

38-4-89 RESERVED.

DIVISION X - INDUSTRIAL COST RECOVERY

38-4-90 INDUSTRIAL COST RECOVERY REQUIRED. Each industrial user shall pay that portion of any State grant which has been obtained by the Village for the financing of the construction of wastewater treatment works allocable to the treatment of the wastewater from such user. Such users share shall not include an interest component.

38-4-91 DETERMINATION OF INDUSTRIAL POPULATION EQUIVALENT. An industrial user's portion of any State grant shall be based on the population equivalents attributable to wastewater of such user tributary to the wastewater treatment works of the Village.

The population equivalents shall be determined as follows:

(A) **Volume Population Equivalent.** This population equivalent equals the average daily rate of water consumption as determined by the consumption records of the past year divided by **one hundred (100) gallons** per day (the average domestic water consumption) or, where water consumption does not reflect the actual quantity of wastewater tributary to the treatment works from such user, then the average daily flow as recorded in the control manhole required by **Section 38-4-56**, divided by **one hundred (100) gallons** per day (the average domestic water consumption).

(B) **BOD Population Equivalent.** This population equivalent equals the average daily pounds of BOD in the wastewater as determined by the Village, in accordance with **Section 38-4-1** divided by 0.17 pounds of BOD per day (the average per capita BOD of non-industrial discharges).

(C) **SS Population Equivalent.** This population equivalent equals the average daily pounds of suspended solids in the wastewater from such user as determined by the Village, in accordance with **Section 38-4-1** divided by 0.20 pounds of suspended solids per day (the average per capita SS of non-industrial discharges).

38-4-92 COST PER CAPITA. The dollar cost per capita shall be determined as follows:

$ICR_{Qi}/P.E.$ = Industrial Cost Recovery per capita (Population Equivalent – P.E.) attributed to flow

$$ICR_{Qi}/P.E. = \frac{\text{(Capital Cost of Treatment Facility Attributable to Industry)} \quad \text{(\% attributed to flow)}}{\text{Design P.E., Grant Project}}$$

$$ICR_{Qi}/P.E. = \frac{(\$437{,}875)\ (0.338)\ x\ .75}{1250}$$

$ICR_{Qi}/P.E. = \$88.80/Capita$

$ICR_{BODi}/P.E.$ = Industrial Cost Recovery per capita (Population Equivalent – P.E.) attributed to BOD

$$ICR_{BODi}/P.E. = \frac{\text{(Capital Cost of Treatment Facility Attributable to Industry)} \quad \text{(\% attributed to BOD)}}{\text{Design P.E., Grant Project}}$$

$$ICR_{BODi}/P.E. = \frac{(\$437{,}875)\ (0.237)\ x\ .75}{1250}$$

$ICR_{BODi}/P.E. = \$62.26/Capita$

$ICR_{SSi}/P.E.$ = Industrial Cost Recovery per capita (Population Equivalent – P.E.) attributed to Suspended Solids (SS)

$$ICR_{SSi}/P.E. = \frac{\text{(Capital Cost of Treatment Facility Attributable to Industry)} \quad \text{(\% attributed to SS)}}{\text{Design P.E., Grant Project}}$$

$$ICR_{SSi}/P.E. = \frac{(\$437{,}875)\ (0.425)\ x\ .75}{1250}$$

$ICR_{SSi}/P.E. = \$111.66/Capita$

38-4-93 **COST FOR INDUSTRIAL USER.** The cost to be recovered from an industrial user (CI) shall be determined as follows:

$$AICR_i = \frac{\text{Average Daily Flow Gallons} \quad 100 \quad (\$88.80)}{\text{Useful Life (Treatment Works)}}$$

$$AICR_{BODi} = \frac{\text{Average Daily BOD, Pounds} \quad 0.17 \quad (\$62.26)}{\text{Useful Life (Treatment Works)}}$$

$$AICR_{SSi} = \frac{\text{Average Daily SS, Pounds} \quad 0.20 \quad (\$111.66)}{\text{Useful Life (Treatment Works)}}$$

$CI = AICR_{Qi} + AICR_{BODi} + AICR_{SSi}$

Where $AICR_{Qi}$ = Annual Industrial Cost Recovery payment attributable to flow

$AICR_{BODi}$ = Annual Industrial Cost Recovery payment attributable to BOD

$AICR_{SSi}$ = Annual Industrial Cost Recovery payment attributable to Suspended Solids

CI = Total Annual Industrial Cost Recovery Payment

38-4-94 CHARGE FOR INDUSTRIAL COST RECOVERY. Each year during the industrial cost recovery period, each industrial user of the treatment works shall pay the cost recovery amount determined by **Section 38-4-88** for such industry, divided by the recovery period. Where an industry is connected to a public sewer after the start-up of the facilities constructed under a State grant, such industry shall only pay its portion of the State grant for each month remaining in the recovery period. Such industry will not be required to pay for those months of the recovery period prior to connection to a public sewer.

38-4-95 LENGTH OF INDUSTRIAL COST RECOVERY PERIOD. The industrial cost recovery period shall be equal to the useful life of the treatment works which shall be **thirty (30) years** from 1977.

38-4-96 PAYMENTS AND BILLING PERIODS FOR INDUSTRIAL COST RECOVERY. All industrial users of the Village shall pay the cost as determined by **Section 38-4-89** for industrial cost recovery and such payments shall be made monthly on the **first (1st) day** of the month immediately following the expiration of the month for which service has been supplied, and such charge shall be payable by the **fifteenth (15th) day** of the month of rendition thereof, and in the event such bills are not paid by said **fifteenth (15th) day** of the month, a service charge of **ten percent (10%)** shall be added thereto.

An industrial user may wish to fulfill its industrial cost recovery obligation by making a lump sum payment for its entire share of the cost of construction of the treatment works. In this event, such payments may be accepted by the Village and either processed as a normal Industrial Cost Recovery payment, or set aside in a separate account to be drawn on annually for the remainder of the industrial cost recovery period. Lump sum payments by an industry will not relieve an industrial user from the obligation of making additional future payments should its wastewater flow or load increase. Discounts from the total industrial cost recovery requirement will not be given to industrial users making advance or lump sum Industrial Cost Recovery Payments. No interest component shall be included in the cost component charged to an industrial user, irregardless of the lump sum or monthly payment method selected by the industrial user. Any interest earned by the Village on Industrial Cost Recovery payments set aside will be recoverable in the same manner as if the payments were made as due (40 CFR 35.928-2a).

38-4-97 DELINQUENCY AND TERMINATION OF SERVICE. If the delinquency in the payment of the recovery cost continues for a period of more than **thirty (30) days**, the sewer service shall be discontinued. In the event the charges for industrial cost recovery are not paid within **sixty (60) days** after the rendition of that bill, then such service charges shall be deemed and are hereby declared to be delinquent, and thereafter such delinquent charge shall constitute a lien upon the real estate for which such sewer services were supplied. The Village Clerk is hereby authorized and directed each month to file sworn statements showing such delinquencies in the office of the Recorder of Deeds of St. Clair County, Illinois, and the filing of such statements shall be deemed notice of a lien for the payment of such charges for sewer service.

38-4-98 TIME OF FIRST PAYMENT. The initial payment made by an industrial user which is connected to a public sewer after the start-up of the treatment works constructed with a State grant shall be made by the next scheduled due date as defined in **Section 38-4-91** and shall be equal to **one-twelfth (1/12)** of the amount as determined by **Section 38-4-89**.

38-4-99 ADJUSTMENT OF CHARGE DUE TO STRENGTH OF VOLUME CHANGES. If there is a change in the strength and/or volume introduced into the treatment works by an industrial user as determined by the previous year records, the Village shall adjust the users portion of any State Grant accordingly.

38-4-100 ADJUSTMENT OF CHANGE DUE TO PLANT IMPROVEMENT UTILIZING STATE GRANT FUNDS. If there is an expansion or upgrading of the treatment works utilizing a State grant, each existing industrial user's share shall be adjusted accordingly.

38-4-101 NO CHARGE FOR UNUSED OR UNRESERVED CAPACITY. An industrial user's portion of any State grant shall not include any portion of the grant amount allocable to unused or reserved capacity.

38-4-102 COMMITMENT FOR INCREASED USE. An industrial user's portion of any State Grant shall include allowance for the cost of any firm commitment to the Village for any increased use by such user.

38-4-103 PAYMENT TO THE STATE OF ILLINOIS REQUIRED. The Village shall retain **fifty percent (50%)** of the amounts recovered from industrial users. The remainder, together with any interest earned thereon, shall be returned to the State of Illinois Anti-Pollution Fund on an annual basis.

38-4-104 DISPOSITION OF RETAINED AMOUNTS. Eighty percent (80%) of the retained amounts, together with interest earned thereon, shall be used solely for the eligible costs of the expansion or reconstruction of treatment works associated with the project and necessary to meet the requirements of the Federal Act and the State of Illinois. The Village, prior to commitment of the retained amounts, shall obtain written approval of the Illinois Environmental Protection Agency for any expansion or reconstruction. The remainder of the retained amounts may be used for such expenditures as the Village deems appropriate.

38-4-105 INVESTMENT OF RETAINED AMOUNTS REQUIRED. Pending use, the Board of Trustees shall invest the retained amounts for reconstruction and expansion in:

(A) Obligations of the U.S. Government; or

(B) obligations guaranteed as to principal and interest by the U.S. Government or any agency thereof; or

(C) shall deposit such amounts in accounts fully collateralized by obligations of the U.S. Government or by obligations fully guaranteed as to principal and interest by the U.S. Government or any agency thereof.

38-4-106 VILLAGE CLERK RESPONSIBILITY. The Village Clerk shall maintain the necessary records for determination of user share of the cost and shall provide the billing and collection services as required by **Section 38-4-77** and **Section 38-4-85**.

38-4-107 VILLAGE TREASURER RESPONSIBILITY. The Village Treasurer shall be responsible for the investment and expenditure of all moneys collected for industrial cost recovery in accordance with **Section2 38-4-98**, **38-4-99**, and **38-4-100**.

38-4-108 MONITORING REQUIRED. The Village shall maintain a program of monitoring industrial user discharges as the Village deems necessary, provided that any major contributing industry shall be monitored no less than **twelve (12) times** annually and any industrial user that has a population equivalent as determined by **Section 38-4-86** greater than or equal to **fifty (50)** shall be monitored no less than once annually. All other industrial users shall be monitored at such frequency as deemed necessary by the Village for determination of the population equivalent of the industrial user. The monitoring data collected shall be used to determine the population equivalent in accordance with **Section 38-4-86**.

38-4-109 APPEAL AND ARBITRATION. The Village shall establish industrial cost recovery charges as set forth herein, and in accordance with applicable State and Federal guidelines and requirements, and shall notify any industry which requests a permit to discharge into the public sewerage system of the industrial cost recovery charges to be levied. The notification from the Village to the industry shall be in writing, and shall be submitted to the industry within **thirty (30) days** after the industry has made application for a connection/discharge permit (reference, Appendix No. 2, attached hereto), and has provided complete and satisfactory information regarding the volume and character of the waste, and has submitted plans for a control manhole with appurtenances, and has received a permit from the Environmental Protection Agency. The Village may provide preliminary information regarding industrial cost recovery charges to be levied, but actual charges to be levied shall not be determined until after the above and other stipulations of the ordinance have been complied with by the industrial user to the satisfaction and approval of the Village.

In the event that the industrial user, or other persons affected by the industrial cost recovery system and charges, wishes to have a hearing regarding the reasonableness of the industrial cost recovery charges imposed by the Village in accordance with State and Federal regulations, the industry or person shall duly notify the Board of Trustees in writing and request an administrative hearing before the Board of Trustees within **thirty (30) days** after the industry has been informed of the actual charges to be levied by the Village. Actual discharge of industrial waste to the Village system shall not commence until the industry has issued to the Board of Trustees written concurrence with the industrial cost recovery charges. The Village shall conduct the administrative hearing within **thirty (30) days** after receipt of written request for the hearing, and the Village shall duly notify the industrial user or person, and other interested parties in writing at least **fifteen (15) days** prior to the hearing date, and identify the time, date, and location of the administrative hearing. The President of the Village shall serve as the hearing officer, and all testimony received (including written documents) shall be entered into the records of the Village, as an official meeting of the Board of Trustees. The notice of the administrative hearing shall be published in the legal notice section of a newspaper of local distribution at least **fifteen (15) days** prior to the date of the hearing. The legal notice shall state the purpose of the hearing, time, date, and place of the hearing. All interested parties shall be given ample opportunity to enter testimony into the record of the administrative hearing.

In the event the Village and industrial user cannot agree to the reasonableness of the charges, and the compliance of the charges with regulations set forth by the State and Federal EPA, the industry may request a hearing before representatives of EPA within **ten (10) days** after the Village administrative hearing has been conducted. The Village and industrial user, or person, shall abide by the decision of EPA regarding the reasonableness of the industrial cost recovery charges to be levied by the Village. In all cases, the Industrial Cost Recovery System and charges shall be in accordance with applicable State and Federal regulations.

38-4-110 DISCONTINUANCE OF USE BY INDUSTRIAL USERS. If an industrial user discontinues use of the treatment works (including termination of any agreement for use of reserve

capacity), its payment for industrial cost recovery will cease. There shall be no requirement for other industrial users using the treatment works at that time to assume the portion of the Industrial Cost Recovery System payment which is unrecovered due to the departure or discontinuance of service by an industrial user.

If the Village chooses to require an industrial user to pay termination of services charges allocable to costs associated with the Industrial Cost Recovery System, payment to the Village for such charges shall be in accordance with an agreement stipulating such conditions at the time the Village and industrial user mutually agree to conditions of service. Such an agreement shall be in writing, and cannot contain an interest component. Funds covered in such a manner may become the property of the Village, unless otherwise stipulated by applicable State or Federal regulations.

38-4-111 RESERVE CAPACITY. The Village may choose to permit industrial users to reserve capacity in the treatment works. Such capacity shall be reserved through a formal, written agreement which shall be subject to requirements of the Industrial Cost Recovery System contained herein and in State and Federal regulations.

If the Village agrees to allow an industrial user to reserve capacity in the treatment works, the industrial user shall be required to pay the full amount of the industrial cost recovery charges calculated on the full reserved capacity plus additional industrial cost recovery charges for use above the limits of the reserved capacity or any element thereof.

In the event the treatment works are expanded or upgraded in the future with State or Federal grant assistance, an industrial user that has executed a reserve capacity agreement and has made industrial cost recovery payments based upon full res4erved capacity will not incur additional industrial cost recovery charges associated with the cost of expansion of capacity of existing unit processes associated with secondary treatment, until the industrial user's actual use of the treatment works exceeds its reserved, agreed upon capacity.

Industrial users without reserved capacity contracts will be required to pay any additional industrial cost recovery charges associated with the cost of expanding or upgrading the treatment works.

38-4-112 - 38-4-114 RESERVED.

DIVISION XI – USE OF GROUNDWATER AS POTABLE WATER SUPPLY PROHIBITED

38-4-115 APPLICABILITY. The use or attempt to use as a potable water supply groundwater from all depths within the hatched marked area, as shown on Figure 1 attached hereto, (hereinafter referred to as the "Groundwater Limitation Area"), by the installation or drilling of wells or by any other method is hereby prohibited. This limitation applies to the Village or any other person's construction or attempt to construct a well.

38-4-116 PENALTIES. Any person violating the provisions of this Division shall be subject to a fine of up to **Five Hundred Dollars ($500.00)** for each violation.

38-4-117 DEFINITIONS.

"Person" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, or any other legal entity, or their legal representatives, agents, or assigns.

"Potable Water" is any water used for human or domestic consumption, including, but not limited to, water used for drinking, bathing, swimming, washing dishes, or preparing foods.

(Ord No. 846; 01-21-14)

APPENDIX #1

VILLAGE OF SMITHTON

APPLICATION FOR WATER SYSTEM SERVICE CONNECTION

The undersigned, representing himself as owner of the property located at _____ _____, hereby makes application for connection to the Water System of the Village for said property, and in consideration of the furnishing of said service covenants and agrees as follows:

1. I agree to abide by all rules and regulations as specified in and by the ordinances of the Village now in effect or enacted and passed from time to time providing for the regulation of service furnished by the Village, it is further acknowledged and agreed that the undersigned, his heirs, executors, administrators, successors and assigns shall pay all charges for connection fees and water usage which shall become due as the result of the connecting of the water mains and the furnishing of water service to the above property, and that all such charges and fees for water service rendered to the property, together with penalties, if any, and the costs of collection are to be considered and become a charge against the property, the lien so created to be enforced in accordance with the ordinances of the Village.
2. All bills for the aforesaid charges are payable on or before the due date following the receipt of said bill and if not paid, are subject to a **fifteen percent (15%)** penalty.
3. Each and all of the agreements and covenants herein contained shall run with the real estate above described whose present owner is signatory to this application.
4. I understand that after making this application, I am to await installation permit and instructions therewith.
5. SERVICE CONNECTION FEE: $ _____ is enclosed herewith, payable to the Village.
6. Permission is hereby granted to the Village and its authorized representatives at any reasonable time to enter the premises of the applicant and any portion thereof for the purposes of inspecting all connections appurtenant to the Water System.

CONNECTION MUST BE INSPECTED BEFORE BACKFILLING:

SIGNATURE: _____ _____

_____
(STREET NUMBER AND NAME OF STREET)

_____
(VILLAGE, STATE AND ZIP CODE)

_____
(TELEPHONE NUMBER) (DATE)

Do not fill in the spaces to the right if the information is the same as the applicant above.

MAIL BILLS TO:

(
(_____
(NAME)
(_____
(STREET NUMBER AND NAME OF STREET)
(
(_____
(VILLAGE, STATE AND ZIP CODE)

APPENDIX #2

VILLAGE OF SMITHTON

UTILITY MAIN EXTENSION CONTRACT

AGREEMENT made and entered into this _____ day of _____, by and between the Utility System of the **Village of Smithton, Illinois**, hereinafter called the "Utility Department" and _____, hereinafter called the "Depositor".

FIRST: That the Utility Department contracts and agrees to have installed by contract in accordance with its rules, utility mains as shown on the plat thereof, and the specifications are attached hereto and made a part hereof.

SECOND: Bids having been taken and the lowest responsible bid having been in the amount of $_____, the Depositor agrees to deposit and does deposit herewith the cost thereof.

(A) The lowest responsible bid $_____.
(B) Engineering and Inspection Charge $_____.
(C) TOTAL: $_____.

THIRD: Final costs to be adjusted up or down according to completed job cost.

FOURTH: The ownership of the utility mains laid herein shall be at all times in the Utility Department, its successors and assigns.

FIFTH: This Agreement shall be valid and binding on the Utility Department only when signed by the Mayor and Clerk.

SIXTH: This Agreement shall be binding upon the heirs, executors, administrators, successors or assigns of the respective parties.

EXECUTED in duplicate by the parties hereto on the date first above written.

UTILITY DEPARTMENT
VILLAGE OF SMITHTON

BY: _____
PUBLIC WORKS DIRECTOR

ATTEST:

_____
VILLAGE CLERK

_____
DEPOSITOR

WITNESSES:

_____
_____

APPENDIX #3

VILLAGE OF SMITHTON

PRIVATE WASTE DISPOSAL APPLICATION
(SEPTIC TANK ETC.)

The undersigned, being the _____ of the property
(owner, owner's agent)
located at _____ does hereby request a permit to install
(Number) (Street)
sanitary sewage disposal facilities to serve the _____ at the location.
(residence, commercial building, etc.)

1. The proposed facilities include: _____ to be constructed in complete accordance with the plans and specifications attached hereunto as **Exhibit "A"**.
2. The area of the property is [_____] square feet or [_____] square meters.
3. The name and address of the person or firm who will perform the work is _____
_____
4. The maximum number of persons to be served by the proposed facilities is _____
5. The location and nature of all sources of private or public water supply within **one hundred (100) feet [30.5 meters]** of any boundary of said property are shown on the plat attached hereunto as **Exhibit "B"**.

IN CONSIDERATION OF THE GRANTING OF THIS PERMIT, THE UNDERSIGNED AGREES:

1. To furnish any additional information relating to the proposed work that shall be requested by the Village.
2. To accept and abide by all provisions of the **Revised Code** and of all other pertinent codes or ordinances that may be adopted in the future.
3. To operate and maintain the wastewater disposal facilities covered by this application in a sanitary manner at all times, in compliance with all requirements of the Village and at no expense to the Village.
4. To notify the Village **at least twenty-four (24) hours** to commencement of the work proposed, and again **at least twenty-four (24) hours** prior to the covering of any underground portions of the installation.

DATE: _____, 20____ SIGNED: _____
(APPLICANT)

_____
(ADDRESS OF APPLICANT)

(CERTIFICATION BY CLERK)

$_____ (Inspection Fee Paid) DATE: _____, 20_____

$_____ (Connection Fee Paid) SIGNED: _____
(CLERK)

(APPLICATION APPROVED AND PERMIT ISSUED)

DATE: _____, 20____ SIGNED: _____
(PUBLIC WORKS DIRECTOR OR SUPERINTENDENT)

APPENDIX #4

VILLAGE OF SMITHTON

RESIDENTIAL OR COMMERCIAL BUILDING SEWER APPLICATION

The undersigned, being the _____ of the
(owner, owner's agent)
property located at _____ does hereby request a permit to install and
(Number) (Street)
connect a building sewer to serve the _____ at said location.
(residence, commercial building, etc.)

1. The following indicated fixtures will be connected to the proposed building sewer:

NUMBER	FIXTURE	NUMBER	FIXTURE
_____	Kitchen Sinks	_____	Water Closets
_____	Lavatories	_____	Bathtubs
_____	Laundry Tubs	_____	Showers
_____	Urinals	_____	Garbage Grinders

Specify Other Fixtures: _____

2. The maximum number of persons who will use the above fixtures is _____.
3. The name and address of the person or firm who will perform the proposed work is _____
_____
4. Plans and specifications for the proposed building sewer are attached hereunto as **Exhibit "A".**

IN CONSIDERATION OF THE GRANTING OF THIS PERMIT, THE UNDERSIGNED AGREES:

1. To accept and abide by all provisions of the **Revised Code,** and of all other pertinent ordinances and codes that may be adopted in the future.
2. To maintain the building sewer at no expense to the Village.
3. To notify the Village when the building sewer is ready for inspection and connection to the public sewer, but before any portion of the work is covered.

DATE: _____, 20____ SIGNED: _____
(APPLICANT)

_____
(ADDRESS OF APPLICANT)

(CERTIFICATION BY CLERK)

$_____ (Inspection Fee Paid) DATE: _____, 20_____

$_____ (Connection Fee Paid) SIGNED: _____
(CLERK)

(APPLICATION APPROVED AND PERMIT ISSUED)

DATE: _____, 20____ SIGNED: _____
(PUBLIC WORKS DIRECTOR OR SUPERINTENDENT)

APPENDIX #4

VILLAGE OF SMITHTON

INDUSTRIAL SEWER CONNECTION APPLICATION

The undersigned, being the _____ of the
(owner, owner's agent)
property located at _____ does hereby request a permit to _____
(Number) (Street) (install, use)
an industrial sewer connection serving the _____, which company is engaged in _
_____ at said location.

1. A plan of the property showing accurately all sewers and drains now existing is attached hereunto as **Exhibit "A".**
2. Plans and specifications covering any work proposed to be performed under this permit is attached hereunto as **Exhibit "B".**
3. A complete schedule of all process waters and industrial wastes produced or expected to be produced at said property, including a description of the character of each waste, the daily volume and maximum rates of discharge and representative analyses is attached hereunto as **Exhibit "C".**
4. The name and address of the person or firm who will perform the work covered by this permit is _____
_____

IN CONSIDERATION OF THE GRANTING OF THIS PERMIT, THE UNDERSIGNED AGREES:

1. To furnish any additional information relating to the installation or use of the industrial sewer for which this permit is sought as may be requested by the Village.
2. To accept and abide by all provisions of the **Revised Code,** and of all other pertinent ordinances or codes that may be adopted in the future.
3. To operate and maintain a control manhole and any waste pretreatment facilities, as may be required as a condition of the acceptance into the public sewer of the industrial wastes involved in an efficient manner at all times, and at no expense to the Village.
4. To cooperate at all times with the Village and its representative(s) in their inspecting, sampling, and study of the industrial wastes, and any facilities provided for pretreatment.
5. To notify the Village immediately in the event of any accident, negligence, or other occurrence that occasions discharge to the public sewers of any wastes or process waters not covered by this permit.

DATE: _____, 20____ SIGNED: _____
(APPLICANT)

_____
(ADDRESS OF APPLICANT)

(CERTIFICATION BY CLERK)

$_____ (Inspection Fee Paid) DATE: _____, 20_____

$_____ (Connection Fee Paid) SIGNED: _____
(CLERK)

(APPLICATION APPROVED AND PERMIT ISSUED)

DATE: _____, 20____ SIGNED: _____
(PUBLIC WORKS DIRECTOR OR SUPERINTENDENT)

APPENDIX #4

VILLAGE OF SMITHTON

APPLICATION FOR SANITARY SEWER SERVICE CONNECTION

The undersigned, representing himself as owner of the property located at _____ _____, hereby makes application for Sanitary Sewerage Service for said property, and in consideration of the furnishing of said service covenants and agrees as follows:

1. I agree to abide by all rules and regulations as specified in and by the ordinances of the Village now in effect or ordinances enacted and passed from time to time providing for the regulation of the sanitary sewer system or specifying fees and rates to be charged for connection and sanitary sewer service furnished by the Village. It is further acknowledged and agreed that the undersigned, his heirs, executors, administrators, successors and assigns shall pay all charges for connection fees and sewer usage which shall become due as the result of the connecting of the sewerage mains and the furnishing of sanitary sewerage service to the above property, and that all such charges and fees for sanitary sewerage service rendered to the property, together with penalties, if any, and the costs of collection are to be considered and become a charge against the property, the lien so created to be enforced in accordance with the ordinances of the Village.
2. All bills for the aforesaid charges are payable on or before the due date following the receipt of said bill and if not paid, are subject to a **ten percent (10%)** penalty.
3. Each and all of the agreements and covenants herein contained shall run with the real estate above described whose present owner is signatory to this application.
4. I understand that after making this application, I am to await installation permit and instructions therewith.
5. SERVICE CONNECTION FEE: $ _____ is enclosed herewith, payable to the Village.
6. Permission is hereby granted to the Village and its authorized representatives at any reasonable time to enter the premises of the applicant and any portion thereof for the purposes of inspecting all connections appurtenant to the sewerage outlets, pipes and mains.

_____ _____
(APPLICANT'S SIGNATURE) (STREET NUMBER AND NAME OF STREET)

_____ _____
(OWNER'S SIGNATURE, IF NOT APPLICANT) (VILLAGE, STATE AND ZIP CODE)

_____ _____
(TELEPHONE NUMBER) (DATE)

Do not fill in the spaces to the right if the information is the same as the applicant above.

MAIL BILLS TO:
(
(_____
(NAME)
(_____
(STREET NUMBER AND NAME OF STREET)
(
(_____
(VILLAGE, STATE AND ZIP CODE)

APPENDIX #4

VILLAGE OF SMITHTON

R E C E I P T

Receipt is hereby acknowledged of the executed Application for Sanitary Sewer Service Connection from the person and for the property indicated below.

This receipt does not authorize service connection is made, inspection and approval of the customer service line by an authorized representative of the Village is required, and approval of such connection and issuance of a Certificate of Inspection and Approval and Permit is conditioned upon compliance with all the Ordinances, Codes, Rules and Regulations of the **Village.**

NOTE:

1. In the event the location of the sewer service connection is unknown, the Superintendent is to be contacted.

2. This office is to be notified the day before the work is to be done so that inspection may be arranged in accordance with specifications furnished. For example, if you desire inspection on Tuesday, contact us on Monday. If you desire inspection on Monday, contact us on Friday, etc.

3. If the sewer line is deep enough to drain your basement, if you have one, then the wastes from the basement as well as the other floor(s) of the property must go into the sanitary sewers. Downspout and surface drainage are prohibited inasmuch as this is not a storm sewer system.

WARNING! In order to coordinate our inspections, we must be advised a day in advance before the work is done. The inspection must be made before the trench is backfilled. If trench is backfilled before the inspection is made, it will have to be reopened to permit inspection.

NO. _____

DATE: _____

ADDRESS: _____

OWNER(S): _____

_____

VILLAGE OF SMITHTON
COUNTY OF ST. CLAIR

APPENDIX #5

VILLAGE OF SMITHTON

CERTIFICATE OF INSPECTION, APPROVAL AND PERMIT

IT IS HEREBY CERTIFIED THAT inspection has been made of the individually-owned sewer mains and sanitary service connection for the property described below, and said installation is hereby approved as in compliance with the Specifications, Rules and Regulations established by the Revised Code (Ch. 38) of this Municipality.

Permission is hereby granted to complete the construction of said individually-owned sewer main to the Village Sanitary Sewerage System and to utilize the same for waste disposal in compliance at all times, with the Revised Code of this Village.

NO. _____

ADDRESS: _____

TYPE OF CONNECTION:

_____ Single-Family Residence
_____ Multiple dwelling or trailer court
_____ Commercial
_____ Industrial
_____ Institutional
_____ Governmental

INSTALLATION BY: _____

THE SERVICE IS IN OPERATION AS OF THIS _____ DAY OF _____, 20_____.

VILLAGE OF SMITHTON
COUNTY OF ST. CLAIR

SIGNED: _____

APPENDIX #6

VILLAGE OF SMITHTON

OBJECTIONABLE MATERIAL EFFLUENT LIMITS

Waste or Chemical	**Concentration mg/l**
Boron	1.0
Chromium (Hexavalent)	5.0
Chromium (Trivalent)	10.0
Copper	3.0
Cyanide	0.005
Iron	15.0
Lead	0.1
Mercury or its compounds	0.005
Nickel	3.0
Oil & Grease, etc. (carbon tetrachloride extraction)	100.0
Temperature not over 150º F. (65º C.)	
Acid iron pickling waste or concentrated plating waste	Zero
Free acids and alkalis pH	Between 5.5 and 9.5
Zinc	2.0
Cadmium	2.0
Chlorine Demand	30.0
Phenols	0.5

APPENDIX #7

SANITARY SEWER ACCOUNTING SYSTEM

A. Depreciation Account

1. Structures

	Item	Value	Exp. Life	Ann. Depreciation
a.	Life Station	$10,500.00	30	$350.00
b.	Blower Control Building	$12,600.00	50	$252.00
c.	Outside Piping	$21,500.00	30	$716.66
	Total			$1,317.67

2. Process Equipment

	Item	Value	Exp. Life	Ann. Depreciation
a.	Auxiliary Power Generator	$7,540.00	30	$251.33
b.	Aeration Sys. Except Blowers	$21,900.00	20	$1,095.00
c.	Tertiary Filters Except Pumps, Blowers	$55,140.00	30	$1,838.00
	Total			$3,184.33

3. Auxiliary Equipment

	Item	Value	Exp. Life	Ann. Depreciation
a.	Lift Station pumps & motors	$6,000.00	15	$400.00
b.	Aeration Sys. Blowers	$10,000.00	15	$666.66
c.	Tertiary Filters Pumps	$15,000.00	15	$1,000.00
d.	Chlorination System	$3,000.00	10	$300.00
e.	Electrical Works & Equipment	$6,500.00	15	$433.33
f.	Laboratory Equipment	$5,500.00	15	$366.66
	Total			$3,166.66
	Annual Depreciation			$7,668.66
	Monthly Depreciation			$639.05

B. Operational and Maintenance Account

1.	Chemicals	$1,000.00
2.	Utilities	$2,400.00
3.	Salaries	$3,000.00
4.	General	$4,000.00
	Total	$10,400.00

C. Debt Service Charge

1.	Outstanding Bond Principal and Interest Account	Max. Year $12,500.00

D. Wastewater Service Charge Computation

		Annual Costs
1.	Depreciation Account	$1,018.00
2.	Replacement Account	
	a. Process Equipment	$1,346.00
	b. Auxiliary Equipment	$3,167.00
3.	Operation and Maintenance Account	$10,400.00
	Total	$15,391.00

Divided by gallons (in 1000's) billed per year:
$15,931.00 divided by 21,500 gal. (In 1000's)
Equals Cost per 1000 gallons: $0.7409
Say: $0.75/1000 gal.

4.	Debt Service Account	$12,500.00
	Deduct Annual Tap-In Fees	$3,000.00
		$9,500.00
	Divided by Number of Customers	$9,500.00 divided by 358
	Equals Minimum Cost per Customer	$2.21
	Say:	$2.25

(Amend Ord. No. 267; 08-03-76)

ZONING CODE

ARTICLE		*TITLE*	*PAGE*
I	*GENERAL PROVISIONS*		
	Section 40-1-1	*Title*	*40-1*
	Section 40-1-2	*Declaration of Purpose*	*40-1*
	Section 40-1-3	*Conformity with Regulations Required*	*40-2*
	Section 40-1-4	*Scope*	*40-2*
II	*DEFINITIONS*		
	Section 40-2-1	*Construction of Terms*	*40-3*
	Section 40-2-2	*Definitions*	*40-3*
	Section 40-2-3	*Annexed Territory*	*40-12*
	Section 40-2-4	*Figures (Sketches and Illustrations)*	*40-12*
III	*ZONING DISTRICT REGULATIONS*		
	Section 40-3-1	*Zoning Districts - General*	*40-13*
	Section 40-3-2	*Establishment of Zoning Districts*	*40-13*
	Section 40-3-3	*Interpretation of Provisions*	*40-13*
	Section 40-3-4	*Interpretation of District Boundaries*	*40-13*
	Section 40-3-5	*Existing Special Uses*	*40-14*
	Section 40-3-6	*Schedule: Area and Bulk Regulations; Parking Requirements*	*40-14*
	Section 40-3-7	*Schedule: Permitted Uses; Accessory Uses; Exceptions and Special Uses*	*40-14*
IV	*SUPPLEMENTARY USE AND BULK REGULATIONS*		
	Section 40-4-1	*Fences, Walls and Hedges*	*40-16*
	Section 40-4-2	*Home Occupations*	*40-17*
	Section 40-4-3	*Lighting Controls*	*40-17*
	Section 40-4-4	*Swimming Pools*	*40-17*
	Section 40-4-5	*Churches and Houses of Formal Worship*	*40-17*
	Section 40-4-6	*Garages, Repair*	*40-18*
	Section 40-4-7	*Service Stations*	*40-18*
	Section 40-4-8	*Mobile Homes; Modular, Immobilized*	*40-18*
	Section 40-4-9	*Travel Trailers*	*40-19*
	Section 40-4-10	*Public Buildings*	*40-19*
	Section 40-4-11	*Public Utility Stations; Exchanges; Essential Services*	*40-20*
	Section 40-4-12	*Schools, Private and Parochial*	*40-20*
	Section 40-4-13	*Nursing Homes*	*40-20*
	Section 40-4-14	*Day Care, Etc.*	*40-20*
	Section 40-4-15	*Plant Nurseries and Greenhouses*	*40-21*
	Section 40-4-16	*Fire Walls*	*40-21*
	Section 40-4-17	*Corner Lots, Obstruction of Vision Prohibited*	*40-21*
	Section 40-4-18	*Home Kitchen Operations and Regulations*	*40-21*

ARTICLE		TITLE	PAGE
V		GENERAL SUPPLEMENTARY REGULATIONS	
Section 40-5-1	-	Uses Permitted	40-22
Section 40-5-2	-	Bulk of Buildings	40-22
Section 40-5-3	-	Maintenance of Yards, Courts and Other Open Spaces	40-22
Section 40-5-4	-	Division of Zoning Lots	40-22
Section 40-5-5	-	Accessory Buildings	40-22
Section 40-5-6	-	Location of Required Open Space	40-22
Section 40-5-7	-	Required Yards for Existing Buildings	40-22
Section 40-5-8	-	Reduction of Lot – Limitation on Number of Principal Buildings on Lot	40-22
Section 40-5-9	-	Corner Lots and Through Lots	40-23
Section 40-5-10	-	Frontage Requirements	40-23
Section 40-5-11	-	General Performance Standards	40-23
Section 40-5-12	-	Occupancy of Temporary Structures	40-23
Section 40-5-13	-	Contiguous Parcels	40-23
Section 40-5-14	-	Individual Water and Sewage Systems	40-23
Section 40-5-15	-	Maximum Height of Buildings – Exclusions	40-23
Section 40-5-16	-	Minimum Yards – Exceptions	40-24
Section 40-5-17	-	Public Utility Distribution Facilities – Exception	40-24
Section 40-5-18	-	Reserved	
Section 40-5-19	-	Regulating Aerials, Towers, Antennas and Telecommunication Facilities	40-24
Section 40-5-20	-	Temporary Portable Storage	40-31
Section 40-5-21	-	Portable Tool Shed	40-31
VI		PLANNED DEVELOPMENT	
Section 40-6-1	-	Planned Building Development – General	40-32
Section 40-6-2	-	Multi-Family Residential Development	40-32
Section 40-6-3	-	Planned Mobile Home Parks	40-32
Section 40-6-4	-	Planned Business Centers	40-32
Section 40-6-5	-	Other Planned Building Developments	40-32
VII		NON-CONFORMING USES	
Section 40-7-1	-	Non-Conforming Use	40-33
Section 40-7-2	-	Change or Extension of Non-Conforming Use	40-33
Section 40-7-3	-	Abandonment or Discontinuance	40-33
Section 40-7-4	-	Repairs, Maintenance and Alteration	40-33
Section 40-7-5	-	Restoration	40-34
VIII		SIGN REGULATIONS	
Section 40-8-1	-	General Prohibition	40-35
Section 40-8-2	-	Computation of Sign Area Allowance	40-35
Section 40-8-3	-	Definition of Sign Area	40-35
Section 40-8-4	-	Special Situations	40-35
Section 40-8-5	-	Signs to be Non-Hazardous, Well-Maintained	40-35
Section 40-8-6	-	Illumination	40-35
Section 40-8-7	-	Nonconforming Signs	40-36
Section 40-8-8	-	Restrictions	40-36
Section 40-8-9	-	Strictly Prohibited Signs	40-36

ARTICLE		TITLE	PAGE
VIII		SIGN REGULATIONS (CONTINUED)	
	Section 40-8-10	- Signs Permitted in Any District	40-36
	Section 40-8-11	- Agricultural; Residential Districts	40-37
	Section 40-8-12	- Business; Industrial Districts	40-37
	Section 40-8-13	- Temporary Signs	40-38
IX		SUPPLEMENTARY OFF-STREET PARKING AND LOADING REGULATIONS	
	Section 40-9-1	- Location of Parking Lots	40-39
	Section 40-9-2	- Space Requirements	40-39
	Section 40-9-3	- Access Ways	40-39
	Section 40-9-4	- Number of Parking and Loading Spaces Required	40-39
X		ADMINISTRATION AND ENFORCEMENT	
	Division I – General Provisions		
	Section 40-10-1	- Office Created	40-43
	Section 40-10-2	- Office of the Zoning Administrator	40-43
	Section 40-10-3	- Reserved	
	Division II – Building Permits		
	Section 40-10-4	- Building Permits	40-44
	Section 40-10-5	- Application for Building Permit	40-44
	Section 40-10-6	- Issuance of Building Permit	40-44
	Section 40-10-7	- Period of Validity	40-44
	Section 40-10-8	- Occupancy Permit	40-44
	Section 40-10-9	- Application for Occupancy Permit	40-45
	Section 40-10-10	- Issuance of Occupancy Permit	40-45
	Section 40-10-11	- Penalties	40-45
	Section 40-10-12	- Reserved	
	Division III – Board of Appeals		
	Section 40-10-13	- Creation and Membership	40-45
	Section 40-10-14	- Jurisdiction	40-46
	Section 40-10-15	- Meeting and Rules	40-46
	Section 40-10-16	- Quorum	40-46
	Section 40-10-17	- Decisions	40-46
	Section 40-10-18	- Finality of Decisions of the Zoning Board of Appeals	40-47
	Section 40-10-19	- Office of the Secretary of the Zoning Board of Appeals	40-47
	Section 40-10-20	- Reserved	
	Division IV – Appeals		
	Section 40-10-21	- Nature of an Appeal	40-47
	Section 40-10-22	- Filing, Record Transmittal	40-47
	Section 40-10-23	- Stay of Further Proceedings	40-47
	Section 40-10-24	- Public Hearing, Notice	40-48
	Section 40-10-25	- Decision by Zoning Board of Appeals	40-48
	Section 40-10-26	- Reserved	
	Division V – Variations		
	Section 40-10-27	- Authorization	40-48
	Section 40-10-28	- Application for Variation	40-48

ARTICLE		TITLE	PAGE
X		ADMINISTRATION AND ENFORCEMENT (CONTINUED)	
		Division V – Variations (Continued)	
	Section 40-10-29	- Hearing and Notice	40-49
	Section 40-10-30	- Authorized Variations	40-49
	Section 40-10-31	- Standards for Variations	40-49
	Section 40-10-32	- Decision on Variations	40-50
	Section 40-10-33	- Period of Validity	40-50
	Section 40-10-34	- Penalties	40-50
	Section 40-10-35	- 40-10-36 Reserved	
		Division VI – Special Uses	
	Section 40-10-37	- Special-Use Permits	40-50
	Section 40-10-38	- Application	40-51
	Section 40-10-39	- Public Hearing, Notice	40-51
	Section 40-10-40	- Advisory Report, Factors Considered	40-51
	Section 40-10-41	- Decision – Findings of Facts	40-52
	Section 40-10-42	- Temporary Use Permits: Procedure For	40-52
	Section 40-10-43	- Time Limitation	40-52
	Section 40-10-44	- Penalties	40-52
	Section 40-10-45	- Resubmission of Special Use Request	40-52
	Section 40-10-46	- Reserved	
		Division VII – Amendments	
	Section 40-10-47	- Amendments	40-53
	Section 40-10-48	- Filing	40-53
	Section 40-10-49	- Public Hearing - Notice	40-53
	Section 40-10-50	- Advisory Report – Findings of Fact	40-53
	Section 40-10-51	- Action by Village Board	40-53
	Section 40-10-52	- When Two-Thirds Majority Vote is Required	40-53
	Section 40-10-53	- Notice to Applicant of Written Protest	40-54
XI		FEES	
	Section 40-11-1	- Variations	40-55
	Section 40-11-2	- Special Use Permits	40-55
	Section 40-11-3	- Amendments	40-55
XII		PENALTIES	
	Section 40-12-1	- Fine Imposed	40-56
	Section 40-12-2	- Prosecutions	40-56
	Section 40-12-3	- Separability	40-56

CHAPTER 40

ZONING CODE

ARTICLE I – GENERAL PROVISIONS

40-1-1 **TITLE.** This Code shall be known and cited as the **Smithton Zoning Code.**

40-1-2 **DECLARATION OF PURPOSE.** It is the purpose of this Code:

(A) To promote and protect the public health, safety, morals, comfort and general welfare of the people;

(B) To divide the Village into zones or districts restricting and regulating therein the location, erection, construction, reconstruction, alteration, and use of buildings, structures, and land for residence, business, manufacturing, and other specified uses;

(C) To protect the character and the stability of the residential, business and manufacturing areas within the Village and to promote the orderly and beneficial development of such areas;

(D) To provide adequate light, air, privacy and convenience of access to property;

(E) To regulate the intensity of use of lot areas, and to determine the area of open spaces surrounding buildings, necessary to provide adequate light and air, and to protect the public health;

(F) To establish building lines and the location of buildings designed for residential, business, and manufacturing, or other uses within such areas;

(G) To fix reasonable standards to which buildings or structures shall conform therein;

(H) To prohibit uses, buildings, or structures incompatible with the character of development or intended uses within specified zoning districts;

(I) To prevent additions to, or alteration or remodeling of, existing buildings or structures in such a way as to avoid the restrictions and limitations imposed hereunder;

(J) To limit congestion in the streets and protect the public health, safety, convenience, and general welfare by providing for the off-street parking of motor vehicles and the loading and unloading of commercial vehicles;

(K) To protect against fire, explosion, noxious fumes, and other hazards, in the interest of the public health, safety, comfort and the general welfare;

(L) To prevent the overcrowding of land and undue concentration of structures, so far as is possible and appropriate in each district, by regulating the use and bulk of buildings in relation to the land surrounding them;

(M) To conserve the taxable value of land and buildings throughout the Village;

(N) To provide for the elimination of non-conforming uses of land, buildings, and structures which are adversely affecting the character and value of desirable development in each district;

(O) And to define and limit the powers and duties of the administrative officers and bodies as provided herein. **(65 ILCS 5/11-13-1)**

(P) To regulate and limit the height and bulk of buildings to be erected.

(Q) To establish, regulate and limit the building or setback lines on or along any street, trafficway, drive, parkway, storm or floodwater runoff channel or basin.

(R) To regulate and limit the intensity of the use of lot areas and to regulate and determine the area of open spaces within and surrounding such buildings.

(S) To classify, regulate and restrict the location of trades and industries and the location of buildings designed for specified industrial, business, residential and other uses.

(T) To fix standards to which buildings or structures shall conform.

(U) To profit users, buildings, or structures incompatible with the character of such districts.

(V) To prevent additions to and alteration or remodeling of existing building or structures in such a way as to avoid the restrictions and limitations lawfully imposed under this Code.

(W) to classify, regulate and restrict the use of property on the basis of family relationships.

40-1-3 CONFORMITY WITH REGULATIONS REQUIRED. Except as otherwise provided in this Code:

(A) **Conformity of Buildings and Land.** No building, structure, or premises shall be used or occupied, and no buildings or parts thereof or other structures shall be erected, raise, moved, placed, reconstructed, extended, enlarged, or altered, except in conformity with the regulations herein specified for the zoning district in which it is located and as otherwise regulated herein, except as otherwise specifically provided for by this Code.

(B) **Conformity of Buildings.** No building, structure, or premises shall be erected, altered, or used so as to produce greater heights, smaller yards or less unoccupied area, and no building shall be occupied by more families and/or persons than prescribed for such building, structure or premises for the district in which it is located and as otherwise regulated herein, except as otherwise specifically provided for by this Code.

(C) **Conformity of Open Spaces.** No yard, court or open space, or part thereof, shall be included as part of the yard, court or open space similarly required for any other building, structure or dwelling, except as otherwise specifically provided by this Code.

40-1-4 SCOPE. This Code is not intended to abrogate or annul any building permits, certificates of occupancy, variances or other lawful permits issued before the effective date of this Code.

ARTICLE II - DEFINITIONS

40-2-1 CONSTRUCTION OF TERMS. In construing the intended meaning of terminology used in this Code, the following rules shall be observed:

(A) Words and phrases shall have the meanings respectively ascribed to them in **Section 40-2-2** unless the context clearly indicates otherwise; terms not defined in **Section 40-2-2** shall have their standard English meanings.

(B) Words denoting the masculine gender shall be deemed to include the feminine and neuter genders.

(C) Words used in the present tense shall include the future tense.

(D) Words used in the singular number shall include the plural number, and the plural the singular.

(E) The term "shall" is mandatory.

(F) The term "may" is discretionary.

(G) The words "lots," "parcel," "tract," and "site" shall be synonymous.

(H) The phrases "used for," "arranged for," "designed for," "intended for," "maintained for," and "occupied for" shall be synonymous.

(I) All distances shall be measured to the nearest integral foot; **six (6) inches** or more shall be deemed **one (1) foot.**

(J) References to sections shall be deemed to include all subsections within that section; but a reference to a particular subsection designates only that subsection.

(K) A general term that follows or is followed by enumerations of specific terms shall not be limited to the enumerated class unless expressly limited.

40-2-2 DEFINITIONS.

Abandonment: An action to give up one's rights or interests in property.

Accessory Building or Structure: A detached subordinate building or structure, the use of which is customarily incidental to that of the main use of the land and which is located on the same lot with the main building or use.

Accessory Use: A use which is incidental and subordinate to the principal use of the premises, and does not change the basic character thereof, as determined by its principal use.

Alley: A public access way which affords only a secondary means of access to abutting property and is not intended for general traffic circulation.

Alterations: As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

Alterations, Structural: A change in the supporting members of a building such as bearing walls, columns, beams, or girders.

Animal Hospital: Any building or portion thereof designed or used for the care, observation, or treatment of domestic animals.

Apartment: A suite of rooms in a building arranged and intended for a place of residence of a single family or a group of individuals living together as a single housekeeping unit.

Apartment Hotel: An apartment hotel which furnishes for the use of its tenants services ordinarily furnished by hotels, but the privileges of which are not primarily available to the public.

Apartment House: A multi-family dwelling used or occupied by **four (4)** or more families living independently of each other in dwelling units, such dwelling units normally being rented or used other than by the day, by the same occupant for a continuous period ordinarily of **six (6) months** or more.

Area of Zoning Lot: The total area within the property lines of a lot, excluding public streets and alleys, meeting the district requirements of this Code.

Attached Building: A building attached to another building by a common wall (such wall being a solid wall with or without windows and doors) and a common roof with at least horizontal dimension of **six (6) feet**.

Auditorium: A room, hall or building made a part of a church, theater, school, recreation building or other building assigned to the gathering of people as an audience, to hear lectures, plays and other presentations.

Automobile Parking Area: A lot or part thereof used for the storage or parking of motor vehicles with or without the payment of rent or charges.

Automobile and Mobile Home Sales Area: An open area, other than a street, used for the display or sale of new or used automobiles or mobile homes, and where no repair work is done except for minor incidental repair of automobile or mobile homes to be displayed and sold on the premises.

Automobile Wrecking Yard: Any place where **two (2)** or more motor vehicles, not in running condition, or parts thereof, are stored in the open and are not being restored to operation, or any land, building or structure used for wrecking or storing of such motor vehicles or parts thereof, and including any used farm vehicles or farm machinery, or parts thereof, stored in the open and not being restored to operating condition; and including the commercial salvaging of any other goods, articles or merchandise.

Basement: A story having more than **one-half (1/2)** its height below the average level of the adjoining ground.

Billboard: A sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the premises where such sign is located or to which it is affixed.

Block: A tract of land bounded by streets or, in lieu of a street or streets, by public parks, cemeteries, railroad rights-of-way, bulkhead lines or shore lines of waterways, or corporate boundary lines of municipalities.

Board of Trustees or Village Board of Trustees: The Village Board of Trustees of the Village of Smithton.

Boarding House: A building other than a hotel or restaurant where meals are provided for compensation to **three (3)** or more persons, but not more than **ten (10)**, who are not members of the keeper's family, but not open on a daily, overnight or per meal basis to transient guests.

Buildable Area: The space remaining on a zoning lot after the minimum open space requirements of this Code have been complied with.

Building: Any structure built for the shelter or enclosure of persons, animals, chattels, property or substances of any kind, excluding fences.

Building Height: The vertical distance measured from the average elevation of the proposed finished grade at the front wall of the building to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or the mean height level between eaves and ridge for gable, hip or gambrel roofs.

Building Line: The line, parallel to the front line, measured between side lot lines through that part of the building, structure or construction site where the lot is narrowest.

Building Permit: A document issued by the Zoning Administrator authorizing buildings, structures or uses consistent with the terms of this Code and for the purpose of carrying out and enforcing its provisions.

Building, Principal: A non-accessory building in which the principal use of the zoning lot, on which it is located, is conducted.

Clinic: A place used for the care, diagnosis and treatment of sick, ailing, infirm and injured persons, but who are not provided with board or room nor keep overnight on the premises.

Club: A nonprofit association or person who are bona fide members organized for some common purposes and paying regular dues; not including a group organized solely or primarily to render a service customarily carried on as a commercial enterprise.

Coverage: (See Figure 2).

District: A portion of the territory of the Village or contiguous unincorporated territory within **one and one-half (1 1/2) miles** of the nearest Village limit within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Code.

Dump: A lot of land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning or any other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

Dwelling: Any building or portion thereof designed or used exclusively as living quarters for **one (1)** or more families, other than hotels, motels, tourist homes, clubs, hospitals, or similar uses.

Dwelling, Single-Family: A detached principal building designed for or used as a dwelling exclusively by **one (1) family** as an independent housekeeping unit.

Dwelling, Two-Family: A detached principal building designed for or used as a dwelling exclusively for **two (2) families**, each living as an independent housekeeping unit.

Dwelling, Three-Family: A detached principal building designed for or used as a dwelling exclusively by **three (3) families**, each living as an independent housekeeping unit.

Dwelling, Multiple-Family: A building or portion thereof, designed or altered for occupancy by **four (4)** or more families living independently of each other.

Enclosed Building: A building separated on all sides from adjacent open space or other buildings by fixed interior walls or party walls, with openings only for windows and doors, and covered by a permanent roof.

Essential Governmental or Public Utility Services: The erection, construction, alteration, or maintenance by public utilities or municipal departments, of underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health or safety of general welfare, but not including buildings.

Family (Single):

(A) A single individual, doing his own cooking and living upon the premises as a separate housekeeping unit; or

(B) A collective body of persons doing their own cooking and living together upon the premises as a separate housekeeping unit in a domestic relationship based upon birth, marriage, adoption or employment as domestic servants; or

(C) A group of not more than **three (3)** unrelated persons doing their own cooking and living together on the premises as a separate housekeeping unit pursuant to a mutual housekeeping agreement (not including a group occupying a boarding or rooming house, club, fraternity or hotel).

Floor Area: The area included within outside walls of a building or portion thereof, including habitable penthouses and attic space, but not including vent shafts, courts or uninhabitable areas below ground level or in attics.

Floor Area Ratio: The ratio of total floor area, in square feet, of all buildings on a lot to total lot area, in square feet.

Garage Parking, Public: A building or portion thereof used by the public for the storage or parking of motor vehicles for compensation.

Garage, Private: A building or portion thereof for the storage of **one (1)** or more vehicles for persons living on the premises.

Gasoline Service Station: A building or premises or portion thereof used for the retail sale of gasoline, oil, or other fuel, automotive parts, supplies, or accessories for motor vehicles and which may include, as an incidental use only, facilities used for polishing, greasing, washing or otherwise cleaning or light servicing of motor vehicles, but not including liquefied petroleum gas distribution facilities.

Grade: The average of the finished ground level at the mid-point of each wall or building. In case walls are parallel to and within **five (5) feet** of a public sidewalk, said ground level shall be measured at the sidewalk.

Guest House: Living quarters within a detached accessory building located on the same premises with the principal building, for use by temporary guests of the occupants of the premises. Such quarters shall have no kitchen facilities, nor be rented or otherwise used as a separate dwelling.

Home Occupation: A use conducted entirely within a dwelling and carried on by the inhabitants thereof, and no others, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the residential character thereof.

Hotel: A building designed or used for occupancy normally as the temporary lodging place of individuals, having at least **six (6) guest rooms**; where a general kitchen and dining room may be provided, but where there are no cooking facilities in any guest room.

Immobilized Mobile Home: Any structure resting on a permanent foundation with wheels, tongue and hitch permanently removed. The Village Board establishes the following criteria to complete the immobilization of a mobile home:

(A) The foundation shall extend into the ground below the frost line so as to attach and become a part of the real estate. Materials such as concrete, mortared concrete block, or mortared brick extending into the ground below the frost line shall satisfy the requirement for a permanent foundation.

(B) As an alternate to (1), piers may be used, extending into the ground below the frost line, and sufficient in number to properly support the mobile home.

(C) To complete the immobilization, wheels, tongue, and hitch must be permanently removed. Wheels must be removed in such a manner that they may not be easily replaced. Therefore, either the axle would have to be removed or at least, the lug bolts holding the wheels to the axle removed. The tongue and hitch must be removed by either removing the tongue and hitch from the frame or remove the bolts holding the tongue and hitch to the frame.

Junk Yard: An open area where scrap metal, paper, rags, or similar materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including auto and building salvage yards, but excluding similar uses taking place entirely within a completely enclosed building.

Kennel: Any structure or lot on which **four (4) or more dogs** and/or cats over **four (4) months** of age are kept.

Land Use Plan: The long-range plan for the desirable use of land within the Village and within the unincorporated territory within **one and one-half (1 1/2) miles** of the nearest Village limits as officially adopted and as amended from time to time.

Laundries:

(A) **Laundromat.** A business that provides home-type washing, drying and ironing machines for hire to be used by the customers on the premises.

(B) **Commercial Industrial Laundry.** A business that provides washing, drying and ironing services operated by the employees on the premises.

Least Restrictive: For the purpose of this Code, the designation of the most or the least restrictive district shall be of the following order, with the least restrictive being first in order: "I-1", "B-1", "MH-1", "MR-1", "SR-3", "SR-2", "SR-1" and "A".

Loading Space: An off-street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

Lodging or Rooming House: A building with more than **three (3)** guest spaces where lodging is provided for compensation pursuant to previous arrangement, but not open on a daily, overnight, or per meal basis to transient guests.

Lot: A portion or parcel of land (whether a portion of a platted subdivision or otherwise) occupied or intended to be occupied by a building or use and its accessories, together with such yards as are required under the provisions of this Code, having not less than the minimum area, width and depth required by this Code, for a lot in the district in which such land is situated, and having its principal frontage on a street or on such other means of access as permitted in accordance with the provisions of this Code. The minimum area of a lot as defined herein must be an integral unit of land under unified ownership in fee or in co-tenancy, or under legal control tantamount to such ownership, which ownership or control must continue for the existence of the building or buildings permitted to be situated on the lot.

Lot Area: See "Area of Zoning Lot".

Lot, Corner: A lot abutting upon **two (2)** or more streets at their intersection or upon **two (2) parts** of the same street, such streets or parts of the same street forming an interior angle of less than **one hundred thirty-five degrees (135º)**. The point of intersection of the street lines is the "corner".

Lot Coverage: The area of a zoning lot occupied by the principal building or buildings and accessory buildings.

Lot Depth: The mean horizontal distance between the front and the rear lot lines measured in the general direction of the side lot lines.

Lot, Interior: A lot whose side lines do not abut upon any street.

Lot Line, Front: The line separating the lot from the street. On a corner lot, the front lot line shall be the street lot line having the least dimension.

Lot Line, Rear: The rear lot line is the lot line or lot lines most nearly parallel to and most remote from the front lot line.

Lot Line, Side: Any lot line other than front or rear lot line. A side lot line separating a lot from a street is called a side street lot line. A side lot line separating a lot from another lot or lots is called an interior side lot line.

Lot of Record: A lot which is part of a subdivision, the plat of which has been recorded in the office of County Recorder.

Lot, Through: A lot having frontage on **two (2)** parallel or approximately parallel streets.

Lot Width: The mean horizontal width of the lot measured at right angles to its depth.

Mobile Home: A structure designed for permanent habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location, or subsequent locations, at which it is intended to be a permanent habitation and designed to permit the occupancy thereof as a dwelling place for **one (1)** or more persons, provided that any such structure resting on a permanent foundation, with wheels, tongue and hitch permanently removed, shall not be construed as a "mobile home", but shall be an immobilized mobile home. A mobile home should not be confused with a **"camping trailer"** or **"recreational vehicle".**

Mobile Home, Dependent: A mobile home, or travel trailer, which does not have a flush toilet or a bathtub or shower.

Mobile Home, Double-Wide: Consists of **two (2)** mobile units joined at the site into a single home, but kept on their separate chassis for repeated transportation to a site.

Mobile Home, Independent: A mobile home with self-contained toilet and bath or shower facilities.

Mobile Home Lot: A parcel of land for the placement of a mobile home and the exclusive use of its occupants.

Mobile Home Module: A factory-fabricated building unit transported to a building site, mounted on a permanent foundation, supporting the outside perimeter walls, and is designed for residential use.

Mobile Home Pad: That part of an individual mobile home space or lot beneath the mobile home including the concrete portion of the pad.

Mobile Home Park: An area of land under unified ownership and/or control on which **two (2)** or more occupied mobile homes are harbored either free of charge or for revenue purposes, and shall include any building, structure, tent, vehicle, or enclosure used or intended for use as part of the equipment of such mobile home park, includes courts, developments and communities.

Mobile Home Sales Area: A parcel of land used for the display, sale and repair of new or used mobile homes.

Mobile Home Space: A portion of a mobile home park designed for the use or occupancy of **one (1)** mobile home.

Most Restrictive: See "Least Restrictive".

Motel or Motor Hotel: A series of attached, semi-attached or detached sleeping or living units, for the accommodation of transient guests and not customarily including individual cooking or kitchen facilities, said units having convenient access to off-street parking spaces for the exclusive use of the guests or occupants.

Noisome and Injurious Substances, Conditions and Operations:

(A) Creation of unreasonable physical hazard, by fire, explosion, radiation or other cause, to persons or property.

(B) Discharge of any liquid or solid waste into any stream or body of water or into any public or private disposal system or into the ground, so as to contaminate any water supply, including underground water supply.

(C) Maintenance or storage of any material either indoors or outdoors so as to cause or to facilitate the breeding of vermin.

(D) Emission of smoke, measured at the point of emission, which constitutes an unreasonable hazard to the health, safety or welfare of any persons.

(E) Fly ash or dust which can cause damage to the health of persons, animals, or plant life or other forms of property, or excessive soil, measured at or beyond the property line of the premises on which the aforesaid fly ash or dust is created or caused.

(F) Creation or causation of any unreasonably offensive odors discernible at or beyond any property line of the premises on which the aforesaid odor is created or caused.

(G) Creation or maintenance of any unreasonable reflection or direct glare, by any process, lighting or reflection material at or beyond any property line of the premises on which the aforesaid reflection or direct glare is created or caused.

(H) Creation or maintenance of any unreasonably distracting or objectionable vibration and/or electrical disturbances discernible or beyond any property line of the premises on which the aforesaid vibration or electrical disturbance is created or maintained.

(I) Any public nuisance.

Nonconforming Building: A building or structure or portion thereof conflicting with the provisions of this Code applicable to the district in which it is situated.

Nonconforming Use: A use of a building or land legally existing at the time of adoption of this Code, or any amendment thereto and which does not conform with the use regulations of the district in which located.

Nursery School or Day Care: An institution providing day care service for children from **two (2)** to **six (6) years** of age.

Official Map: The portion of the master plan adopted by ordinance which designates land necessary for public facilities or uses, including streets, alleys, public ways, parks, playgrounds, school sites and other public grounds and ways for public service facilities within the whole area included within the official comprehensive plan or one or more separate geographical or functional parts and including all or any part of the contiguous, unincorporated area under the planning jurisdiction of the Village.

Parking Area, Private: An open, hard-surfaced area, other than a street or public way, designed, arranged, and made available for the storage of private passenger automobiles only, or occupants of the building or buildings for which the parking area is developed and is accessory.

Parking Area, Public: An open, hard-surfaced area, other than a street or other public way, used for the parking of automobiles or other motor vehicles and available to the public whether for a fee or as an accommodation for clients or customers.

Parking Space, Automobile: Space within a public or private parking area of not less than **two hundred (200) square feet, ten by twenty (10 x 20) feet**, exclusive of access drives, or aisles, ramps, columns, or office and work areas, for the storage of **one (1)** passenger automobile or commercial vehicle under **one and one-half (1 1/2) ton** capacity.

Planned Development Project: A residential or commercial development on a parcel of land in single ownership and consisting of **two (2)** or more buildings having any yard, court, parking or loading space in common.

Portable Tool Shed: A portable building to be used for the storage of tools and miscellaneous lawn equipment. **(Ord. No. 810; 10-04-11)**

Premises: A lot together with all the buildings and uses thereon.

Principal Use: The main use of land or buildings as distinguished from a subordinate or accessory use.

Professional Office: An office (other than a service office and other than an office for care and/or treatment of, or medical attention to, animals as distinguished from persons) for the practice of professions, such as the offices of physicians, dentists, attorneys-at-law, architects, engineers, qualified to perform services of a professional nature, or the offices of a governmental agency, and where there is no storage, sale or display of merchandise on the premises.

Public Buildings: Any building owned, operated, constructed or maintained at the expense of the public or a building which provides a service or function necessary for the general health, welfare, and convenience of the public.

Public Open Space: Any publicly-owned open area, including, but not limited to the following: parks, playgrounds, forest preserves, beaches, waterways, parkways and streets.

Public Sewer and Water Facilities: Those water and/or sewer facilities of a municipality and/or of a sanitary sewer district which comply with applicable public health standards.

Residence: A stationary detached principal building designed for or used as a dwelling as distinguished from a mobile (dwelling) home. A mobile home with wheels and tongue removed and placed on a permanent foundation shall be deemed an immobilized mobile home.

Retail (or Retailing): A business enterprise consisting primarily of the making of sales and/or rendering of services directly to ultimate consumers, where each sale or service transaction is in relatively small quantity or volume, as distinguished from a wholesale business or from a business where sales are made or services are rendered either in substantial volume to an individual customer and/or for resale to or reuse by ultimate consumers.

Room: Any unsubdivided portion of the interior of a dwelling unit, excluding bathrooms, kitchens, closets, hallways and service porches and the like.

Sectional Homes: See Mobile Home Module.

Service Office: An office in which are offered services by real estate agents, insurance agents, public stenographers, brokers, or others who through training are duly qualified to perform services of an executive nature (as distinguished from a professional office) and where there is no storage, sale or display of merchandise on the premises.

Setback: The distance in linear feet measured on a horizontal plane from the lot line to a building or structure on the lot.

Sign: Any inscription written, printed, painted, or otherwise placed on a board, plate, banner or upon any material, object or device whatsoever, which, by reason of its form, color, wording or otherwise, attracts or is designed to attract attention to the subject thereof or is used as a means of identification, advertisement, or announcement. As used in this Code, the term shall apply only to signs which attract attention to the sign from outside of a building or structure.

Sign Area: The total surface area of the entire sign, including all parts and appurtenances thereof (except principal supports the total cross sectional area of which does not exceed **one (1) square foot** and on which there is no display of advertising material or any lighting). In the case of any sign having display

surfaces which are not continuous (e.g., separated letter displays or separated display surfaces), sign area shall include a theoretical display surface equal to the area of the smallest enclosure into which the combined non-continuous display surfaces can be fitted, and including intermediate structural supports. **(See Figure 3)**

Sign, Advertising: A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than on the lot where the sign is located, or only incidentally on that lot if at all.

Sign, Bulletin Board: As used in this Code, a sign used for purposes of notification of the public of an event or other occurrence of public interest, such as a church service, political rally, civic meeting or similar event.

Sign, Business: A sign which directs attention to a business, profession, display or entertainment conducted upon a lot or to a commodity or service stored, sold, or displayed on a lot.

Sign, Combination: Any sign incorporating any combination of the features of free-standing, projecting and roof signs.

Sign, Construction: As used in this Code, a sign advertising the development or improvement of a property by a builder, contractor or other person furnishing services, materials, or labor to said premises, which sign is intended for a limited period of display, and erected on the same lot with the work being done.

Sign, Identification: A sign which establishes the identity of a person and his business or professional title occupying the premises, such as a name plate. As used in this Code, the term "identification sign" shall not be construed to include a sign identifying a commercial or industrial use or a commodity or service offered on the premises.

Sign, Marquee: A display sign which is attached to or suspended from a marquee, canopy, or other covered structure projecting from and supported by the building and extending beyond the building wall or building line.

Sign, Projecting: A display sign which is attached directly to the wall of a building and which extends more than **fifteen (15) inches** from the face of the wall.

Sign, Real Estate: A sign indicating the availability for sale, rent or lease of the specific lot and/or building upon which the sign is erected or displayed.

Sign, Roof: A sign erected upon or above a roof or parapet wall of a building or structure.

Sign, Subdivision: A sign advertising the general sale, development or subdivision of land, and displayed or erected upon the subject property, as distinguished from a real estate sign.

Sign, Temporary: A sign, banner or other advertising device or display constructed of cloth, canvas, cardboard, wall board or other light temporary material, with or without a structural frame, intended for a temporary period of display, such as decorative displays for holidays or pubic demonstrations.

Sign, Wall: Any sign painted on, attached to, or erected against the wall of a building or structure, with the exposed face of the sign in a plane parallel to the plane of said wall and extending not more than **fifteen (15) inches** from the face of the wall.

Story: That portion of a building, included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

Structure: Anything constructed or erected with a fixed location on the ground, including towers but not including poles, lines, cables, or other transmission or distribution facilities of public utilities.

Temporary Portable Storage: A temporary portable storage container, cargo container, locker, storage unit, storage pod, convex container, sea can, ISO container or storage trailer, or other similar structure or facility constructed of any material whatsoever. **(Ord. No. 810; 10-04-11)**

Yard: An open space not occupied or obstructed by any structure or portion of a structure, except fences as regulated herein and as otherwise expressly provided herein.

Yard, Front: A yard extending across the full width of the lot between the front lot line and the nearest line or point of the principal building.

Yard, Side: A yard extending from the front yard to the rear yard between the side lot line and the nearest line or point of the building.

Zoning Administrator: The Zoning Administrator of the Village, or an authorized representative.

Zoning Map: The zoning map or maps of the Village, together with all amendments subsequently adopted.

40-2-3 ANNEXED TERRITORY. Any territory hereafter annexed to the Village shall automatically be in the SR-1, One-Family Residence District, until duly changed by an amendment to this Code; except that the Village Board of Trustees, with the advice of the Zoning Board of Appeals, which shall render advisory opinion only, may annex any territory as any other zoning district or districts herein established if all legal requirements for zoning the property at the time of the extension of and the requirements for amending this Code by the extension of the zoning district provisions are met.

40-2-4 FIGURES (SKETCHES AND ILLUSTRATIONS). The following figures, numbered **one (1)** through **five (5)** inclusive, contained in **Chapter 34**, **Section 34-3-7**, shall form an integral part of this Code and shall be included as part of the requirements of any provisions of this Code wherein reference to such figure is made.

ARTICLE III - ZONING DISTRICT REGULATIONS

40-3-1 ZONING DISTRICTS - GENERAL.

(A) For the purpose of this Code, the Village is divided into **eight (8)** categories of zoning as follows:

(1) A - Agricultural District
(2) SR-1 - One-Family Residence District
(3) SR-2 - One-Family Residence District
(4) SR-3 - One-Family Residence District
(5) MR-1 - Multi-Family Residence District
(6) MH-1 - Mobile Home District
(7) B-1 - General Business District
(8) B-2 – Uptown Business District
(9) I-1 - Industrial District

(B) Whenever reference by letter designation is hereinafter made to any of the foregoing districts, such reference shall mean and include all of those districts whose symbols include such letter used in the reference (i.e., "R" Districts include the second through the sixth of the aforesaid districts of (A) above), unless otherwise indicated in the reference. Whenever reference by word designation is hereinafter made to any of the foregoing districts, such reference shall mean and include those districts whose names include such words used in the reference (i.e. "Residence" Districts means and includes the second through sixth of the aforesaid districts of (A) above), unless otherwise indicated in the reference.

40-3-2 ESTABLISHMENT OF ZONING DISTRICTS. The boundaries of the zones provided in **Section 40-3-1** are established as shown on the Village Zoning District Map. The zoning districts and boundaries are hereby adopted and established as shown on the district map, which map, together with all notations, references, data, district boundaries and other information thereon, are made a part of the Zoning Code by reference. The Zoning Map properly attested shall remain on file in the office of the Zoning Administrator or other appropriate Village official.

40-3-3 INTERPRETATION OF PROVISIONS. In their interpretation and application, the provisions of this Code shall be held to be minimum requirements. Whenever this Code imposes a greater restriction than is imposed and required by other provisions of law or by other rules or regulations or resolutions, the provisions of this Code shall govern.

40-3-4 INTERPRETATION OF DISTRICT BOUNDARIES.

(A) Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, the center lines or alley lines of alleys, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is even, such dimensions shall be determined by the use of such scale as may be shown on said zoning map.

(B) Where district boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be such boundaries.

(C) Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located at the railroad right-of-way line closest to the most restrictive zoning district line shown on the Zone District Map.

(D) Where the boundary of a district follows a stream, lake or other body of water, said boundary line shall be construed to be the center line of the stream, otherwise at the limit of the jurisdiction of the Village, unless otherwise indicated.

(E) Any areas shown on the zoning map as park, playground, school, cemetery, water, street, or right-of-way, shall be subject to the zoning regulations of the district in which they are located.

(F) Whenever any street, alley or other public way is vacated in the manner authorized by law, the zoning district adjoining each side of such street, alley, or public way shall automatically extend

to the center of such vacation and all area included in the vacation shall thereafter be subject to all regulations of the extended districts.

(G) Where any land or territory within the Village is not shown to be located in a district, the zoning regulations of the most restrictive adjoining district shall govern.

(H) Where a lot under single ownership is divided at the time of enactment of this Code, or by subsequent amendments, by a zoning district boundary line, the requirements of the less restrictive district adjacent to such line may be extended for that lot, not more than **twenty-five (25) feet** into the more restrictive district.

40-3-5 EXISTING SPECIAL USES. Where a use is classified as a special use under this Code, it shall be considered a legal use without further action of the Village Board of Trustees.

40-3-6 SCHEDULE: AREA AND BULK REGULATIONS; PARKING REQUIREMENTS.

(A) To facilitate public understanding of this Code and for the better administration and convenience of use thereof, the regulations limiting the dwelling unit density, the heights, bulk and arrangement of buildings, limiting the size and use of signs, and requiring minimum off-street parking for each of the districts establishing by **Section 40-3-1** hereof (or specified use), are set forth in **Schedule 40-3-6(E)** hereof, hereinafter called Schedule. Such Schedule is hereby adopted and declared to be an integral part of this Code, and it may be amended in the same manner as any other part of this Code.

(B) For each district (or specified use) named in the Schedule: the maximum number of dwelling units shall be as indicated in Column (B); the minimum lot requirements shall be as indicated in Columns (C), (D) and (E) of the Schedule; the minimum yard dimensions shall be as indicated in Columns (F), (G), (H), (I) and (J); maximum lot coverage therefore shall be indicated as Column (K); permitted floor area ratio (ratio of floor area to lot area) shall be indicated as Column (L); maximum building heights shall be as indicated in Column (M); requirements for accessory buildings and uses, as to maximum height shall be as indicated in Column (N); and as to minimum distance of detached accessory buildings and uses to principal buildings, streets, and lot lines, as indicated in Columns (O), (P), (Q), and (R).

(C) A blank space in a block of a column of said Schedule indicates that the requirement of that column does not pertain to the district or use specified on the corresponding horizontal lines. The words "Same as SR-1 (or other symbol or reference)", as used in a column shall mean and include the specific limitations and requirements as set forth in the same column for district referred to by such symbol or reference; otherwise the limitations and requirements in said Schedule shall be read from left to right.

(D) **Schedule: Area and Bulk Regulations. See Schedule 40-3-6(D).**

(E) **Exceptions: Area and Bulk Regulations: 40-3-6.** Any deviation of **Schedule 40-3-6(D)** and **40-2-4(E)** displayed and illustrated on final plat which has been accepted by Village Board shall supersede and take precedence over the terms and provisions of said schedules.

40-3-7 SCHEDULE: PERMITTED USES; ACCESSORY USES; EXCEPTIONS AND SPECIAL USES.

(A) To facilitate public understanding of this Code, and for the better administration and convenience of use thereof, the regulations designating permitted uses, permitted accessory uses, exceptions and special permits for each of the districts established by **Section 40-3-1** hereof, are set forth in Use Schedule as **Section 40-3-7(D)** hereof. Such Use Schedule is intended and declared to be an integral part of this Code and it may be amended in the same manner as any other part of this Code.

(B) Each column refers to a specific district which lists the permitted uses, permitted accessory uses, exceptions, special permits, and supplementary regulation references, and are read vertically under a district column.

(C) Limitations and requirements in the Use Schedule as used in a column shall mean and include the specific limitations and requirements as set froth in the same column for the district referred to. Where reference is made in the Use Schedule to another section or provision of this Code, such section or provision referred to shall thereby be incorporated as an integral part of the requirements including such

reference. All provisions of this Code shall apply as integral parts of this Section, although not specifically cited in a column. **(See Section 40-3-7(D))**

(D) **Schedule: Permitted Uses; Accessory Uses; Exceptions and Special Permits. See Schedule 40-3-7(D).**

ARTICLE IV - SUPPLEMENTARY USE AND BULK REGULATIONS

40-4-1 FENCES, WALLS AND HEDGES. Fences, walls or hedges used for any purpose shall, in all districts, conform to the following:

(A) For the purpose of minimizing traffic hazards at street intersections by improving visibility for converging vehicles, obstructions higher than **two (2) feet** above the adjacent top of the curb elevation shall not be permitted to be planted, placed or erected on any corner lot within the triangular portion of land designated as "restricted area" in Figure 1.

(B) No barbed wire or other sharp pointed fence and no electrically charged fence shall be erected or maintained except in agricultural districts.

(C) No tree, shrub, permanent fence or retaining wall shall be constructed or erected within any public street or alley right-of-way unless authorized by the Village Board of Trustees. Fences, trees, shrubs, or retaining walls erected on public easement or across ditches shall be constructed so that drainage shall not be obstructed and, in event of necessity for removal of such items for maintenance or other purpose, removal and/or replacement of such items or other improvement shall be the responsibility of the property owner. **(Ord. No. 859; 12-16-14)**

(D) Fences, walls, hedges or other similar structures or obstructions in all districts shall be installed, placed, erected, located or constructed a minimum of **five (5) feet** from and off any side or rear lot line, except no fences, walls, hedges or other similar structures or objects shall be allowed, constructed, installed, placed, or erected in the front yard or any lot or on any lot nearer to any street than the minimum building setback line, provided such fences, walls, hedges or other similar structures or objects exceeding **six (6) feet** in height shall be subject to the minimum yard requirements of the district in which such fences are located. The finished side of said fence shall face outward and all posts and supports shall be located on the inside of said fence. **(Ord. No. 811; 11-01-11)**

(E) Fences may be placed on the center property line dividing the two villas (Lot 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16,17, 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27 of Autumn Ridge Subdivision) contingent upon both owners approving or no less than **one (1) foot** off center property line on each side. Fences on rear and outer side property lines of villas must be **five (5) foot** off property line. **(Ord. No. 633; 06-17-03)**

(F) **Common Fence.** A fence may be erected on a rear or side property line under the following conditions:

(1) Each property owner adjacent to a property line shall consent in writing to the placement of said fence.

(2) The finished side of said fence shall face outward and all posts and supports shall be located on the inside of said fence.

(3) That said fence shall not be placed or constructed in a drainage ditch or in any manner divert or impede the natural flow of water.

(4) That any said fence placed upon, across or on an easement shall be removed by the property owners adjacent to same when requested to do so in written notice served upon them by the Municipality, that said removal shall be completed within **ten (10) days** after receiving said written notice, that after receiving additional written notice from the Municipality, said fence may be replaced, that all costs associated with the removal and replacement of said fence shall be the sole responsibility of and shall be paid entirely by the adjacent property owners.

(5) That the terms and provisions of (F), Common Fence, and all provisions contained herein, shall be binding not only upon the property owners who agreed to the installation of said fence, but also all successors in interest thereto.

(6) That a written request for installation of said fence shall be signed by each adjoining property owner, that said written report shall describe in particular the type of fence to be installed, its height, length, width,

composition and method of construction, that said request shall be presented to the Village Board at a regularly scheduled meeting and must be approved by the Village Board of Trustees.

40-4-2 HOME OCCUPATIONS. In any district where home occupations are permitted, the establishment and continuance of a home occupation shall be subject to the following requirements:

(A) Such use shall be conducted entirely within a dwelling and carried on by the inhabitants living there and not more than **one (1)** unrelated employee.

(B) Such use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not change the residential character thereof.

(C) The total area used for such purposes shall not exceed the equivalent of **one-half (1/2)** the floor area, in square feet, of the first floor of the user's dwelling unit, if any; otherwise, the main floor of such dwelling unit.

(D) There shall be no advertising, display or other indications of home occupation on the premises, except the customary sign or nameplate for identification purposes only.

(E) There shall not be conducted on the premises of selling stocks of merchandise, supplies, or products, provided that incidental retail sales may be made in connection with other permitted home occupations.

(F) There shall be no exterior storage on the premises of material or non-licensed equipment or machinery used in the home occupation, nor of any highly explosive or combustible material.

(G) There shall be no offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line.

(H) A home occupation shall provide additional off-street parking area reasonably adequate to accommodate needs created by the home occupation of not less than **one (1) parking space** for each **three hundred (300) square feet** of floor area devoted to the home occupation. Such parking shall be provided on the same lot as the home occupation.

(I) All licenses shall be subject to all ordinances that may be in force at the time of the issuance of the license or that may be subsequently passed by the Board of Trustees.

(J) All applications for licenses are subject to the review of the Board of Trustees. **(Ord. No. 844; 11-05-13)**

40-4-3 LIGHTING CONTROLS. Any light used for the illumination of signs, parking areas, swimming pools, or for any other purpose shall be arranged in such a manner as to direct the light away from neighboring residential properties and away from the vision of passing motorists.

40-4-4 SWIMMING POOLS. No public or private swimming pool in any district shall be located in any required front yard; however, if not more than **six (6) feet** in height, such use may be located in any required side or rear yard, but not loser than **ten (10) feet** to a side lot line adjacent to a street, and subject to the provisions of **Section 40-4-1**.

40-4-5 CHURCHES AND HOUSES OF FORMAL WORSHIP. In any district where churches are permitted, the following additional requirements shall be met:

(A) For each **seventy-five (75) seats** (where benches are provided, each **twenty-four (24) inches** of said bench shall constitute a seat), or fraction thereof (not including Sunday School accommodations), the site shall contain at least **one-half (1/2) acre** of land.

(B) Each principal building shall be located at least **twenty-five (25) feet** from all property lines.

40-4-6 GARAGES, REPAIR. In repair garages, all repair work, servicing, storage of parts and equipment and the dismantling of vehicles shall be done completely within an enclosed building or shall be enclosed by a solid fence at least **six (6) feet** in height.

40-4-7 SERVICE STATIONS. In districts where service stations are permitted, the establishment of such uses shall be subject to the following requirements:

(A) All gasoline pumps, lubrication or similar devices or other service facilities shall be located at least **twenty (20) feet** from any street right-of-way line.

(B) All fuel and oil storage, pumps or other such fuel or lubricant dispensing devices shall be located at least **twenty (20) feet** from any side or rear lot line.

(C) No access drive shall be within **two hundred (200) feet** of a fire station, school, public library, church, park, playground, or other public assembly place.

(D) No access or drive shall be within **twenty (20) feet** of any corner formed by the intersection of the rights-of-way of **two (2) streets**. On a corner where a traffic signal or stop sign exists, such entrance shall be located at such distance and in such a manner so as not to cause or increase traffic hazard or undue congestion.

(E) A permanent curb of at least **four (4) inches** in height shall be provided between the public sidewalk and the gasoline pump island, parallel to and extending the complete length of the pump island.

(F) All devices for dispensing or selling of milk, ice, cold drinks, and the like shall be located within, or immediately adjacent to the principal building.

40-4-8 MOBILE HOMES; MODULAR, IMMOBILIZED.

(A) **Mobile Home Parks.** Mobile home parks are hereby permitted in MH-1 Mobile Home Districts", only after a Special Use Permit has been granted by the Zoning Board of Appeals. The regulations and design standards established in the Mobile Home Code shall be complied with or the Special Use Permit shall be revoked by the Board of Appeals or the Zoning Officer. No dependent mobile home shall be permitted in a Mobile Home Park. **(Ord. No. 273; 04-04-77)**

(B) **Mobile Homes.** Mobile Homes shall be located only in a mobile home park which has been licensed, approved, and operates pursuant to the terms and provisions of the municipal Mobile Home Code. It shall be unlawful to locate, place, or occupy a mobile home on any location other than in a mobile home park within the geographic boundaries of the municipality unless the mobile home is replacing an existing mobile home which had been placed into service prior to the original adoption of this Code.

Every mobile home located, placed or occupies outside a mobile home park shall comply with and conform to the terms, provisions, standards and regulations specified and stated in the Mobile Home Code pertaining to immobilized mobile homes.

Immobilized mobile homes located outside a mobile home park shall only be placed on property owned by the immobilized mobile home owner.

All mobile homes either placed in a mobile home park or as a replacement for a mobile home pre-existing outside a mobile home park shall not be older than **seven (7) years** of age as evidenced by its date of construction.

In the event that a pre-existing mobile home is removed from a location outside the MH-1 District, and is not replaced within **six (6) months** after said removal, it shall be unlawful to place another mobile home on said location. The owner of said property may request an extension for up to an additional **six (6) months**, from the corporate authorities, that said extension shall be granted only upon proof of a hardship, that said extension shall be granted solely at the discretion of the corporate authorities.

In the event that either water or electric service to any mobile home has been disconnected, discontinued or terminated for a period in excess of **six (6) consecutive months**, said mobile home shall thereby be declared abandoned and shall immediately, after the expiration of said period, be removed from said location at owner's expense. The owner of said mobile home may request an extension for up to an additional **six (6) months**, from the corporate authorities, that said extension be granted only upon proof of hardship, that said extension shall be granted solely at the discretion of the corporate authorities.

If said mobile home is not removed within **thirty (30) days** after expiration of the **six (6) month** period, the corporate authorities shall be empowered to remove said mobile home from the premises, and dispose of same at the owner's expense. **(Ord. No. 815; 02-07-12)**

(C) **Individual Immobilized Mobile Homes.** Immobilized mobile homes may be placed on individual lots in the "MH-1 District", provided such lots conform with the requirements of the Mobile Home Code and **Section 40-3-6(D)**. Mobile Homes, whether immobilized or not, shall not be located on individual lots in any other zone district; (provided, however, that this provision shall not apply to existing mobile homes or to the replacement thereof).

(D) **Temporary Parking - Mobile Homes.** The temporary parking of an individual mobile home is permitted subject to the following regulations:

(1) An individual mobile home may be parked outside the public right-of-way, as not otherwise prohibited, for a period of **seventy-two (72) hours**, provided that no such mobile home is parked nearer than **twenty-five (25) feet** to any right-of-way line abutting a public street.

(2) An individual mobile home may be parked on a zoning lot for a period of **two (2) weeks**, provided that:

(a) Such individual mobile home is parked in compliance with all setback requirements from any lot line or right-of-way line.

(b) A permit is secured by the property owner within **seventy-two (72) hours** from the Village Clerk, showing the date of issuance, name and address of property owner, address for which the permit is issued and the date of termination.

(c) All such permits shall be returned to the Zoning Administrator on or before the date of termination.

(d) Not more than **three (3) permits** shall be issued to any property owner during any calendar year, except on approval of the Zoning Board of Appeals.

(E) **Parking for Inspection and Sales - Mobile Home.** A mobile home may be parked for inspection and sale on any lawful automobile or trailer sales lot.

(F) **Mobile Home - Occupancy Thereof.** Except as otherwise provided in this Section, no person shall be permitted to park and/or occupy any mobile home on any premises within the corporate area of the Village other than in a licensed mobile home park.

(G) **Mobile Home Module.** All mobile home modules, as defined in **Section 40-2-2**, shall be permitted in the MH-1 zone districts; provided, however, they shall conform to the requirements and regulations outlined in the Mobile Home Code pertaining to mobile home. It shall be unlawful to locate a modular home anywhere outside the MH-1 district unless a Variance is granted by the Zoning Board of Appeals. No mobile home module shall be moved in or replaced within the Village older than **three (3) years** of age. **(Ord. No. 780; 05-04-10)**

40-4-9 TRAVEL TRAILERS. The parking of not more than **one (1)** unoccupied camp trailer and/or utility trailer (not exceeding **eight (8) feet** and **thirty-five (35) feet** long) in the rear yard only is hereby permitted; provided that no living quarters or businesses shall be maintained in any such camp trailer and/or utility trailer, and provided further that the parking of camp trailer and/or utility trailer shall comply with the yard requirements for accessory buildings of the district in which it is located. Modifications of **Section 40-4-9** pertaining to yard requirements can be made with the approval of the Village Board. **(Ord. No. 823; 09-04-12)**

40-4-10 PUBLIC BUILDINGS. In any district where municipally owned or other publicly owned buildings are permitted, the following additional requirements shall be met:

(A) In any residential or agricultural district, all municipal or other publicly owned buildings shall be located at least **twenty-five (25) feet** from all property lines.

(B) In any residential or agricultural or business district, there shall be no permanent storage of heavy construction or maintenance equipment (such as excavating, road building, or hauling

equipment), unless in an enclosed building or enclosed within a solid wall or fence at least **six (6) feet** in height. Such storage areas, maintenance yards, or storage warehouses shall be located at least **twenty-five (25) feet** from any front or side property line.

40-4-11 PUBLIC UTILITY STATIONS; EXCHANGES; ESSENTIAL SERVICES. Electrical substations, gas regulator stations, or telephone exchange facilities or agricultural district shall be subject to the following regulations:

(A) No public office, repair, or storage facilities shall be maintained in connection with such substations or exchanges.

(B) The building housing any such facility shall be designed and constructed to conform to the general character of the neighborhood.

(C) The area on which the facility is located shall be landscaped and maintained in conformance with the general character of the surrounding area.

(D) Where all facilities and equipment are entirely within a completely enclosed building, the minimum lot may be as follows: lot width shall not be less than the total width of the building, plus the total of the minimum required side yards; lot depth shall not be less than the depth of the building plus the minimum required front yard, plus the **two (2) foot** minimum rear yard.

(E) Where facilities or equipment are located outside the completely enclosed building, not such facilities or equipment shall be located closer than **fifteen (15) feet** to any side or rear lot line.

(F) If transformers are exposed, there shall be provided an enclosing fence or wall, at least **six (6) feet** in height, and adequate to shield view and noise of the same from the outside view, the handling of materials on the premises.

40-4-12 SCHOOLS, PRIVATE AND PAROCHIAL. In any district where private or parochial schools are permitted, the following additional requirements shall be met:

(A) For each **one hundred (100) students** or fraction thereof, the site should contain **1.25 acres** of land.

(B) Each principal building shall be located at least **twenty-five (25) feet** from all property lines.

40-4-13 NURSING HOMES. In any district where nursing homes are permitted, the following requirements shall be met:

(A) The minimum site for any nursing home shall be **two (2) acres**; provided that for a nursing home containing more than **forty (40) beds**, the minimum site area shall be the greater of: **two (2) acres**; or the number of acres determined by the following formula:

$$\frac{\text{(Number of Beds)} \times \text{(\% of Total Floor Area at Ground Level)}}{2000} = \text{Site Size in Acres}$$

(B) All principal buildings shall be located at least **twenty-five (25) feet** from all lot lines.

(C) The site shall have a least length and/or width dimension of **two hundred (200) feet.**

40-4-14 DAY CARE, ETC. In any district where day care, child care or nursery schools are permitted, the following additional requirements shall be met:

(A) For each child, at least **fifty (50) square feet** of floor space shall be provided, in addition to that provided for sleeping purposes.

(B) For each child, at least **one hundred (100) square feet** of outdoor, enclosed (fenced) play area shall be provided.

(C) All day care and nursery centers shall meet the licensing standards for day care centers as established by the Department of Children and Family Services of the State of Illinois.

40-4-15 PLANT NURSERIES AND GREENHOUSES. In any district where tree and plant nurseries and greenhouses are permitted, the establishment of such uses shall be subject to the following requirements:

(A) No fertilizer, compost, manure or other odor or dust producing substance shall be stored within **fifty (50) feet** of any property line.

(B) Greenhouse heating plants shall be in an enclosed building and shall not be less than **fifty (50) feet** from any property line.

(C) Along any side or rear lot line, there shall be provided and maintained a planting or other appropriate screen of such size and density as to provide visual screening from adjacent residential properties.

40-4-16 FIRE WALLS. Within "B-1" and "I" Districts, for the purpose to restrict the spread of fire, any wall of a building constructed along and adjoining an interior side lot line, shall be a continuous wall, having no openings, of fire-resistant, non-combustible material of a type approved by the Zoning Administrator. Further, such wall shall be constructed, meeting or exceeding specifications issued by the Zoning Administrator, such wall shall start at the foundation and extend continuously through all stories to above the roof. **(See Building Code)**

40-4-17 CORNER LOTS, OBSTRUCTION OF VISION PROHIBITED. Within "B-1" and "I" Districts, for the purpose of minimizing traffic hazard for converging motor vehicles on a corner lot, no fence, wall, hedge, or other planting or structure that will obstruct the vision between a height of **two (2) feet** and **ten (10) feet** above the centerline grades of the intersecting streets shall be erected, placed or maintained within the triangular portion of land designated as "Restricted Area" in Figure 1 located at the end of the Zoning Code.

40-4-18 HOME KITCHEN OPERATIONS AND REGULATIONS.

(A) The Village hereby adopts and incorporates herein the terms and provisions of State Statutory Enactment **410 ILCS 625/3.6** entitled **"Home Kitchen Operation"** as if same were fully set forth herein including its reference to other provisions of the Food Handling Regulation Enforcement Act.

(B) The Village hereby authorizes Home Kitchen Operations within the geographic boundaries of the Village pursuant and subject to the terms, provisions, limitations, rules, and regulations specified in said Statutory Enactment.

(C) No person, firm, corporation, or other entity of any kind or nature shall establish, or maintain a Home Kitchen Operation without first having obtained a license as herein required. No license shall be required for any religious, charitable, or non-profit organization for fundraising purposes.

(D) The annual fee for such license shall be **Ten Dollars ($10.00)** and shall be for **one (1) year**, beginning the **first (1st) day** of **May** of each calendar year. Application for said license shall be made to the Village Clerk.

(E) The St. Clair County Health Department shall have the power and authority to inspect a Home Kitchen Operation in the event of a complaint, disease outbreak, or a failure to maintain sanitary conditions as defined by the Department or any State agency.

(F) Any person, firm, corporation, or other entity of any kind or nature violating the provisions of this Section shall upon conviction be fined not less than **Seventy-Five Dollars ($75.00)** nor more than **Seven Hundred Fifty Dollars ($750.00)** for each offense, and a separate offense shall be deemed committed on each day on which a violation occurs or continues. Any license granted under the provisions of this Section may be revoked for any violation hereof, and such revocation shall be in addition to any fine imposed by virtue of this Section.

(Ord. No. 888; 07-05-17)

ARTICLE V - GENERAL SUPPLEMENTARY REGULATIONS

40-5-1 USES PERMITTED. When a use or accessory use is not specifically listed in the sections devoted to "Uses Permitted", it shall be assumed that such uses are expressly prohibited unless by a written order of the Village Board of Trustees, it is determined that said use is similar to and is compatible with the uses listed and is expressly included as a use permitted in a zoning district. However, no such variation may be made by the Village Board of Trustees without first having a public hearing before the Zoning Board of Appeals in the manner prescribed by **Section 40-10-26 et seq.**

40-5-2 BULK OF BUILDINGS. All buildings and structures shall conform to the building regulations established herein for the district in which each building shall be located, except that parapet walls, chimneys, cooling towers, elevator bulkheads, fire towers, stacks, and necessary mechanical appurtenances shall be permitted to exceed the maximum height provisions when erected in accordance with all other ordinances of the Village as provided in **Section 40-5-15**.

40-5-3 MAINTENANCE OF YARDS, COURTS AND OTHER OPEN SPACES. The maintenance of yards, courts and other open space and minimum lot area legally required for a building shall be a continuing obligation of the owner of such building or of the property on which it is located, as long as the building is in existence. Furthermore, no legally required yards, courts, or other open space or minimum lot area allocated to any building shall, by virtue of change of ownership or for any other reason, be used to satisfy yard, court, or other open space, or minimum lot area requirements for any other building.

40-5-4 DIVISION OF ZONING LOTS. No improved zoning lot shall hereafter be divided into **two (2)** or more zoning lots, unless all improved zoning lots resulting from each such division shall conform with all the applicable regulations of the zoning district in which the property is located.

40-5-5 ACCESSORY BUILDINGS. No accessory building shall be used for residential purposes except as otherwise provided in this Code. For regulating and restricting the use and placement of temporary portable storage or cargo containers zoning, see **Section 40-5-20**.

40-5-6 LOCATION OF REQUIRED OPEN SPACE. All yards, courts, and other open spaces allocated to a building or dwelling group shall be located on the same zoning lot as such building or dwelling group unless otherwise specifically provided for herein.

40-5-7 REQUIRED YARDS FOR EXISTING BUILDINGS. No yards now or hereafter provided for a building existing on the effective date of this Code shall subsequently be reduced below or further reduced below if already less than, the minimum yard requirements of this Code for equivalent new construction.

40-5-8 REDUCTION OF LOT - LIMITATION ON NUMBER OF PRINCIPAL BUILDINGS ON LOT. No part of an area, frontage, or yard required for any lot, building, or use for the purpose of complying with the provisions of this Code shall be included as an area, frontage or yard for another lot, building or use. Except as otherwise specifically provided in this Code, only **one (1)** principal building shall be permitted on a lot.

[ED. NOTE: After a division of a lot the new lots shall equal the minimum square footage for that zone district.]

40-5-9 CORNER LOTS AND THROUGH LOTS. For any through lot, both frontages shall comply with the front yard requirements of the district in which it is located.

40-5-10 FRONTAGE REQUIREMENTS. Any lot in any district shall have minimum frontage abutting a public street the width of which shall be the greater of:

(A) **Fifty (50) feet**;

(B) The width of the building located on the lot; or

(C) The lot width required by the Zoning District in which the lot is located as shown in **Section 40-3-6(D)**.

40-5-11 GENERAL PERFORMANCE STANDARDS.

(A) Any lot shall be properly graded for drainage and maintained in good condition, free from trash and debris.

(B) No obnoxious, toxic, corrosive or radioactive matter, smoke, fumes or gases shall be discharged across the boundaries of any lot in such concentrations as to be detrimental to or endanger the public health, safety, comfort or welfare or to cause injury or damage to property or business.

40-5-12 OCCUPANCY OF TEMPORARY STRUCTURES. No temporary structure (including travel trailers or mobile homes) shall be used or occupied for any residential, commercial or industrial use, except as specifically permitted or required by this Code. However, the Zoning Board of Appeals may, upon application therefor, permit the use of such temporary structure for such reasonable time and for such use as the Zoning Board of Appeals deems to be compatible with the character of the area in which the structure is located, and in compliance with reasonable consideration of the general health, safety and welfare.

40-5-13 CONTIGUOUS PARCELS. When **two (2)** or more parcels of land, each of which lacks adequate area and/or minimum dimensions to qualify for a permitted use under the requirements of the use district in which they are located, are contiguous, and are held in one ownership, they shall be used as **one (1) zoning lot** for such use.

40-5-14 INDIVIDUAL WATER AND SEWAGE SYSTEMS. Private individual water and/or sanitary sewage systems shall not be permitted, public water and/or sanitary sewer facilities shall be used exclusively. Exception to this requirement may be granted by written order of the Village Board of Trustees and only after a public hearing before the Zoning Board of Appeals as required by **Section 40-10-26 through 40-10-32**. Provided that such exception is granted by the Village Board, no zoning lot for which the exception is granted shall be less than required for the district in which the use is located or less than **one (1) acre** in area, whichever is greater; and shall have not less frontage than **one hundred twenty-five (125) feet** and shall have not less mean depth than **one hundred (100) feet**.

40-5-15 MAXIMUM HEIGHT OF BUILDINGS - EXCLUSIONS. The height limitations of this Code shall not apply to church spires, belfries, cupolas, penthouses or domes not used for human occupancy, nor to chimneys, ventilators, skylights, water tanks, silos, parapet walls, cornices without windows, antennas, or necessary mechanical appurtenances usually carried above the roof level or to public buildings or structures located more than **one (1) foot** horizontally from the property line for each foot of building height.

40-5-16 MINIMUM YARDS - EXCEPTIONS. Subject to the requirements that there be a minimum distance of **six (6) feet** between any point on a principal building and any point on any principal building on an adjacent lot, the following exceptions shall apply:

(A) Cornices, chimneys, planters, or other similar architectural features may extend **two (2) feet** into a required yard.

(B) Open, unenclosed, uncovered porches at ground level may extend into a required yard not more than **six (6) feet**.

(C) Fire escapes may extend into a required yard not more than **four (4) feet**.

(D) Patios extending into required rear yards may be covered by a roof, but shall not be enclosed by walls.

(E) Canopies, eaves, balconies, roof overhangs, or other similar features not included in the foregoing parts of this Section, may extend into a required yard not more than **four (4) feet**.

(F) **Average Front Yard Exception.** Except as otherwise provided in this Section regarding yards adjoining "Arterial" or "Collector Streets" in all SR and MR Districts, where lots comprising **fifty percent (50%)** or more of the frontage on **one (1) side** of a street between intersecting streets are developed with buildings having an average front yard with a variation of not more than **ten (10) feet**, the average front yard of such buildings shall be the minimum required, provided such an average requirement is not less than **twenty (20) feet** or more than **thirty-five (35) feet**.

40-5-17 PUBLIC UTILITY DISTRIBUTION FACILITIES - EXCEPTION. Public utility transmission and distribution facilities may be exempt from minimum rear yard requirements, except as provided for each Zoning District.

40-5-18 RESERVED. (Ord. No. 807; 08-16-11)

40-5-19 REGULATING AERIALS, TOWERS, ANTENNAS AND TELECOMMUNICATION FACILITIES. The purpose of this Section is to provide specific municipal regulations governing the placement, location, construction, size, modification and appearance of aerials, antennas, towers and like personal wireless service telecommunication facilities within the Village.

The provisions of this Section are not intended and shall not be interpreted to prohibit or have the effect of prohibiting the provision of personal wireless service telecommunication facilities, nor shall the provisions of this Section be applied in such a manner to unreasonably discriminate among providers of functionally equivalent services, or favor one competitor over another.

(A) **Goals.** The goals of this Section are as follows:

(1) To regulate, direct and manage the installation, placement, construction, size, modification and appearance of telecommunication facilities within the Village.

(2) To enhance the ability to provide telecommunication services to the Village, and accommodate the growing need for communication facilities.

(3) To promote and encourage shared use to location of existing and new communications tower or a primary option rather than construction of additional single use towers, and to reduce and minimize the number of such structures needed in the future.

(4) To protect residential areas and land uses from the potential adverse impact of aerials, antennas, towers, and like telecommunication facilities and to encourage the location of said facilities in non-residential areas.

(5) To minimize adverse visual impacts of communication facilities through careful design, setup, landscape screening and innovative camouflaging techniques.

(6) To minimize potential damage to adjacent properties.

(7) To protect the public health and safety.

(B) **Technical Consultation.** The Village is authorized at its discretion, to employ on its behalf an independent technical expert to review all technical material submitted by the applicant or requested by the Village. All costs of any kind or nature associated or related to said hiring incurred for such review, including administrative costs, shall be paid by the Applicant.

(C) **Definitions.** For purposes of this Section, certain terms or words used herein are hereby defined as follows:

(1) ***"Antenna"*** shall mean any exterior apparatus designed for telephonic, radio or television communications through the sending and/or receiving of electromagnetic waves; an antenna attached to a principal building for the purpose of providing wireless telecommunications services, utilizing frequencies authorized by the Federal Communications Commission for "cellular," "enhanced special mobile radio" and "personal communications systems" telecommunications services, and its attendant base station.

(2) ***"Antenna Height"*** shall mean the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure even if said highest point is an antenna. Measurement of communications tower height shall include antenna, base pad, and other appurtenances and shall be measured from finish grade to the top of the antenna. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

(3) ***"Antenna Support Structure"*** shall mean any pole, telescoping mast, tower, tripod, building, or other structure which supports a device used in the transmitting or receiving of radio frequency energy.

(4) ***"FAA"*** shall mean the Federal Aviation Administration.

(5) ***"FCC"*** shall mean the Federal Communications Commission.

(6) ***"Governing Authority"*** shall be the President and Board of Trustees of the Village.

(7) ***"Personal Wireless Service" and "Personal Wireless Facilities"*** as used in this Section shall be defined in the same manner as in Title 47, United States Code, Section 332(c)(7)(C), as amended now or in the future.

(8) ***"Satellite Receive Dish"*** shall mean a generally dish-shaped signal-receiving device, the purpose of which is to receive communications or other signals from satellites in earth orbit and other extra-terrestrial sources.

(9) ***"Telecommunications Facility"*** means a facility that transmits and/or receives electromagnetic signals. It includes antennas, microwave dishes, horns, and other types of equipment for the transmission and receipt of such signals, telecommunication towers or similar structures supporting said equipment, equipment buildings, parking area and other accessory development.

(10) ***"Tower"*** shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers, or other wireless communication equipment for either transmitting or receiving. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and the like.

(11) ***"Co-Location" (Co-Use)*** shall mean the location of two or more antenna or other telecommunication devices on a single telecommunication tower or other supporting structure.

(D) **Compliance.** All new telecommunication facilities shall comply with this Section upon the date of passage. All telecommunications facilities existing on the date of passage of this Section shall be allowed to continue their usage as they presently exist and in accordance with continuance of

nonconformity regulations. New construction, other than routine maintenance on existing telecommunications facilities shall comply with the requirements of this Section.

(E) **Authorization.** In all zoning districts communication facilities shall be permitted only if specifically authorized with a Special Use Permit by the President and Board of Trustees of the Village. In granting a special use permit, the governing authority may impose zoning conditions to the extent the governing authority concludes such conditions are necessary to buffer or otherwise minimize any adverse effect of the proposed telecommunications facility on adjoining properties.

(F) **Agreement.** No approval granted hereunder shall be effective until the applicant and the Village have executed a written agreement setting forth the particular terms and provisions under which the approval to occupy and use public ways of the Village will be granted. Such agreement shall provide for complete indemnification for the Village and also provide for such liability insurance as the Village may require.

(G) **Nonexclusive Grant.** No approval granted under this Section shall confer any exclusive right, privilege, license or franchise to occupy or use the public ways of the Village for delivery of telecommunications services or any other purposes.

(H) **Rights Granted.** No approval granted under this Section shall convey any right, title or interest in the public ways, but shall be deemed approval only to use and occupy the public ways for the limited purpose and term stated in the approval. Further, no approval shall be construed as any warranty of title.

(I) **Registration and Fee.**

(1) All telecommunications carriers and providers that offer or provide any telecommunications services for a fee directly to the public within the Village or outside the corporate limits from telecommunications facilities within the Village shall register with the Village pursuant to this Section on forms provided by the Village which shall include:

(a) The identity and legal status of the registrant, including any affiliates.

(b) The name, address and telephone number of the officer, agent or employee responsible for the accuracy of the registration statement.

(c) All of the information listed below for a permit.

(2) Any person, firm, or corporation wishing to construct, install or modify any telecommunication facility shall file an application with the Zoning Code Administrator prior to commencing any work of any kind or nature. Said application shall be accompanied with an application fee of **Five Hundred Dollars ($500.00)**.

(J) **Permit.** A proper building permit must be obtained for any telecommunications facility installation. Applications for special use permit and building permit shall include any combination of site plans, surveys, maps, technical reports or written narratives necessary to convey the following information:

(1) A scaled site plan clearly indication the location, type and height of any proposed communications facility, on site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed facilities and any other structures.

(2) Map and/or aerial photograph showing the proposed facility location and surrounding area within **fifteen hundred (1,500) feet**.

(3) Legal description of the property proposed for telecommunication facility.

(4) Exact distances, locations and identifications of surrounding residential properties and other telecommunications facilities.

(5) Method of fencing, color of facilities, and where applicable, the method of camouflage and illumination.

(6) Plans must be completed and sealed by a professional engineer registered with the State of Illinois and must include a statement that the facilities will

comply with the Electronic Industries Associations standards and all applicable Village building and construction codes.

(7) A statement by the applicant on the ability of the construction of the facility to accommodate the co-location of additional antenna installations.

(8) Any telecommunications company must demonstrate that it is licensed by the FCC.

(9) The applicant must demonstrate how the proposed site fits into its overall network within the Village and plans must include any expected future facilities desired to be constructed within the Village.

(K) **Bond.** Any person, firm or corporation wishing to construct a telecommunications tower and/or facility, shall provide a bond to the Village in the amount of **Twenty Thousand Dollars ($20,000.00)** or **twenty percent (20%)** of the construction costs, whichever is less. Said bond shall be kept in full force and effect during the entire period of time their tower and/or communication facility is in operation and thereafter, as provided for herein.

That said bond shall be utilized to indemnify the Village in the event that the facility should become obsolete and the owner fails to remove said tower and/or facility within **six (6) months** after the same shall become obsolete or no longer be in service, or in the event the tower or facility falls into a state of disrepair, or in the event that the owner has not at any time made reasonable accommodations to facilitate co-location.

(L) **Co-Location.** Co-location of communications antennas is desired to minimize adverse visual impacts associated with the proliferation and clustering of communication facilities. Co-location of communication facilities by more than one carrier on existing or new antenna support structures shall take precedence over the construction of new single use communication facilities. An applicant for a new antenna support structure shall demonstrate that a diligent effort has been made to locate the proposed communications facilities in accordance with the site selection and protocol requirements of this Section and that, due to valid considerations including physical restraints and economic or technological feasibility, no more appropriate location is available. The telecommunications company is required to demonstrate that it contacted, in writing, the owners of tall structures within a **fifteen hundred (1,500) foot** radius of the site proposed, asked for permission to install the antenna on those structures, and was denied in writing, for reasons other than economic ones. The Village may deny the application to construct a new facility if the applicant has not made a diligent effort, described in writing, to mount the antenna on an existing structure.

In order to reduce the number of antenna support structures needed in the Village in the future, any new proposed support structure shall be designed to accommodate antennas for more than one user, unless the applicant demonstrates in writing why such design is unfeasible for technical or physical reasons. Unless co-location has been demonstrated to be unfeasible, the site plan shall delineate an area near the base of the tower to be used for the placement of additional equipment/buildings for other users.

No person, firm or corporation shall refuse co-location of other equipment. All new telecommunication towers and compound areas shall be erected to allow for a minimum of **three (3) users**.

(M) **Abandonment.** In the event the use of any communications facility has been discontinued for a period of **one hundred eighty (180) consecutive days**, the facility shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the Village which shall have the right to request documentation and/or affidavits from the communications facility owner/operator regarding the issue of facility usage. Upon such abandonment the owner/operator of the facility shall have **ninety (90) days** to reactivate the use of the facility, transfer the tower to another owner/operator who makes actual use of the facility, or dismantle and remove the facility. If there are two or more users of a single facility then this provision shall not become effective until all users cease using the facility. When a facility has been abandoned and removed the Village will take necessary action to vacate any previous special use approval for the particular abandoned facility.

(N) **Site Selection.**

(1) As a fundamental element of this Section, the telecommunications company proposing to construct an antenna support structure or mount an antenna on an existing structure, is required to demonstrate, using technological evidence, that the antenna must go where it is proposed in

order to satisfy its function in the company's grid system. Further, the company must demonstrate by technological evidence that the height requested is the minimum height necessary to fulfill the communications facilities function in the grid system.

(2) Give the unquestioned visual impact of communications towers on their surrounding environment, no antenna support structure may be constructed on a speculative basis. Applications for necessary permits will only be processed when the applicant has in place agreements with an FCC licensed telecommunications provider for lease/utilization of the support structure, space, written proof of which must be offered by the applicant.

(3) Telecommunications facilities must be located and designed to minimize any adverse effect they may have on residential property values. Site shall be placed in locations where the existing topography, vegetation, buildings or other structures provide the greatest amount of screening. Location and design of all sites shall consider the impact of the site on the surrounding neighborhood. In residential districts and residential land use areas, the minimum lot size for commercial communications tower shall be **three (3) acres**, except for government owned properties.

(4) Specific locations will be evaluated using the following criteria which are not listed in order of priority:

(a) Topography as it relates to line of sight transmissions for optimum efficiency in service.
(b) Availability of road access.
(c) Availability of electrical power.
(d) Availability of land based telephone lines or microwave link capability.
(e) Leasable lands and landlords who want facilities to be located on their property.
(f) Screening of potential and existing vegetation, structures and topographic features.
(g) Compatibility with adjacent land uses.
(h) The least number of sites to cover the desired area.
(i) The greatest amount of coverage, consistent with physical requirements.
(j) Opportunities to mitigate possible visual impact.
(k) Availability of suitable existing structures for antenna mounting.

(O) **Protocols.** The following establishes the planning order of priorities for locating new communications facilities:

(1) Place towers and antennas on commercial or government property.
(2) Place towers and antennas on other non-residential property.
(3) Place antennas on other appropriate existing structures such as buildings, communication towers, water towers, and smoke stacks.
(4) Place new communication towers in residential districts only if locations for which a need has been demonstrated are not available on existing structures or in non-residential districts. The telecommunications company is required to demonstrate that it contacted, in writing, the owners of other more appropriate properties and was denied, in writing, for reasons other than economic ones.

(P) **Design Criteria.** The following is a list of Design Criteria:

(1) New communications facilities shall be located in accordance with the site selection and protocol requirements of the ordinance and shall be designed to accommodate antennas for more than one user. All facilities must be architecturally compatible with surrounding buildings and land uses or otherwise integrated, through location and design, to blend in with the existing characteristics of the site to the extent practical. All facilities must

meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate such facilities. If such standards and regulations are changed, then the owners of the communications facilities shall bring those facilities into compliance with the revised standards and regulations within **three (3) months** of the effective date of such standards and regulations unless a more stringent schedule is mandated by the controlling federal agency. Failure to bring facilities into compliance with such revised standards and regulations shall constitute grounds for the removal of the facility.

(2) All telecommunications facilities must be located on properties that comply with the lot area requirements of the Zoning Code. Additionally, any telecommunications facility located in a residential zoning district must be located on a lot with a minimum size of **three (3) acres**.

(3) All communications facilities must be separated from communications facilities on other properties by at least **fifteen hundred (1,500) feet**.

(4) The maximum height for any antenna support structure shall be **one hundred fifty (150) feet** upon property zoned heavy commercial, **one hundred twenty (120) feet** on property zoned light commercial, and **one hundred (100) feet** on all other properties, unless additional height is approved by variation by the President and Board of Trustees.

(5) The distance from the outermost edge of any portion or part of an aerial, antenna or telecommunication tower or any apparatus utilized to support same to the nearest property line, shall not be less than the height of said aerial, antenna, tower or supporting apparatus.

(6) Communications towers shall have a non-contrasting blue, grey, or black finish, or a similar color that minimizes their visibility, unless a different color is required by the FCC or FAA.

(7) All telecommunications facilities shall be lighted only if required by the FCC or FAA. Where tower lighting is required, it shall be shielded or directed to the greatest extent possible in such a manner as to minimize the amount of light that falls onto nearby properties, particularly residences. A manually-operated or motion detection light above the equipment shed door is permitted, but shall be kept off except when personnel are actually present at night.

(8) Communications towers shall be constructed in accordance with standards of the Electronic Industries Association and all applicable construction and building codes, as may be amended from time to time. Surrounding areas shall not be negatively affected by support structure failure, falling ice or other debris or interference. All support structures shall be fitted with anti-climbing devices as approved by the manufacturers.

(9) Building mounted facilities must be architecturally compatible with the building on which they are mounted and designed and located so as to minimize any adverse aesthetic impact. Any support structure or mechanical equipment must be screened or enclosed in such a manner as to mask such equipment. Such screening shall be of noncombustible material and of the same color, character and design as the building upon which the screening is erected. An antenna must be mounted to the wall of a building or extend above the roof of a building without said screening provided the antenna is painted, or otherwise made to match the color of the building or structure or background against which they are most commonly seen. Communications facilities shall not occupy more than an aggregate total of **ten percent (10%)** of the roof area of any building.

(10) Site location and development shall preserve the preexisting character of the site as much as possible. Existing vegetation must be preserved or improved, and disturbance of the existing topography of the site must be

minimized. All ground mounted facilities and equipment, including the base and guy anchors of all telecommunication facilities, shall be enclosed with a solid **six (6) foot** high security fence. Landscaping shall be required to screen as much of the support structure as possible, the fence surrounding the support structure and any other ground level features, and in general soften the appearance of the facility. At a minimum, closely planted evergreen trees or shrubs at least **six (6) feet** high shall be planted around the exterior of any security fencing and around the base and guy anchor of any telecommunications facility. Additional deciduous trees at least **two (2) inches** in girth, plus evergreen trees at least **six (6) feet** in height, shall be planted around the perimeter of the property (near the property lines) upon which a telecommunications facility is located. As a condition of a permit, the Village may set other conditions concerning existing vegetation, topography, walls, fences or other landscaping to achieve an acceptable degree of screening.

(11) Driveways and parking areas constructed in compliance with Village ordinances must be provided as necessary for each telecommunications facility. If any site is not automated, the number of required parking spaces shall equal the number of people on the largest shift. Any security fencing must be of a color and design to blend into the character of the existing environment.

(12) No telecommunications facility shall cause interference with the reception of television and radio broadcasts to the property which they are located or to surrounding properties.

(13) The telecommunications tower then fully loaded with antennas, transmitters, other equipment and camouflaging (if needed), shall be designed to withstand the forces expected during the "maximum credible earthquake." All equipment mounting racks and equipment used shall be anchored in such a manner that such a quake with not tip them over, throw the equipment off the shelves, or otherwise act to damage it. Measures shall be taken to keep the facility operational in the event of disaster.

(14) Backup generators shall only be operated during power outages and for testing and maintenance purposes. If the facility is located within **one hundred (100) feet** of a residential dwelling unit, noise attenuation measures shall be included to reduce noise levels to an exterior noise intensity level of at least 60 dB (decibels) at the property line and an interior level of 45 dB.

(15) The aerial, antenna or tower and all related appurtenances shall be kept in a clean and well maintained condition.

(16) The construction and design of the aerial, antenna or tower shall provide reasonable structured integrity.

(17) No building, aerial, antenna, tower or part thereof shall encroach onto any recorded easement.

(18) No facility should encroach onto an existing septic field.

(19) Any facility located in a special flood hazard area, flood plain, or wetland shall meet all legal requirements and restrictions governing use and occupation of said lands.

(20) Existing trees more than **three (3) inches** in diameter should be preserved if reasonably feasible during construction. If any tree more than **three (3) inches** in diameter is removed during construction, a tree **three (3) inches** or more in diameter of the same or similar species shall be planted or replaced. Tree diameters shall be measured at a joint **three (3) feet** above ground level.

(21) Any building that is part of a facility located adjacent to a residentially zoned area should be designed with exterior materials and colors that are reasonably compatible with the residential character of the area.

(Q) **Exemptions.** The following are considered exemptions:

(1) Proposed communications antennas may, and are encouraged to, co-locate onto existing approved structures. Provided such co-locations are accomplished in a manner consistent with the terms of this Section, then such co-locations may be approved without any new or additional special use or approval. Proper plans must be submitted and permits obtained for such co-location facilities as required by this Section.

(2) Any communications facilities on properties owned by the Village are exempt from the terms of this Section subject to any conditions set by the President and Board of Trustees.

(3) Nothing in the Code shall apply to "receive only" communications facilities for use by an individual residential dwelling unit or business provided such facilities comply with the height requirements of the zoning district in which they are located.

(R) **Consideration and Decision.**

(1) The President and Board of Trustees shall act upon any request within a reasonable period of time after the request is duly filed in accordance with the terms and provisions herein, taking into account the nature, scope and complexity of said request and whether technical consideration is required.

(2) Any decision by the President and Board of Trustees to deny a request to place, construct or modify personal wireless service facilities pursuant to the terms and provisions of this Section shall be in writing, stating the reasons in support thereof.

(S) **Severability and Conflict Resolution.**

(1) **Severability.** The provisions of this Code are hereby declared to be severable and should any provision, clause, sentence, paragraph, sub-paragraph, section, or part of this Code be determined to be in conflict with any law, statute or regulation by a court of competent jurisdiction, said provision shall be excluded and deemed inoperative, unenforceable, and as though not provided for herein, and all other provisions shall remain unaffected, unimpaired, valid and in full force and effect. It is hereby declared to be the legislative intent of the Board of Trustees that this Code would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, subparagraph, section or part thereof not been included.

(2) **Conflict Resolution.** All code provisions, ordinances, resolutions and orders, or parts thereof, in conflict herewith, are to the extent of such conflict hereby superseded.

40-5-20 TEMPORARY PORTABLE STORAGE. No person shall place, allow or permit another to place on private property a temporary portable storage container, cargo container, locker, storage unit, storage pod, conex container, sea cans, ISO container or storage trailer or other similar structure or facility constructed of any material whatsoever unless and until said person shall obtain from the Village a permit upon payment of a **Ten Dollar ($10.00)** fee. Said structure shall be used for the sole purpose of temporary storage only, no occupancy or permanent placement of structure shall be permitted. No such storage facility shall be placed on public property, a public street, a public right-of-way or easement, whether said easement is on private or public property. No storage facility shall exceed **forty (40) feet** in length, or **ten (10) feet** in width or **ten (10) feet** in height. The permit shall allow for the placement of said storage facility for a maximum period of **thirty (30) days**. One **thirty (30) day** extension of said permit may be granted in the sole discretion of the Board of Trustees. A violation of this Section shall result in a minimum fine of **Fifty Dollars ($50.00)** and a maximum fine of **Two Hundred Dollars ($200.00)**. Each day that a violation exists constitutes a separate offense for purpose of this Section. **(Ord. No. 783; 06-15-10)**

40-5-21 PORTABLE TOOL SHED. The placing of a portable tool shed shall be permitted on lots and easements, providing that the building can be moved within **twenty-four (24) hours** or less notice. They shall have no foundation, pad, shall not be permanently attached to the ground, and shall be no larger than **two hundred (200) square feet**. The building shall meet the setback lines of an accessory building, shall not interfere with the normal flow of drainage water, and shall not interfere with access to sewer manholes. The distance from a sewer manhole will be at the discretion of the Village Engineer. The placement of these portable tool sheds will require a normal building permit. The owners will be notified by the Village if the shed is required to be moved for utility easement work. The Village will make every effort to give **twenty-four (24) hours**' notice to move the shed, but less notice may be given for emergency utility service or repair. The movement of the shed shall be the owner's responsibility and expense. **(Ord. No. 810; 10-04-11)**

ARTICLE VI - PLANNED DEVELOPMENT

40-6-1 PLANNED BUILDING DEVELOPMENT - GENERAL.

(A) The Zoning Board of Appeals may grant a special use permit in accordance with **Section 40-10-35 et seq.** and the procedure in **Section 40-10-37** for a planned building development as classified in paragraph (B) of this Section on a tract of land under single ownership or unified control in the zoning district, and subject to the requirements as hereinafter provided for each planned building development.

(B) **Classification and Size.** A planned building development may consist of one of the following:

(1) Planned multi-family residence development, situated on a tract of land of a minimum size of **five (5) acres**. **(See Section 40-6-2)**

(2) Planned mobile home park, situated on a tract of land of a minimum size of **five (5) acres**. **(See Section 40-6-3)**

(3) Planned business center, situated on a tract of land of a minimum size of **two (2) acres** in the developed area, otherwise **five (5) acres**. **(See Section 40-6-4)**

(4) Other planned building developments (no minimum size). **(See Section 40-6-5)**

(C) **Subdivision Regulations.** Except as otherwise specifically provided herein, a planned building development shall comply with applicable subdivision regulations.

(D) **Unified Arrangements.** Any proposed development under **Section 40-6-2** must present a unified arrangement of structures and surface facilities having a functional relationship to each other and to the locality in which it is situated.

40-6-2 MULTI-FAMILY RESIDENTIAL DEVELOPMENT. No multi-family residential development will be allowed in any zoning district as of **October 17, 2000**. This includes duplexes, apartment complexes, etc. **(Ord. No. 583; 10-17-00)**

40-6-3 PLANNED MOBILE HOME PARKS. The Zoning Board of Appeals may permit a planned mobile home park in any MH-1 District, subject to such of the requirements of the Mobile Home Park Regulations and to such of the requirements of the district where the mobile home is situated, as the Zoning Board of Appeals deems necessary to comply with the general provisions of **Section 40-4-8** and **Article X; Division VI** and to insure compatibility of the park with the character of its locality.

40-6-4 PLANNED BUSINESS CENTERS. The Zoning Board of Appeals may permit a planned business center in any B-1 or I-1 Zoning District. Such center may including such of the uses permitted in any B-1 Zoning District, including combinations of such uses as the Zoning Board of Appeals deems necessary for the public convenience and welfare. Such center shall be subject to applicable requirements of the district in which the center is situated and to such of the other regulations applying to uses permitted in the development as the Zoning Board of Appeals deems necessary to comply with the general provisions of **Sections 40-10-35 through 40-10-40** and to assure compatibility of the center with the character of its locality.

40-6-5 OTHER PLANNED BUILDING DEVELOPMENTS. The Zoning Board of Appeals may permit a planned building development (other than a planned building development permitted in **Sections 40-6-2; 40-6-3 and 40-6-4**), which may consist of **two (2)** or more principal buildings on the same lot in any B-1 or I-1 district. Such development may include such combinations of uses as the Zoning Board of Appeals deems necessary for the public convenience and welfare. Such development shall be subject to such of the requirements of the district wherein the development is situated and to such of the other regulations applying to uses permitted in the development as the Zoning Board of Appeals deems necessary to comply with the general provisions of **Sections 40-10-35 through 40-10-40** and to assure compatibility of the development with the character of its locality.

ARTICLE VII - NON-CONFORMING USES

40-7-1 NON-CONFORMING USE. A non-conforming use is a use of land or building(s) within the Village that does not conform (does not meet the regulations of this Code in some way). A non-conforming use may often have a detrimental effect on the land use around it, such as increased traffic on residential streets, not enough parking space, the emission of noxious fumes, the creation of loud noises or a depressing effect on property values. These regulations are intended to minimize the existing and/or potential problems created by non-conforming uses.

(A) **Continuation of a Non-Conforming Use.**

(1) Any lawful building, structure, or use existing at the time of the enactment of this Code may be continued even though such building, structure, or use does not conform to the provisions of this Code for the district in which it is located and whenever a district shall be changed hereafter, the then existing lawful use may be continued, subject to the provisions of this Code.

(2) Any legal, non-conforming building or structure may be continued in use provided there is no structural change other than normal maintenance and repairs, except as otherwise permitted herein.

(3) Any building for which a permit has been lawfully granted prior to the effective date of this Code or of amendments hereto, may be completed in accordance with the approved plans, provided construction is started within **one hundred eighty (180) days** and diligently pursued to completion. Such building shall be thereafter deemed to be a lawfully established building.

40-7-2 CHANGE OR EXTENSION OF NON-CONFORMING USE.

(A) A non-conforming use shall not be extended, but the extension of a conforming use to any portion of a non-conforming building shall not be deemed the extension of such non-conforming use.

(B) A non-conforming use shall not be changed to a use of the same or greater non-conformity with the district regulations of the district in which it is located, and when so changed to a use of a greater conformity, shall not thereafter be changed to a use of lesser conformity; however, in the I-1 Industrial District, a non-conforming use shall not be changed to any non-conforming residential use.

(C) A non-conforming use shall not be altered, extended or restored so as to displace any conforming use.

40-7-3 ABANDONMENT OR DISCONTINUANCE.

(A) When any non-conforming use has been discontinued for a period of **twelve (12) consecutive months**, such use shall not thereafter be resumed and any future use of the premises shall be in conformity with the provisions of this Code, provided that such non-conforming use may be resumed when the owner, during the period of discontinuance, has been actively attempting to continue such non-conforming use.

(B) Proof of fact in writing must be furnished to the Zoning Board of Appeals by the applicant to establish intent not to abandon.

40-7-4 REPAIRS, MAINTENANCE AND ALTERATION.

(A) Ordinary repairs and maintenance of a non-conforming building shall not be deemed an extension of such non-conforming building and shall be permitted.

(B) No structural alteration shall be made in a building or other structure containing a non-conforming use, except in the following situations:

(1) When the alteration is required by law.

(2) When the alteration will actually result in elimination of the non-conforming use.

(3) When a building in a residence district containing residential non-conforming uses may be altered in a way to improve livability, provided no structural alteration shall be made which would increase the number of dwelling units or the bulk of the building.

40-7-5 RESTORATION. If a building, excluding single-family dwellings, or other structure containing a non-conforming use is damaged or destroyed by any means to the extent of **fifty percent (50%)** or more of its value at the time, the building or other structure can be rebuilt or used thereafter only for a conforming use and in compliance with the provisions of the district in which it is located. In the event the damage or destruction is less than **fifty percent (50%)** of its value, based upon the prevailing costs, the building may then be restored to its original condition and the occupancy or use of such building may be continued which existed at the time of such partial destruction.

(A) In the event that the Zoning Administrator's estimate of the extent of damage or fair market value is not acceptable to the applicant for the building permit to repair or reconstruct such building or structure, the applicant may appeal to the Zoning Board of Appeals.

(B) In any event, restoration or repair of the building or other structure must be started within a period of **six (6) months** from the date of damage or destruction and diligently pursued to completion.

(C) **Conditions.** The Zoning Administrator may issue, or cause to be issued, a building permit if the subject matter thereof is otherwise permitted by the provisions of this Section, provided that the Zoning Administrator may impose such conditions and requirements to the issuance of the permit as are reasonably necessary to promote compatibility of the non-conforming use or building with its immediate neighborhood and to protect adjacent property from any adverse effects of the non-conforming use.

ARTICLE VIII - SIGN REGULATIONS

40-8-1 GENERAL PROHIBITION. Any sign not expressly permitted in this Article shall be deemed prohibited.

40-8-2 COMPUTATION OF SIGN AREA ALLOWANCE. Within the limitations and restrictions as further provided in this Article, the total area of all signs which an establishment is permitted to display shall be computed according to the following formula:

One (1) square foot of sign area per one (1) foot of street frontage or two (2) square feet of sign for each lineal foot of the front width of the business.

provided, however, that no establishment in any district shall display more than **three hundred (300) square feet** of sign on any street front.

40-8-3 DEFINITION OF SIGN AREA. As used in this Article, the term "sign area" means the area of the one imaginary square or rectangle which would completely enclose all the letters, parts, or symbols of a sign. **(See Figures 3 and 4 at End of Code)**

40-8-4 SPECIAL SITUATIONS.

(A) Except as specifically provided otherwise in this Article, if an establishment has frontage on **two (2)** or more streets, each side having such frontage shall be considered separately for purposes of determining compliance with the provisions of this Article. However, the area allowance for signs shall not be aggregated so as to permit such establishment to display on any **one (1) frontage** a greater area of signs than would be permitted by application of the formula set forth above.

(B) The side of an establishment adjacent to an off-street parking area shall not be deemed frontage unless the establishment has no other frontage.

40-8-5 SIGNS TO BE NON-HAZARDOUS, WELL-MAINTAINED.

(A) No sign shall be erected, relocated or maintained so as to prevent free access or egress from any door, window, fire escape, or driveway.

(B) No sign shall be erected or maintained in such a manner that it interferes with, obstructs the view of, or is likely to be confused with any authorized traffic control device.

(C) Every sign shall be designed and constructed in conformity with any applicable provisions of the adopted Building Code, if any.

(D) Every sign and appurtenance shall be maintained in a neat and attractive condition by its owner. The sign supports shall be kept painted to prevent rust or deterioration.

40-8-6 ILLUMINATION. Illumination of signs is permitted, subject to the following requirements:

(A) No sign shall employ red, yellow, or green lights in such a manner as to confuse or interfere with vehicular traffic.

(B) No sign other than those providing time and temperature information shall have blinking, flashing, or fluttering lights or any other illuminating device which has a changing light intensity, brightness, or color; provided, however, that this provision shall not apply to any message on any electronically-operated, changeable sign.

(C) The light from any illuminated sign shall be shaded, shielded, or directed so that it creates neither a nuisance to adjacent property nor a traffic hazard.

40-8-7 NONCONFORMING SIGNS. A nonconforming sign means any lawfully erected sign or billboard that does not conform to one or more provisions of this Article or any amendment thereto.

40-8-8 RESTRICTIONS. Any nonconforming sign as defined in **Section 40-8-7** that does not pose an imminent peril to life or property may lawfully remain subject to all the restrictions on the enlargement, alteration, or relocation, or reconstruction of nonconforming structures set forth in **Article VII** of this Code; provided as follows:

(A) Merely changing the message displayed on a nonconforming sign shall not be construed as a prohibited alteration;

(B) Whenever any sign is nonconforming solely because it is appurtenant to a nonconforming commercial/industrial use located in the Agricultural District or in any residential district, said sign shall be treated in the same manner as it would be if it were appurtenant to a commercial/industrial use located in any Business District or in the Industrial District.

40-8-9 STRICTLY PROHIBITED SIGNS. Except as specifically noted otherwise, henceforth, the following signs and street graphics are strictly prohibited throughout the Village:

(A) Mobile/Portable Marquees; except that they may be permitted as a temporary sign.

(B) Signs attached to trees, fences or public utility poles, other than warning signs posted by government officials or public utilities.

(C) Defunct Signs, including the posts or other supports therefor that advertise or identify an activity, business, product, or service no longer conducted on the premises where such sign is located.

(D) Roof-mounted signs, that project or protrude above the highest point of the roof. **(See Sec. 40-8-12(C))**

40-8-10 SIGNS PERMITTED IN ANY DISTRICT. Any sign or other street graphic enumerated below that complies with the indicated requirements is permitted in any district of the Village. Such signs or street graphics shall not be debited against the displaying establishment's sign area allowance. **(See Sec. 40-8-2)**

(A) **Construction Signs** identifying the architects, engineers, contractors, and other individuals or firms involved with the construction, and/or announcing the character or purpose of the building, but not advertising any product: Such signs shall not exceed **twenty-four (24) square feet** in area, shall be confined to the site of the construction, and shall be removed within **fourteen (14) days** after the intended use of the project has begun.

(B) **Real Estate Signs**, indicating the sale, rental, or lease of the premises on which they are located: Such signs on residential property shall not exceed **six (6) square feet**; on other property, such signs shall not exceed **sixteen (16) square feet**. Not more than **one (1)** real estate sign per street front shall be erected on any lot. Such signs shall be removed within **seven (7) days** of the sale, rental or lease.

(C) **Political Signs**, announcing candidates seeking public/political office and/or political issues and other pertinent information: In any Agricultural or Residential District, political signs shall not exceed **eight (8) square feet**; in other districts, such signs shall not exceed **thirty-two (32) square feet**. Political signs shall be removed within **seven (7) days** after the election to which they pertain, by the party responsible for their erection.

(D) **Garage Sale Signs**, advertising a garage or yard sale to be held on private residential property: Such signs shall not exceed **four (4) square feet**, and shall not be posted for longer than **five (5) days**.

(E) **Public Interest Signs and Street Banners**, publicizing a charitable or non-profit event of general public interest: In the Agricultural District, and in any Residential District, public interest signs shall not exceed **thirty-two (32) square feet**. Public interest signs and street banners shall be permitted only for **sixty (60) days** before and **seven (7) days** after the event.

(F) **Governmental, Public, and Directional Signs:** Such as traffic control signs; railroad crossing signs; legal notices; signs indicating the location of underground cables; no trespassing signs; no parking signs; signs indicating the entrances and exits of parking lots; signs indicating the location of public telephones; restrooms, and so forth.

(G) **Institutional Signs** identifying a public, charitable, or religious institution: Such signs shall be located on the premises of such institution, shall not obstruct the vision of motorists, and shall not exceed **twenty-four (24) square feet**. Such signs located on State or Village right-of-way shall not exceed **three (3) square feet**. **(Ord. No. 809; 10-04-11)**

(H) **Integral Signs** carved into stone or inlaid so as to become part of the building, and containing such information as date of erection, name of building, and memorial tributes.

(I) **Home Occupation Signs**, identifying only the name and occupation of the residents: Home occupation signs shall not be illuminated, and shall not exceed **four (4) square feet**.

(J) **Subdivision Entrance Signs**, identifying a residential subdivision or apartment complex: Such signs shall contain no commercial advertising, and shall not exceed **twenty (20) square feet**.

(K) **Permanent House Numbers and/or Permanent Name of Occupant Signs** located on the lot to which the sign applies: such signs shall not exceed **two (2) square feet** for single-family dwelling, nor **six (6) square feet** for multiple-family dwellings.

(L) **Signs Located in the Interior of Any Building** or within an enclosed lobby or court of any building or group of buildings, provided such signs are designed and located to be viewed exclusively by the patrons or residents of such buildings.

40-8-11 AGRICULTURAL; RESIDENTIAL DISTRICTS. No sign other than those listed in **Section 40-8-10** shall be erected in the Agricultural District or in any Residential District.

40-8-12 BUSINESS; INDUSTRIAL DISTRICTS. No establishment located in any Business District or in the Industrial District shall display on any street front a total area of sign in excess of the allowance derived by application of the formula set forth in **Section 40-8-2** and **40-8-10**.

Additionally, signs in any Business District or in the Industrial District shall conform to the requirements indicated in the subsections below:

(A) **Flush-Mounted Signs.** No flush-mounted (wall) sign shall:

(1) Project more than **eighteen (18) inches** from the wall or surface to which it is attached; or

(2) Extend above the roof line of the building to which it is attached.

(B) **Window Signs.** Signs permanently mounted in display windows shall not be debited against the sign area allowance of the particular establishment.

(C) **Projecting Signs.** No establishment shall display more than **one (1)** projecting sign on any street front. No projecting sign shall:

(1) Project above the roof line of the building to which it is attached; or

(2) Extend below a point **eight (8) feet** above the ground or pavement; or

(3) Project over a driveway or beyond the curbline of any public street; or

(4) Project more than **four (4) feet** from the building to which it is attached; or

(5) Extend to a point above **twelve (12) feet**.

(D) **Canopy or Marquee Signs.** Signs mounted flush on any canopy or marquee shall be considered flush-mounted (wall) signs, and shall meet the requirements of **Section 40-8-12(A).** Signs suspended beneath a canopy or marquee shall be considered projecting signs, and shall meet the requirements of **Section 40-8-12(C).**

(E) **Freestanding Signs.** No establishment shall display more than **one (1)** freestanding sign on any street front. Freestanding signs, whether mounted on the ground or post-mounted, shall comply with the following regulations:

(1) No part of any freestanding sign shall intrude into any public right-of-way. No part of any freestanding sign that extends below a point **ten (10) feet**

above the ground or pavement shall be located closer than **ten (10) feet** from the public right-of-way line.

However, in any B-2 Zoning District any freestanding sign shall not exceed **thirty-two (32) square feet**, may extend below a point **ten (10) feet** above the ground or pavement and may be placed up to and abutting the public right-of-way. **(Ord. No. 913; 05-01-18)**

(2) The area of any freestanding sign, calculated in accordance with **Section 40-8-3** shall not exceed **one hundred (100) square feet**.

(3) When attached to its structural supports, no part of any freestanding sign shall extend more than **twenty (20) feet** above the ground or pavement.

(4) The length or width of any freestanding sign shall not exceed **twelve (12) feet**.

(F) **Billboards.** Billboards and other off-premises advertising signs are strictly prohibited in every district except the Industrial District. No billboard shall:

(1) Be stacked on top of another billboard; or

(2) Be located closer than **twenty-five (25) feet** to any lot line or any public right-of-way; or

(3) Be located closer than **five hundred (500) feet** from any other billboard on the same side of the roadway; or

(4) Extend more than **twenty (20) feet** above the ground or pavement;

(5) Exceed **three hundred (300) square feet** in area.

40-8-13 TEMPORARY SIGNS. Temporary signs shall not remain in place for a period of more than **thirty (30) days** except when the Zoning Administrator extends the time period for an additional **thirty (30) days**. Any further time extension shall thereafter be applied for through Zoning Board of Appeals and the Zoning Board of Appeals may grant such time extension as seems reasonable and necessary in compliance with this Article. A permit is required for all temporary signs. **(See Section 40-10-40)**

ARTICLE IX - SUPPLEMENTARY OFF-STREET PARKING AND LOADING REGULATIONS

40-9-1 LOCATION OF PARKING LOTS. Parking areas, whether opened or enclosed, shall be provided upon the same lot containing the use for which they are required, or on separate lots as follows:

(A) Within a **two hundred (200) foot** radius in all residential and B-1 General Business Districts.

(B) Within a **five hundred (500) foot** radius in an A - Agricultural, and I-1 - Industrial Districts.

(C) Such separate lots shall be classified as "parking lots" or "parking garages" in determining whether they are permitted in a particular district.

(D) Such separate lots and the lot containing the use for which they are required shall be held under unified ownership or controlled as required for a lot.

40-9-2 SPACE REQUIREMENTS. Each off-street parking space shall not be less than **ten (10) feet** wide, **twenty (20) feet** long.

40-9-3 ACCESS WAYS.

(A) Unobstructed and direct access ways shall be provided from off-street parking to a street or alley, which access ways shall have a minimum width of at least **eight (8) feet** to a private garage, and **ten (10) feet** to a parking lot. The alignments of access ways shall intersect the abutting street lines approximately at right angles (variations not to exceed **twenty (20) degrees**).

(B) All parking aisles and parking spaces shall be entirely within the lot lines, and not on a public right-of-way. Parking spaces shall be so arranged that no part of any vehicle overhangs the public right-of-way.

(C) All parking areas in the MR-1, B-1, B-2 and I-1 Districts shall be graded and improved with a compacted stone base at least **seven (7) inches** thick, surfaced with at least **two (2) inches** of bituminous concrete, or surfaced with at least **six (6) inches** of Portland concrete over a compacted base. **(See Chapter 34, Section 34-3-4)**

NOTE: Oil and chip or rock surfaced parking lots will not be allowed. (Ord. No. 885; 02-21-17)

(D) Required open or enclosed parking areas in any A, SR and MR Districts shall not be located in any required front yard or required side yard adjacent to a street. Where off-street parking is provided between any building and a street, in order to accommodate pedestrian and vehicular traffic, the building shall be set back at least **fifty (50) feet** from the lot line.

(E) No part of an off-street parking area required for any building or use for the purpose of complying with the provisions of this Code shall be included as a part of an off-street parking space similarly required for another building or use.

40-9-4 NUMBER OF PARKING AND LOADING SPACES REQUIRED. Off-street parking and loading spaces shall be provided as indicated in tabular form below. For any use that is not listed in the table, the same amount of parking and loading space shall be provided as is required for the most similar listed use. The Zoning Administrator shall make the determination of similarity:

Use	Parking Spaces Required	Loading Spaces Required (if any)
(A) Dwellings, Lodgings:		
Motels, Boarding houses	1 space per lodging unit, plus employee parking	1 space if the use has 20,000 sq. ft. or more of floor area

Use	Parking Spaces Required	Loading Spaces Required (if any)
Modular homes, Mobile homes & Immobilized homes	2 spaces per unit	Not Applicable
Multi-family dwellings	2 spaces per dwelling unit	Not Applicable
Single-family & two-family dwellings	2 spaces per dwelling unit	Not Applicable
(B) Educational, Institutional, Recreational:		
Churches, assembly halls	1 space per 4 seats in the largest seating area	Not Applicable
Libraries, museums	1 space per 500 sq. ft. of	On review by the Administrator
Nursing Homes	1 space per 5 beds plus 1.5 spaces per employee on the major shift	To 50,000 sq. ft. of floor area..1 space; 50,001-100,000 sq. ft...2 spaces
Schools		
Elementary and Junior High	1 space for every 20 students that the building is designed to accommodate, plus employee parking.	On review by the Administrator
Senior High	1 space for every 4 students that the building is designed to accommodate, plus employee parking.	On review by the Administrator
(C) Commercial, Office, Service:		
Note: All commercial and service uses, unless specifically indicated otherwise below.	1 space per 300 sq. ft. of floor area	To 10,000 sq. ft. of floor area...1 space; more than 10,000 sq. ft...1 space plus 1 additional space per 50,000 sq. ft. of floor area in excess of 10,000 sq. ft.
Financial Institutions		
Walk-in	1 space per 300 sq. ft. of floor area, plus employee parking	(Both walk-in and drive-in): To 30,000 sq. ft. of floor area...none required; 30,001 to 100,000 sq. ft...1 space
Drive-in	5 spaces per teller window	

Use	Parking Spaces Required	Loading Spaces Required (if any)
Beauty and Barber shops	2 spaces per chair, plus employee parking	Not Applicable
Bowling Alleys	4 spaces per bowling lane plus additional spaces as required herein for affiliated uses such as restaurants and taverns	Not Applicable, except as required for affiliated uses
Car Wash	3 spaces per wash lane	Not Applicable
Furniture and appliance stores	1 space per 600 sq. ft. of floor area	To 25,000 sq. ft. of floor area...2 spaces; more than 25,000 sq. ft. of floor area... 2 spaces, plus 1 additional space per 25,000 sq. ft. of floor area in excess of 25,000 sq. ft.
Home occupations	1 space per 150 sq. ft. of floor area devoted to the home occupation in addition to the parking requirements for the dwelling	Not Applicable
Offices generally, but not medical/dental offices	1 space per 300 sq. ft. of floor area	To 30,000 sq. ft. of floor area...none required. 30,001-100,000 sq. ft...1 space
Offices, medical/dental	1 space per 200 sq. ft. of floor area or 3 spaces per professional, whichever is greater.	Not Applicable
Mortuaries	1 space per 5 seats plus 1 space per funeral vehicle, but not less than 20 spaces per chapel or state room	1 space per 10,000 sq. ft. or more of floor area
Restaurants; refreshment stands		(Both sit-down and drive-in):
Sit-down	1 space per 4 seats or 1 space per 50 sq. ft. of floor area, whichever is greater	1 space per structure having 10,000 sq. ft. or more floor area
Drive-in	1 space per 25 sq. ft. of floor area	
Service stations	2 spaces per service stall, plus employee parking	Not Applicable

Use	Parking Spaces Required	Loading Spaces Required (if any)
Taverns	1 space per 2 seats or 1 space per 50 sq. ft. of floor area, whichever is greater	1 space per structure having 10,000 sq. ft. or more of floor area
Theaters		Not Applicable
Indoor	1 space per 4 seats	
Drive-In	On review by the Administrator	
Vehicle sales (autos, boats, trailers, etc.)	1 space per 600 sq. ft. of enclosed floor area plus: Up to 10,000 sq. ft. of open lot area devoted to sale/display of vehicles...1 space per 2,500 sq. ft. of open lot area. Above 10,000 sq. ft...4 spaces plus 1 additional space per 5,000 sq. ft. of open lot area in excess of 10,000 sq. ft.	To 25,000 sq. ft. of floor area and open lot area..2 spaces More than 25,000 sq. ft. of floor area and open lot area... 2 spaces, plus 1 additional space per 25,000 sq. ft. in excess of 25,000 sq. ft.
(D) Industrial:		
Any manufacturing, warehousing, or other industrial use	Employee parking (1 space per 1.5 employees) plus 1 space per company vehicle; plus 1 visitor space per 25 employees on the major shift	To 20,000 sq. ft. of floor area...1 space; 20,001-50,000 sq. ft...2 spaces; 50,001-90,000 sq. ft...3 spaces; above 90,000 sq. ft...3 spaces plus 1 additional space per 50,000 sq. ft. of floor area in excess of 90,000 sq. ft.

EXCEPTION: No off-street parking or loading spaces are required in the B-2 district. (Ord. No. 885; 02-21-17)

ARTICLE X - ADMINISTRATION AND ENFORCEMENT

DIVISION I - GENERAL PROVISIONS

40-10-1 OFFICE CREATED. The administration of this Code is hereby vested in the following officers of the Village:

(A) The Office of the Zoning Administrator.

(B) The Zoning Board of Appeals.

(C) The Office of the Secretary of the Zoning Board of Appeals.

40-10-2 OFFICE OF THE ZONING ADMINISTRATOR.

(A) **Appointment.** The Zoning Administrator shall be appointed by the Mayor with the advice and consent of the Village Board of Trustees.

(B) **Duties of the Zoning Administrator.** The Zoning Administrator or his duly appointed and acting assistant shall administer and enforce this Code. It shall be the duty of the Zoning Administrator to:

(1) Receive and process applications for building permits for structures or additions thereto for which building permits are required.

(2) Receive and process applications for building permits not accompanied by an application for a building permit.

(3) Receive and process applications for an occupancy certificate upon the completion of a structure or when there is a change of use as herein provided.

(4) Conduct inspections of structures or the use of land to determine whether there is compliance with this Code, and in the case of any violation, to notify in writing the person or persons responsible, specifying the nature of the violation and order a corrective action.

(5) Maintain in current status the official zoning map.

(6) Maintain permanent and current records required by this Code, including, but not limited to, building permits, inspections, and all official action on appeals, variations, and amendments.

(7) Prepare and submit an annual report to the Zoning Board of Appeals on the administration of this Code, setting forth such statistical data and information as may be of interest or value in advancing and further the purposes of this Code.

(8) Prepare and have available in book, pamphlet, or map form, on or before **March 1st** of each year:

(a) The complied text of zoning ordinance, including all amendments thereto through the preceding **December 31st**, and

(b) A zoning map or maps, showing the zoning districts, divisions, and classifications in effect on the preceding **December 31st**.

(9) Maintain for distribution to the public a supply of copies of the zoning map or maps, the compiled test of the Zoning Code, and the rules of the Zoning Board of Appeals.

(10) The Zoning Administrator shall be responsible for, render and make all initial decisions regarding, relating or concerning in any manner the interpretation, implementation, application, or enforcement of any and all provisions of this Chapter. **(Ord. No. 911; 05-01-18)**

[ED. NOTE: The State law says the map shall be published by March 31st.]

40-10-3 RESERVED.

DIVISION II – BUILDING PERMITS

40-10-4 BUILDING PERMITS. No building permit pertaining to the construction, moving, or reconstruction of any structure shall be issued by the Village unless an application for a building permit shall first have been made to and obtained from the Zoning Administrator. Unless a Building Permit shall first have been obtained from the office of the Zoning Administrator.

(A) The construction, moving, or reconstruction of any structure shall not be commenced.

(B) The improvement of land preliminary to any use of such land shall not be commenced; and

(C) Permits pertaining to the use of land or structures shall not be issued by any official, officer, employee, department, board or bureau of the Village.

Any building permit issued in conflict with the provisions of this Code shall be null and void.

40-10-5 APPLICATION FOR BUILDING PERMIT. Every application for a building permit shall be accompanied by the following:

(A) The certificate of a registered architect or registered structural engineer licensed by the State of Illinois, or of an owner-designer, that the proposed construction or reconstruction complies with all the provisions of this Code. Application for Business or Industrial building permits must include complete drawings prepared by an Architect or Engineer that is licensed by the State of Illinois. The design professional must be listed on the drawings as the Architect or Engineer of record for the project.

(B) A plat, in duplicate, of the piece or parcel of land, lot, lots, block, or blocks, or parts or portions thereof, drawn to scale showing the actual dimensions of the piece or parcel, lot, lots, block or blocks, or parts or portions thereof, according to the recorded plat of such land.

(C) A plot plan, in duplicate, drawn to scale and in such form as may, from time to time, be prescribed by the Zoning Administrator, showing the location, ground area, height, and bulk of all present and proposed structures, drives and off-street parking and loading spaces, the building lines in relation to lot lines, waste disposal areas, the use to be made of such present and proposed structures on the land, and such other information as may be required by the Zoning Administrator for the proper enforcement of this Code.

One (1) copy of both the plat and the plot plan shall be retained by the Zoning Administrator as a public record.

40-10-6 ISSUANCE OF BUILDING PERMIT. A building permit shall be either issued or refused by the Zoning Administrator within **fourteen (14) days** after the receipt of an application therefore, or within such further period as may be agreed to by the applicant. When the Zoning Administrator refuses to issue a building permit, he shall advise the applicant in writing of the reasons for the refusal.

40-10-7 PERIOD OF VALIDITY. A building permit shall become null and void **six (6) months** after the date on which it is issued unless, within such **six (6) month** period, construction, moving, or reconstruction of a structure is commenced or a use is commenced.

40-10-8 OCCUPANCY PERMITS. No structure or addition thereto constructed, moved, or reconstructed after the effective date of this Code shall be occupied or used for any purpose and no land vacancy on the effective date of this Code shall be used for any other use, unless an occupancy permit shall first have been obtained from the Zoning Administrator certifying that the proposed use or occupancy complies with all the provisions of this Code.

40-10-9 APPLICATION FOR OCCUPANCY PERMIT. Every application for a building permit shall be deemed to be an application for an occupancy permit. Every application for an occupancy permit for a new or changed use of land or structures where no building permit is required shall be filed with the Zoning Administrator and be in such form and contain such information as the Zoning Administrator shall provide by general rule.

40-10-10 ISSUANCE OF OCCUPANCY PERMIT. No occupancy permit for a structure or addition thereto constructed, moved, or reconstructed after the effective date of this Code shall be issued until such work has been completed including off-street parking and loading spaces, and the premises have been inspected by the Zoning Administrator and determined to be in full and complete compliance with the plans and specifications upon which the issuance of the building permit was based. No occupancy permit for a new use of any structure or land shall be issued until the premises have been inspected by the Zoning Administrator and determined to be in full and complete compliance with all the applicable regulations for the zoning district in which it is located. Pending the issuance of a permanent occupancy permit, a temporary occupancy permit may be issued to be valid for a period not to exceed **six (6) months** from its date, pending the completion of any addition or during partial occupancy of the premises. An occupancy permit shall be issued or written notice shall be given to the applicant stating the reasons why a certificate cannot be issued, within **fourteen (14) days** after the receipt of an application therefor, or after the Zoning Administrator is notified in writing that the structures or premises are ready for occupancy.

40-10-11 PENALTIES.

(A) In the event that any person, firm, business, corporation, association or other entity of any kind or nature begins or initiates any improvement, or builds, constructs or erects any building or structure or other object of any kind or nature, in whole or in part, within the Village prior to being issued a Building Permit, to do so by the Zoning Administrator, said person or entity shall be subject to the penalties imposed by **Article XII, Penalties, Sections 40-12-1 et seq.**

(B) In the event that the issuance of a Building Permit is ultimately denied, then whatever portion of any object, improvement, building or structure, of any kind or nature, that has been erected, begun or initiated without the said certificate, shall in its entirety be dismantled and removed upon notification of the Village.

(Ord. No. 906; 03-06-18)

40-10-12 RESERVED.

DIVISION III - BOARD OF APPEALS

40-10-13 CREATION AND MEMBERSHIP. A Zoning Board of Appeals is hereby authorized to be established. The Zoning Board of Appeals shall consist of a Chairman and **six (6) members** and shall be appointed by the Mayor with the consent of the Village Board of Trustees. The Zoning Board of Appeals shall elect from its members an acting Chairman to act whenever the Chairman is absent. **One (1)** member shall serve for **one (1) year**, **one (1)** member for **two (2) years**, **one (1)** member for **three (3) years**, **one (1)** member for **four (4) years**, **one (1)** member for **five (5) years**, **one (1)** member for **six (6) years**, and **one (1)** member for **seven (7) years**. The successor to each member so appointed to serve for a term of **five (5) years**. The Chairman and all members of the Zoning Board of Appeals shall receive the sum of **Forty Dollars ($40.00)** for each and every meeting attended.

(Ord. No. 797; 04-05-11)

40-10-14 JURISDICTION. The Zoning Board of Appeals is hereby vested with the following jurisdiction and authority and it shall be its duty:

(A) To hear and decide appeals in which it is alleged there is an error in any order, requirement, decision, interpretation, or determination (hereinafter referred to collectively as "decision") made by the Zoning Administrator, in the manner set forth herein **Sections 40-10-21 and 40-10-25**.

(B) To hear and decide on applications for variations from the regulations and restrictions imposed by this Code, in the manner and subject to the standards as set forth herein **Section 40-10-26**.

(C) To hear and decide on applications for special-use permits as provided herein **Section 40-10-35**.

(D) To hear, decide or recommend all other matters upon which it is authorized or required to pass under this Code of the applicable **Illinois Compiled Statutes**.

(E) To hear and decide any application for a zoning amendment as provided herein.

40-10-15 MEETING AND RULES. All hearings before the Zoning Board of Appeals shall be scheduled and conducted any weekday during the month other than Tuesdays. In the event that a quorum is not present on any regularly scheduled hearing, then said hearing shall be conducted on the next agreeable date and for which a quorum is present to conduct business. In the event that any party may be granted a continuance by the Zoning Board of Appeals or the Zoning Board of Appeals may continue a hearing on its own motion for any reason, said hearing shall be continued to and be conducted on the next agreeable date, except Tuesdays, which does not fall on a holiday and for which a quorum of the Zoning Board of Appeals is present to conduct business. All hearings conducted by the Zoning Board of Appeals shall begin at **7:30 P.M. (Ord. No. 864; 08-18-15)**

All hearings required by this Code to be conducted by the Zoning Board of Appeals shall be open to the public. At meetings and hearings of the Zoning Board of Appeals, any interested person may appear or by duly authorized agents or attorneys. All testimony before the Zoning Board of Appeals shall be given under oath. The Chairman, or in his absence, the acting Chairman, shall administer or authorize the administration of oaths and may compel the attendance of witnesses. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact. The Zoning Board of Appeals shall also keep records of its hearings and other official actions. Each member is entitled to vote on each question unless a member is absent or has disqualified himself. Every rule, regulation, every amendment or appeal thereof, and every order, requirement, decision, or determination of the Zoning Board of Appeals shall immediately be filed with the Secretary of the Zoning Board of Appeals and shall be a public record. The Zoning Board of Appeals may adopt and publish its own rules of procedure not in conflict with this Code or with the **Illinois Compiled Statutes.** The Zoning Board of Appeals may select or appoint such officers or committees as it deems necessary. A copy of the rules of procedure shall, at all times, be on file in the office of the Village Clerk. The minutes of the Zoning Board of Appeals shall be available for public examination in the office of the Village Clerk. **(Ord. No. 527; 05-20-97)**

40-10-16 QUORUM. Four (4) members of the Zoning Board of Appeals will constitute a quorum. No meeting or hearing shall be conducted by the Zoning Board of Appeals without a quorum being present.

40-10-17 DECISIONS. The Zoning Board of Appeals shall hear and decide all matters presented to it within a reasonable time. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify or amend any order, requirement, decision, or determination appealed from to the extent and in the manner the Zoning Board of Appeals may decide to be fitting and proper in the premises subject to the provisions contained in this Code or in the applicable **Illinois Compiled Statutes**. The concurring vote of **four (4) members** of the Zoning Board of Appeals shall be necessary to reverse any

order, requirement, decision, or determination of the Zoning Administrator, to grant a variation from the terms of this Code, or to decide in favor of the applicant on any matter upon which the Zoning Board of Appeals is required to pass, under this or any other ordinance.

40-10-18 FINALITY OF DECISIONS OF THE ZONING BOARD OF APPEALS. All decisions of the Zoning Board of Appeals, on appeal or upon application for a variation shall, in all instances, be final administrative determination and shall be subject to review by a court in the manner provided by applicable **Illinois Compiled Statutes**.

40-10-19 OFFICE OF THE SECRETARY OF THE ZONING BOARD OF APPEALS.

(A) **Appointment.** The Secretary of the Mayor with the advice and consent of the Board of Trustees shall be appointed by the Zoning Board of Appeals to serve until a successor is appointed.

(B) **Duties of the Secretary of the Zoning Board of Appeals.** The Secretary of the Zoning Board of Appeals shall:

(1) Record the minutes of the Zoning Board of Appeals' proceedings and actions, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact.

(2) Act as custodian of the records of the Zoning Board of Appeals.

(3) Furnish members of the public with such blank forms for appeals and applications for variations as are approved by the Zoning Board of Appeals.

(4) Receive on behalf of the Zoning Board of Appeals, all such forms, when completed and executed by the applicant, or his agent or attorney.

(5) Perform such other duties as may be assigned from time to time by the Zoning Board of Appeals.

40-10-20 RESERVED.

DIVISION IV - APPEALS

40-10-21 NATURE OF AN APPEAL. Any person aggrieved by any decision or order of the Zoning Administrator in any matter related to the interpretation or enforcement of any provision of this Code may appeal to the Zoning Board of Appeals on a prescribed form. Every such appeal shall be made and treated in accordance with Illinois law and the provisions of this Division. **(65 ILCS 5/11-13-12)**

40-10-22 FILING, RECORD TRANSMITTAL. Every appeal shall be made within **forty-five (45) days** of the matter complained of by filing with the Administrator and the Zoning Board of Appeals a written notice specifying the grounds for appeal. Every appeal shall also be filed with the **Soil and Water Conservation District** pursuant to State law. Not more than **five (5)** working days after the notice of appeal has been filed, the Administrator shall transmit to the Zoning Board of Appeals all records pertinent to the case. **(65 ILCS 5/11-13-12) (70 ILCS 405/22.02A)**

40-10-23 STAY OF FURTHER PROCEEDINGS. An appeal stays all further action on the matter being appealed unless the Zoning Administrator certifies to the Zoning Board of Appeals after the notice of appeal has been filed with him, that for reasons stated in the certificate, a stay would cause imminent peril to life or property. In such case, further action shall not be stayed unless the Zoning Board of Appeals or the Circuit Court grants a restraining order for due cause and so notifies the Zoning Administrator. **(65 ILCS 5/11-13-12)**

40-10-24 PUBLIC HEARING, NOTICE. The Zoning Board of Appeals shall hold a public hearing on every appeal within a reasonable time after the filing of the appeal notice. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing, and briefly describing the issue to be decided shall be given not more than **thirty (30) days** nor less than **fifteen (15) days** before the hearing:

(A) By publication in a newspaper of general circulation within this Municipality; and

(B) By certified mail to the applicant; and,

(C) By first-class mail to all owners of property contiguous to any property affected by the appeal.

(65 ILCS 5/11-13-12)

40-10-25 DECISION BY ZONING BOARD OF APPEALS. The Zoning Board of Appeals shall render a decision on the appeal within **thirty (30) days** after the hearing therein. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify or amend the decision or order appealed from the extent and in the manner that they deem appropriate. In so doing, the Zoning Board of Appeals has all the power of the Zoning Administrator. **(65 ILCS 5/11-13-3 and 5/11-13-12)**

ED. NOTE: The Zoning Board of Appeals is delegated the task of hearing appeals from the decisions of the Zoning Administrator or other official charged with enforcement of an ordinance passed pursuant to the Zoning Enabling Act. This may, for example, entail determining whether there has been a discontinuance of a nonconforming use. It is important for the applicant to note the appeal process because of the requirement of exhaustion of administrative remedies before suit is filed as well as the more obvious reason of using a less expensive administrative process for correcting a mistake or error which may have been made by the Zoning Administrator. (65 ILCS 5/11-13-3)

40-10-26 RESERVED.

DIVISION V - VARIATIONS

40-10-27 AUTHORIZATION. The Zoning Board of Appeals may authorize such variations from the terms of this Code as will not be contrary to the public interest. Variations may be authorized only in those specific instances enumerated herein, and then only when the Zoning Board of Appeals has made findings of fact, based upon the standards set out herein, that owing to special conditions, a literal enforcement of the provisions of this Code will, in an individual case, result in practical difficulties or particular hardship for the owner, lessee, or occupant of land or a structure.

40-10-28 APPLICATION FOR VARIATION. An application for a variation shall be filed in duplicate with the Zoning Administrator who shall forward without delay, a copy to the Secretary of the Zoning Board of Appeals. The application shall contain the following information as well as such additional information as may be prescribed by rule of the Zoning Board of Appeals:

(A) The particular requirements of this Code which prevent the proposed use or construction;

(B) The characteristics of the subject property which prevent compliance with said requirements of this Code;

(C) The reduction of the minimum requirements of this Code which would be necessary to permit the proposed use or construction; and

(D) The practical difficulty or particular hardship which would result if said particular requirements of this Code were applied to the subject property.

40-10-29 HEARING AND NOTICE. The Zoning Board of Appeals shall select a reasonable time and place for the hearing. Public notice of such hearing shall be published at least once, not less than **fifteen (15) days** nor more than **thirty (30) days** before such hearing in a newspaper published within the Village, or in a newspaper of general circulation within the Village. Such notice shall contain the date, time, and place of the hearing, the street address or common description of the property involved, the legal description of the property involved, and a brief description of the relief sought. The Zoning Board of Appeals may give such additional notice as it may, from time to time, by rule, provide. Any party in interest may appear and be heard at the hearing in person, by agent, or by attorney.

40-10-30 AUTHORIZED VARIATIONS. Variations from the regulations of this Code shall be granted only in accordance with the standards set out in **Section 40-10-31**, and may be granted only in the following instances, and in no others.

(A) To vary the applicable lot area, lot width, and lot depth requirements, subject to the following limitations:

(1) The minimum lot width and lot depth requirements shall not be reduced more than **twenty-five percent (25%)**.

(2) The minimum lot area for a single-family or two-family dwelling shall not be reduced more than **twenty percent (20%)**.

(3) The minimum lot area per dwelling unit requirements for multiple-family dwellings shall not be reduced so as to permit more than **one (1) dwelling** unit in addition to the number that would be permitted by strict application of the minimum lot area requirements.

(B) To vary the applicable bulk regulations, including maximum height, maximum lot coverage, maximum floor-area ratio, and minimum yard requirements.

(C) To vary the applicable off-street parking and off-street loading requirements contained in **Article IX** of this Code.

(D) To vary the regulations relating to restoration of damaged or destroyed non-conforming structures or uses contained in **Section 40-7-5** of this Code.

(E) To permit the expansion or structural alteration of a non-conforming structure or use.

(F) To permit a use not otherwise permitted by the applicable district regulations.

40-10-31 STANDARDS FOR VARIATIONS. The Zoning Board of Appeals shall not vary the regulations of this Code unless it shall make findings of the fact based upon the evidence as presented that:

(A) The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations of the district in which it is located.

(B) The proposed variation will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship which will result if the strict letter of the regulations were carried out and which is not generally applicable to property within the same district.

(C) The alleged hardship has not been created by any person presently having a proprietary interest in the premises.

(D) The proposed variation will not be materially detrimental to the public welfare or injurious to other property or improvements in the neighborhood.

(E) The proposed variation will not impair an adequate supply of light and air to adjacent property, substantially increase congestion in the public streets, increase the danger of fire, or endanger the public safety.

(F) The proposed variation will not alter the essential character of the neighborhood.

(G) The proposed variation is in harmony with the spirit and intent of this Code.

The Zoning Board of Appeals may impose such conditions and restrictions upon the location, construction, design, and use of the property benefited by a variation as may be necessary or appropriate to comply with the foregoing standards and to protect adjacent property and property values. **(Ord. No. 919; 09-04-18, Ord. No. 947;8-18-2020)**

40-10-32 DECISION ON VARIATIONS. The concurring vote of **four (4) members** of the Zoning Board of Appeals shall be necessary to grant a variation. The order of the Zoning Board of Appeals shall be by written resolution and shall contain its findings of fact. If the Zoning Board of Appeals denies a variance, the applicant shall not resubmit the request for at least **six (6) months**.

40-10-33 PERIOD OF VALIDITY. No decision granting a variation shall be valid for a period longer than **twelve (12) months** from the date of such decision unless:

(A) an application for a building permit is obtained within such period and construction, moving, remodeling, or reconstruction is started, or

(B) an occupancy certificate is obtained and a use is commenced.

The Zoning Board of Appeals may grant additional extensions of time not exceeding **one hundred eighty (180) days** each, upon written application made within the initial **twelve (12) month** period, without further notice or hearing, but said right to so extend said time shall not include the right to grant additional relief by expanding the scope of the variation.

40-10-34 PENALTIES.

(A) In the event that any person, firm, business, corporation, association or other entity of any kind or nature begins or initiates any improvement or builds, constructs or erects any building, structure or other object of any kind or nature, in whole or in part within the Village which requires a variance but prior to having been granted said variance, then said person or entity shall be subject to the penalties imposed by **Article XII, Section 40-12-1 et seq.**

(B) In the event that the issuance of a variance is ultimately denies, then whatever portion of any object, improvement, building or structure of any kind or nature that has been erected, begin, or initiated without the said variance shall in its entirety be dismantled and removed upon notification by the Village.

(Ord. No. 905; 03-06-18)

40-10-35 - 40-10-36 RESERVED.

DIVISION VI - SPECIAL USES

40-10-37 SPECIAL-USE PERMITS. This Code divides the Municipality into various districts, and permits in each district as a matter of right only those uses which are clearly compatible with one another. Certain other uses, because of their special operational or physical characteristics, may or may not have a detrimental impact on nearby permitted uses, depending upon their precise location, manner of operation and other factors. Such "special uses" require careful case-by-case review, initially by the Zoning Board of Appeals which issues an advisory opinion only and that said request shall thereafter be considered and then granted or denied in whole or in part by the Board of Trustees as provided for herein. **(65 ILCS 5/11-13-1.1) (Ord. No. 830; 11-06-12)**

40-10-38 APPLICATION. Every applicant for a special-use permit shall submit to the Zoning Administrator in narrative and/or graphic form, the items of information enumerated below. The Zoning Administrator shall promptly transmit the completed application, together with any comments or recommendation he/she might have, to the Zoning Board of Appeals for further consideration. **(NOTE: Filing fee required)**

ITEMS OF INFORMATION:

(A) Name and address of the applicant;

(B) Name and address of the owner or operator of the proposed structure or use, if different from (A);

(C) Nature of the proposed use, including type of activity, manner of operation, number of occupants or employees, and similar matters;

(D) Location of the proposed use or structure, and its relationship to existing uses of structures on adjacent lots;

(E) Area and dimensions of the site for the proposed structure or use;

(F) Existing topography of the site and proposed finished grade;

(G) Existing and proposed screening, landscaping, and erosion control features on the site, including the parking area;

(H) Height and setbacks of the proposed structure;

(I) Number and size of the proposed dwelling units, if any;

(J) Number and location of proposed parking/loading spaces and access ways;

(K) Identification and location of all existing or proposed utilities, whether public or private; and/or

(L) Any other pertinent information that the Zoning Administrator may require;

(M) Location of any signs;

(N) Whether the applicant requests (1) that the special use permit expires with applicant's sale, assumption, assignment, gift, lease, or other transfer of any kind or nature of the subject property to another person or entity, or (2) whether the applicant is requesting that the special use permit shall run with the land and thereby transfer and be binding upon any and all subsequent occupiers, possessors or purchasers of the subject property. In the event the application fails to designate either (1) or (2) as hereinabove states, then the Zoning Board of Appeals shall assume that the special use permit if granted in whole or in part, shall expire with the sale, assignment, gift, lease or other transfer of any kind or nature of the subject property by the applicant to any other person or entity at any time. **(Ord. No. 830; 11-06-12)**

40-10-39 PUBLIC HEARING, NOTICE. The Zoning Board of Appeals shall hold a public hearing on every special-use permit application within **sixty (60) days** after the application is submitted to them. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing, and the nature of the proposed special-use shall be given not more than **thirty (30) days** nor less than **fifteen (15) days** before the hearing:

(A) By certified mail to the applicant; and,

(B) By publication in a newspaper of general circulation within this Municipality.

(C) By first-class mail to all owners of property contiguous to the property affected by the proposed special-use request. **(65 ILCS 5/11-13-6)**

40-10-40 ADVISORY REPORT, FACTORS CONSIDERED. Within **thirty (30) days** after the public hearing, the Zoning Board of Appeals shall render an advisory report and shall consider all relevant and material factors; including but not limited to the following:

(A) Whether the proposed design, location, and manner of operation of the proposed special use will adequately protect the public health, safety, and welfare, and the physical environment;

(B) Whether the proposed special-use is consistent with this Municipality's comprehensive plan, if any;

(C) The effect the proposed special-use would have on the value of neighboring property and on this Municipality's overall tax base;

(D) The effect the proposed special-use would have on the public utilities and on the traffic circulation on nearby streets; and

(E) Whether there are any facilities near the proposed special-use (such as schools or hospitals) that require special protection. **(65 ILCS 5/11-13-7)**
(Ord. No. 830; 11-06-12)

40-10-41 DECISION - FINDINGS OF FACTS. The Zoning Board of Appeals shall recommend a special use permit only upon evidence that such use meets standards established for such classification and the Zoning Code, and that the grant of permission may be subject to any conditions, qualification or limitations reasonably necessary to meet and be in conformity with such standards.

All decisions of the Zoning Board of Appeals which either grants or denies a request for a special use permit, either in whole or in part, shall be advisory only. All said advisory reports shall be submitted to the Village Board of Trustees which shall act on each request and advisory report at its next regularly scheduled meeting following issuance of the Zoning Board of Appeals Advisory Report. The Village Board of Trustees may accept, deny, alter or amend the advisory report in whole or in part and may change, alter, amend or add conditions, qualifications or limitations that it deems in its discretion reasonably necessary to fulfill the requirements of this Code. The decision of the Board of Trustees shall be recorded with the office of the St. Clair County Recorder of Deeds and appear in the chain of title of the property in question and shall constitute notice to all subsequent purchasers, possessioners or occupiers of said property who shall be bound by said decision. **(65 ILCS 5/11-13-1.1 and 5/11-13-11) (Ord. No. 830; 11-06-12)**

[ED. NOTE: The applicants and property owners for a variation or special-use should review Sec. 5/11-13-7A of the Illinois Compiled Statutes relative to subpoenas for persons to appear at the zoning hearings.]

40-10-42 TEMPORARY USE PERMITS: PROCEDURE FOR. As set forth at **Section 40-3-7**, requests for temporary use permits shall be treated in the same manner as requests for special use permits. The Zoning Board of Appeals shall issue no temporary use permit for a period longer than **one (1) year** but may renew any such permit as they see fit.

40-10-43 TIME LIMITATION. Any special use permit lawfully issued prior to the effective date of this Code or any amendment to it, shall be deemed to be and continue valid after such effective date subject to any conditions placed hereon at the time of issuance.

40-10-44 PENALTIES.

(A) In the event that any person, firm, business, corporation, association or other entity of any kind or nature begins or initiates or begins the use of property or structure of any kind or nature, in whole or in part, within the Village, that requires the issuance of a special use permit but prior to having been granted said permit, then said person or entity shall be subject to the penalties imposed by **Article XII, Section 40-12-1 et seq.**

(B) In the event that the issuance of a special use permit is ultimately denied, then the use of the property or structure of any kind or nature, that had been initiated or begun without said permit shall in its entirety cease and desist upon notification by the Village.
(Ord. No. 907; 03-06-18)

40-10-45 RESUBMISSION OF SPECIAL USE REQUEST. If the Board of Trustees denies a special use permit, the applicant shall not resubmit the request or in their opinion a substantially similar request for at least **six (6) months**.

40-10-46 RESERVED.

DIVISION VII - AMENDMENTS

40-10-47 AMENDMENTS. The Village Board may amend this Code in accordance with State law and the provisions of this Section. Proposed alterations of district boundaries or proposed changes in the status of uses (permitted, special, prohibited) shall be deemed proposed amendments. Amendments may be proposed by the Village Board, the Zoning Board of Appeals, the Plan Commission, the Zoning Administrator or any party in interest. **(65 ILCS 5/11-13-14)**

40-10-48 FILING. Every proposal to amend this Code shall be filed with the Zoning Administrator on a prescribed form. Every amendment proposal shall also be filed with the **Soil and Water Conservation District** pursuant to State law. The Zoning Administrator shall promptly transmit the proposal, together with any comments or recommendations he might wish to make to the Zoning Board of Appeals for a public hearing. **(NOTE: Filing fee required.) (70 ILCS 405/22.02(A))**

40-10-49 PUBLIC HEARING - NOTICE. The Zoning Board of Appeals shall hold a public hearing on every amendment proposal within **sixty (60) days** after said proposal has been submitted to them. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing and the nature of the proposed amendment shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing:

(A) By certified mail to the applicant; and,

(B) By publication in a newspaper of general circulation within the Municipality.

(C) By first-class mail to all owners of property contiguous to the property affected by the proposed amendment. **(65 ILCS 5/11-13-14)**

40-10-50 ADVISORY REPORT - FINDINGS OF FACT. Within **thirty (30) days** after the public hearing, the Zoning Board of Appeals shall submit their advisory report to the Village Board. The report shall state the recommendations of the Zoning Board of Appeals regarding adoption of the proposed amendment and their reasons therefor. If the effect of the proposed amendment would be to alter district boundaries or to change the status of any use, the Zoning Board of Appeals shall include in their advisory report findings of fact concerning each of the following matters:

(A) Existing use and zoning of the property in question;

(B) Existing uses and zoning of other lots in the vicinity of the property in question;

(C) Suitability of the property in question for uses already permitted under existing regulations;

(D) Suitability of the property in question for the proposed use;

(E) The trend of development in the vicinity of the property in question, including changes (if any) which may have occurred since that property was initially zoned or last rezoned.

40-10-51 ACTION BY VILLAGE BOARD. The Village Board shall act on every proposed amendment at their next regularly scheduled meeting following submission of the advisory report of the Zoning Board of Appeals. Without further public hearing, the Village Board may approve or disapprove any proposed amendment or may refer it back to the Zoning Board of Appeals for further consideration by simple majority vote of all the members then holding office.

40-10-52 WHEN TWO-THIRDS MAJORITY VOTE IS REQUIRED. The favorable vote of at least **two-thirds (2/3)** of the members of the Village Board is required to pass an amendment to this Code in each of the following instances:

(A) When passage would be contrary to the recommendation of the Zoning Board of Appeals.

(B) When the amendment is opposed, in writing, by the owners of **twenty percent (20%)** of the frontage proposed to be altered, or by the owners of **twenty percent (20%)** of the frontage immediately adjoining or across an alley therefrom, or by the owners of **twenty percent (20%)** of the frontage directly opposite the frontage proposed to be altered.

40-10-53 NOTICE TO APPLICANT OF WRITTEN PROTEST. In cases of written opposition to an amendment of this Code as prescribed in **Section 40-10-52**, a copy of the written protest shall be served by the protester or protesters on the applicant for the proposed amendment and a copy upon the applicant's attorney, if any, by certified mail at the address of such applicant and attorney shown in the application for the proposed amendment.

(65 ILCS 5/11-13-14)

ARTICLE XI - FEES

40-11-1 VARIATIONS. For application to the Zoning Board of Appeals for variations, a fee of **Two Hundred Dollars ($200.00)**, plus all costs of publication, advertising, and processing incurred, shall be charged by the Village.

40-11-2 SPECIAL USE PERMITS. For application to the Zoning Board of Appeals for special use permits, a fee of **Two Hundred Dollars ($200.00)**, plus all costs of publication, advertising, and processing incurred, shall be charged by the Village.

40-11-3 AMENDMENTS. For application to the Zoning Board of Appeals for amendments, a fee of **Two Hundred Dollars ($200.00)**, plus all costs of publication, advertising, and processing incurred, shall be charged by the Village.

(Ord. No. 623; 09-03-02)

ARTICLE XII - PENALTIES

40-12-1 FINE IMPOSED. A violation by any person, corporation, or otherwise, whether as principal, agent, employee, or otherwise, of any provisions of this Code shall be a misdemeanor and will be subject to a fine up to **Seven Hundred Fifty Dollars ($750.00)**. Each day of the continued violation shall constitute a separate additional violation. If more than **one (1)** provision is violated, each provision violated shall be considered a separate misdemeanor, and each shall be liable to maximum penalties as herein specified. Nothing herein shall limit any other right or remedy of the Village or other person in interest, including the right to obtain an injunction of any violation from a court of competent jurisdiction.

40-12-2 PROSECUTIONS. Whenever a violation of this Code occurs, any person, including the Zoning Administrator, or any other duly authorized Village Official or personnel in addition to and not by way of limitation of other remedies available, may file a complaint therefore in the court of appropriate jurisdiction. The Zoning Administrator or his deputy or assistant may also issue and/or serve a summons, citation, or other process issued by the court of appropriate jurisdiction for any such violation and may prosecute the violator therefore in said court.

40-12-3 SEPARABILITY. If any part or provision of this Code or the application thereof to any person, property, or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation and direction to the part, provision, section or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the integrity or validity of the remainder of this Code or the application thereof to other persons, property or circumstances. The Village Board of Trustees hereby declared that it would have enacted the remainder of this Code even without any such part, provision, section or application.

SCHEDULE 40-3-7(D)
PERMITTED USES; PERMITTED ACCESSORY USES; EXCEPTIONS; SUPPLEMENTARY REGULATIONS; AND SPECIAL USES

"A" Agricultural.

Permitted Uses.

All Uses commonly classified as agricultural, horticulture or forestry including crop and tree farming, truck farming, gardening, nursery operation subject to the provisions of Section 40-4-14, dairy farming, livestock raising, animal and poultry breeding and raising, forestry operations together with the operation of machinery or vehicles but rot including stockyards, commercial livestock or poultry feeding or agricultural processing plants.

One Family Dwellings.

Living Quarters for persons employed in agricultural or related activities that are conducted on the premises.

Parking lots subject to Article IX.

Private Clubs, lodges or camps except those whose chief activities are a service customarily carried on as a business.

Golf Courses of regulations size, but not including "Par-3" Golf Courses or commercially operated driving ranges or miniature golf courses; and provided that no clubhouse, parking lot or accessory building shall be located nearer than **five hundred (500) feet** to any dwelling unit or another zoning lot.

Fishing lakes or clubs provided that no building, parking lot, or other intense use activity is located nearer than **five hundred (500) feet** to any dwelling on another zoning lot.

Gun clubs, of located not nearer than **one thousand (1,000) feet** to any residence other than that of the owner or lessee of the site and if not so operated as to withdraw land from its primary agricultural use.

Carnivals, circuses and similar temporary transient amusement enterprises.

Greenhouses, subject to the provisions of Section 40-4-15.

Churches, and other places of worship subject to Section 40-4-5, but not including funeral chapels or mortuary chapels.

Schools and colleges for academic instruction subject to Section 40-4-12.

Libraries, museums, art galleries and similar public cultural facilities subject to Section 40-4-10.

Cemeteries and mausoleums in conjunction therewith.

Essential services subject to Section 40-4-10 & 40-4-11.

Public service uses including filtration plants, pump stations, water reservoirs, sewage treatment plant, police and fire stations or other governmental uses subject to Sections 40-4-11 and 40-4-12.

Railroad right-of-way and trackage, but not including classification yards, terminal facilities or maintenance facilities.

Temporary produce stands for the sale of agricultural produce raised on the premises, provided that adequate off-street parking is available and that major traffic congestion or hazards would not be created in conjunction with the location or access thereto.

Radio or television transmission towers.

Permitted Accessory Uses.

Any accessory use permitted and as regulated in the SR-1 District unless specified as a permitted use.

Accessory uses that are clearly supplementary and secondary to the primary use located on the lot.

Mobile homes subject to the provisions of Section 40-4-8.

"A" Agricultural

Exceptions.

Electrical substations, subject to the provisions of Sections 40-4-11 and 40-5-17.

Gas regulator stations, subject to the provisions of Sections 40-4-11 and 40-5-17.

Other public utility distribution facilities, subject to the provisions of Sections 40-4-11 and 40-5-17.

Supplementary Regulations.

All uses subject to the applicable provisions of Article V.

"SR-1" Single Family

Permitted Uses.

Single-family dwellings;

Churches and other places of worship, subject to the provisions of Section 40-4-5, but not including funeral chapels or mortuary chapels;

Electrical substations (static transformer stations) gas regulation stations, telephone exchange facilities and essential services, subject to the provisions of Section 40-4-11.

Growing of plants and trees on a private or commercial basis, provided no retail sales are conducted on the premises subject to the applicable provisions of Section 40-4-14.

Municipal uses, facilities and buildings, subject to the provisions of Section 40-4-10.

Public, private or parochial schools offering courses of instruction at elementary and secondary levels in accordance with standards for compulsory education, subject to the provisions of Section 40-4-12.

Permitted Accessory Uses.

Private: Greenhouses; tool sheds; garages or carports; tennis courts; patios; subject to the applicable provisions of Section 40-5-5.

Private swimming pools, subject to the applicable provisions of Section 40-4-4.

Incinerators for home use, provided such are located on the lot so as not to constitute an unreasonable hazard to dwellings and other buildings on the premises or on adjacent property, and located not less than **fifteen (15) feet** from any dwelling on the premises and not less than **ten (10) feet** from any other building on the premises.

Keeping of household pets, provided kennels are not maintained.

Parking spaces not for gain in addition to minimum off-street parking, subject to the provisions of Section 40-9-1 et seq.

Keeping of not more than one unoccupied camp and/or utility trailer, subject to the provisions of Section 40-4-9.

Temporary construction sheds and temporary buildings for sale or rental offices or show houses for use during construction operations, provided all other regulations of the district are complied with, but in no case shall such office be continued beyond the duration of construction of the project or one year whichever is greater. However, such time limit may be extended for one year by the board of appeals.

Accommodations for professional servants, caretakers, watchmen, or custodians, but not as a separate, detached one-family dwelling on the same lot.

Fences, hedges and walls, subject to the provisions of Section 40-4-1.

Home occupations, subject to the provisions of Section 40-4-2.

Exceptions.

Any exception permitted and as regulated in the "A" District.

Supplementary Regulations.

All uses subject to the applicable provisions of Article V.

"SR-2" Single-Family.

Permitted Uses.

Any use permitted in the SR-1 District and as regulated in Section 40-3-6(D) Line 3.

Permitted Accessory Uses.

Any accessory use permitted and as regulated in the SR-1 District.

Exceptions.

Any exception permitted and as regulated in the SR-1 District.

Supplementary Regulations.

All uses subject to the applicable provisions of Article V.

"SR-3" Single Family.

Permitted Uses.

Any use permitted in the SR-2 District and as regulated in Section 40-3-6(D) Line 4.

Permitted Accessory Uses.

Any accessory use permitted and as regulated in the SR-2 District.

Exceptions.

Any exception permitted and as regulated in the SR-2 District.

Supplementary Regulations.

All uses subject to the applicable provision of Article V.

"MR-1" Multi-Family.

Permitted Uses.

Any use permitted in the SR-3 District and as regulated in Section 40-3-6(D), Line 5.
Two and three-family dwellings.
Multi-family dwellings.
Boarding and Rooming houses.
Dormitories or group living facilities for religious, educational or charitable purposes.
Nursing and retirement homes, subject to the provisions of Section 40-4-13.
Nursery schools and orphanages, subject to the provisions of Section 40-4-14.

Permitted Accessory Uses.

Any accessory use permitted and as regulated in the SR-3 District.

Exceptions.

Any exception permitted and as regulated in the SR-3 District.

Special Uses.

None.

Supplementary Regulations.

All uses subject to the applicable provisions of Article V.

"MH-1" Mobile Home.

Permitted Uses.

Any use permitted in the SR-3 District and as regulated in Section 40-3-6(D), Line 6.

Permitted Accessory Uses.

Any accessory use permitted and as regulated in the SR-3 District.

Exceptions.

Any exception permitted and as regulated in the SR-3 District.

Special Uses.

Mobile homes subject to the provisions of Section 40-4-8 and the Mobile Home Code.
Mobile home park subject to the provisions of Section 40-4-8 and the Mobile Home Code.
Immobilized mobile homes subject to the provisions of Section 40-4-8 and the Mobile Home Code.
Modular mobile homes subject to the provisions of Section 40-4-8 and the Mobile Home Code.
Planned Mobile home parks subject to the applicable provisions of Section 40-6-1 and 40-6-3.

Supplementary Regulations.

All uses subject to the applicable provisions of Article V.

(Ord. No. 878; 10-18-16)

"B-1" General Business.

Permitted Uses.

Any use permitted in the SR-3 District and as regulated in Section 40-3-6(D), Line 7.

Places used for the retailing of those commodities which may be classified as "Convenience Goods", "Durable Goods", and "Fashion Goods" as follows:

Apparel stores and shops;

Bakery shop, including the baking and processing of food products for products for retail sales on the premises only;

Candy and ice cream shops;

Commercial institutions, such as banks, savings and loan associations;

Drug stores;

Eating and drinking establishments.

Food stores, including supermarkets, delicatessens, dairy products, meat markets, health foods;

Furniture, home furnishing and appliance stores;

Hardware stores; and

Hobby shops.

Personal service shops, including barber and beauty shops, shoe repair shops, laundries, self-service laundries, dry-cleaning stores, travel agencies, photographers, tailoring.

Pet shops, but not including animal hospitals.

Second-hand stores and rummage shops.

Taverns;

Places of amusement or recreation such as theaters, auditoriums or bowling alleys.

Plumbing, heating and air conditioning sales.

Variety shops.

Other stores and shops, including gift and card shops, leather and luggage, tobacco and news, camera shops, sporting foods, garden shops, antique shops.

General office buildings.

Medical and dental clinics and centers.

Professional and service offices.

Funeral chapels, mortuary chapels and ambulance service.

Membership clubs and public or charitable institutions not for correctional purposes.

Post office or postal substations.

Libraries or museums, providing that all principal buildings are located at least **twenty-five (25) feet** from all property lines.

Art galleries and studios.

Meeting halls; and

Radio and TV broadcasting stations.

Preparation and manufacture of goods or products for retail sales on the premises only, provided that such manufacture process or treatment shall be clearly incidental and essential to the retail business conducted on the premises and further provided that not more than **five (5) persons** (exclusive of manager) shall be engaged in said manufacture, processing, or treatment of products and that all such operations create no undue noise, odor, dust, smoke, vibrations or other similar nuisance.

Sale of new automobiles and/or new automobile accessories and parts.

Bus terminal and other public transportation terminal facilities for passengers.

Parking lots and parking garages subject to the applicable provisions of Article IX.

Service stations subject to the applicable provisions of Section 40-4-7.

Places of amusement and recreation including bowling lanes and drive-in theaters.

Automotive, repair and service.

Air conditioning equipment, sales, installation.

Business machines, sales, repair and service.

"B-1" General Business

Cold storage.
Drive-in restaurants.
Locksmiths' repair shops.
Newspaper printing.
Photo-engraving company.
Provided that neither junk yards, the dismantling of vehicles or the storage of dismantled vehicles, petroleum bulk plants, or outside storage of inflammable liquids or explosives, shall be permitted in this district; and provided further that adequate safeguards (structural, mechanical and locational) shall be provided to protect adjoining properties from the effects of noisome or injurious substances, conditions and operations as defined in Section 40-5-11.

Permitted Accessory Uses.

Any accessory use permitted and as regulated in the MR-1 District.
Commercial greenhouses, subject to the provisions of Section 40-4-15.
Storage of merchandise or inventory usually carried in stock; provided that such storage shall be located on the lot with the retail, service or commercial use and shall be within a completely enclosed building.
Service garage, only if in conjunction with an accessory and incidental to the sale of new automobiles.
Accommodations for caretakers, watchmen or custodians.

Exceptions.

Any exception permitted and as regulated in the MR-1 District.

Special Uses.

Planned business centers subject to the applicable provisions of Section 40-6-1 and 40-6-4.

Supplementary Regulations.

All uses subject to the applicable provisions of Article V.

"B-2" Uptown Business.

Permitted Uses.

- Any use permitted in the SR-3 District and as regulated in Section 40-3-6(D), Line 7.
- Places used for the retailing of those commodities which may be classified as "Convenience Goods", "Durable Goods", and "Fashion Goods" as follows:
  - Apparel stores and shops;
  - Bakery shop, including the baking and processing of food products for products for retail sales on the premises only;
  - Candy and ice cream shops;
  - Commercial institutions, such as banks, savings and loan associations;
  - Drug stores;
  - Eating and drinking establishments.
  - Food stores, including supermarkets, delicatessens, dairy products, meat markets, health foods;
  - Furniture, home furnishing and appliance stores;
  - Hardware stores; and
  - Hobby shops.
- Personal service shops, including barber and beauty shops, shoe repair shops, laundries, self-service laundries, dry-cleaning stores, travel agencies, photographers, tailoring.
- Pet shops, but not including animal hospitals.
- Second-hand stores and rummage shops.
- Taverns;
- Plumbing, heating and air conditioning sales and installation.
- Variety shops.
- Other stores and shops, including gift and card shops, leather and luggage, tobacco and news, camera shops, sporting goods, garden shops, antique shops.
- General office buildings.
- Medical and dental clinics and centers.
- Professional and service offices.
- Funeral chapels, mortuary chapels and ambulance service.
- Membership clubs and public or charitable institutions not for correctional purposes.
- Post office or postal substations.
- Libraries or museums, providing that all principal buildings are located at least **twenty-five (25) feet** from all property lines.
- Art galleries and studios.
- Radio and TV broadcasting stations.
- Preparation and manufacture of goods or products for retail sales on the premises only, provided that such manufacture process or treatment shall be clearly incidental and essential to the retail business conducted on the premises and further provided that not more than **five (5) persons** (exclusive of manager) shall be engaged in said manufacture, processing, or treatment of products and that all such operations create no undue noise, odor, dust, smoke, vibrations or other similar nuisance.
- Sale of new automobiles and/or new automobile accessories and parts.
- Bus terminal and other public transportation terminal facilities for passengers.
- Parking lots and parking garages subject to the applicable provisions of Article IX.
- Service stations subject to the applicable provisions of Section 40-4-7.
- Automotive, repair and service.
- Business machines, sales, repair and service.
- Cold storage.
- Drive-in restaurants.

"B-2" Uptown Business

Locksmiths' repair shops.
Newspaper printing.
Photo-engraving company.
Provided that neither junk yards, the dismantling of vehicles or the storage of dismantled vehicles, petroleum bulk plants, or outside storage of inflammable liquids or explosives, shall be permitted in this district; and provided further that adequate safeguards (structural, mechanical and locational) shall be provided to protect adjoining properties from the effects of noisome or injurious substances, conditions and operations as defined in Section 40-5-11.

Permitted Accessory Uses.

Any accessory use permitted and as regulated in the MR-1 District.
Commercial greenhouses, subject to the provisions of Section 40-4-15.
Storage of merchandise or inventory usually carried in stock; provided that such storage shall be located on the lot with the retail, service or commercial use and shall be within a completely enclosed building.
Accommodations for caretakers, watchmen or custodians.

Exceptions.

Any exception permitted and as regulated in the MR-1 District.

Special Uses.

Planned business centers subject to the applicable provisions of Section 40-6-1 and 40-6-4.

Supplementary Regulations.

All uses subject to the applicable provisions of Article V.

(Ord. No. 970; 40-3-7D)

"I" Industrial

Permitted Uses.

Any use permitted in the "B-1" General Business District and as regulated in Section 40-3-6(D), Line 8, and further provided that the following uses shall not be permitted:
Dwellings;
Boarding and rooming houses;
Dormitories, fraternity and sorority houses;
Apartment hotels;
Mobile homes or mobile home parks and any uses for living quarters not specifically provided for in the portion of this Section entitled "Permitted Accessory Uses".

Agricultural implement sales, repair and service.
Air conditioning equipment, custom fabrication and installation.
Animal hospitals when conducted entirely within an enclosed building.
Beverages, bottling.
Book publishing, printing.
Business machines, storage and wholesale.
Candy, wholesale distribution.
Carpenters' shops and power woodworking.
Carpet and rug cleaners and storage.
Cement products, wholesale (pipe, blocks, etc.).
Cleaning and dyeing processing.
Contractors, equipment and material storage.
Dairies, distributing and pasteurization.
Decoration, workshop and equipment yards.
Display, designers' and builders' shops.
Dry cleaning establishment, bulk processing.
Electric equipment, assembly and repair.
Express companies, warehouses.
Feed and seed stores;
Food products, brokers, distributors and warehousing.
Furniture, repairing and refinishing.
Locksmiths' repair shop.
Machine and equipment rental service.
Roofing materials, storage and sales.
Storage of automobiles.
Storage yards, bulk material.
Surgical supplies, wholesale distributor.
Tents and awning manufacture.
Trailer sales.
Termite control contractor shops.
Warehouses.
Water softening equipment, service and repairs.
Weighers, commercial.
Welding, equipment and supplies, storage.

Any commercial, industrial, or manufacturing operation which is not detrimental to the public health, safety or general welfare, and provided that neither junk yards, the dismantling of vehicles nor the storage of dismantled vehicles, petroleum bulk plants, or outside storage of inflammable liquids or explosives, shall be permitted in this district; and provided further that adequate safeguards (structural, mechanical and locational) shall be provided to protect adjoining properties from the effects of noisome or injurious substances, conditions and operations as defined in Section 40-5-11.

"I" Industrial

Permitted Accessory Uses.

Any accessory use permitted and as required in the "B-1" District.

Storage of merchandise or inventory usually carried in stock, provided that all outdoor storage shall be completely concealed by a fence at least six (6) feet in height.

Exceptions.

None.

Special Uses.

Soil mining, mineral extraction.

Sanitary landfill.

Planned business centers subject to the applicable provisions of Sections 40-6-1 and 40-6-4.

Supplementary Regulations.

All uses subject to the applicable provision of Article V.

References Are To Section Numbers

-A-

Abandoned Vehicles,
abandonment, 24-7-2
collection of unpaid charges, 24-7-12
definitions, 24-7-1
disposal of hazardous dilapidated motor vehicles, 24-7-11
disposal of unclaimed vehicle, 24-7-9
disposal of unclaimed vehicle without notice, 24-7-10
identifying and tracing vehicle, 24-7-7
liability, 24-7-15
notification to law enforcement, 24-7-3
police record for disposed vehicle, 24-7-13
police tows, 24-7-5
public sale proceeds, 24-7-14
reclaimed vehicles – expenses, 24-7-8
record searches, 24-7-6
removal of motor vehicles or other vehicles – towing or hauling away, 24-7-4
violations, 24-7-16

Administration,
Attorney, village
- collection of taxes, 1-3-50(F)
- commissions, 1-3-50(G)
- compensation of, 1-3-49
- duties of, 1-3-50
- judgments, 1-3-50(C)
- ordinance preparation, 1-3-50(B)
- prosecute for village, 1-3-50(A)
- services of, 1-3-49
- suits by, 1-3-50(E)
- violation of ordinances, 1-3-50(D)

bidding procedures, 1-2-26
bonds, 1-2-24
claims, 1-2-29
clerk, village,
- bond of, 1-2-24
- business licenses, 7-1-1
- delivery of licenses, 1-3-19
- delivery of papers, 1-3-19
- deputy clerk for, 1-3-30
- election of, 1-3-16
- license report, 1-3-22
- licenses issuance, 1-3-21
- minutes, 1-3-18
- notice to appointed officials, 1-3-28
- oaths administered by, 1-3-23
- other duties, 1-3-29
- outstanding bonds, 1-3-24
- payments, 1-3-27

Administration, (Continued)
clerk, village, (Continued)
- peddler's license, 7-3-3
- poker run license, 7-5-4
- preparation of commissions, 1-3-20
- raffle licenses, 7-5-3
- reports by, 1-3-25
- seal, in custody of, 1-2-18
- successor of, 1-3-26
- term of, 1-3-169

code enforcement officer,
- creation of position, 1-3-61
- duties, 1-3-62

committees, 1-2-4
conservation of peace, 1-2-21(H)
contracts, 1-2-27
elections, village, 1-2-19
expenses of, 1-2-31
fiscal year, 1-1-16
general,
- appointment of elected officials, 1-2-20
- bidding, 1-2-26
- bonds, 1-2-24
- claims, 1-2-29
- contracts, 1-2-27
- elections, 1-2-19
- expenses – reimbursement, 1-2-31
- federal old age and survivor's insurance system, 1-2-33
- IMRF, 1-2-34
- liability insurance, 1-2-25
- municipal officers, regulations, 1-2-21
- municipal year, 1-2-30
- official records, 1-2-32
- qualifications, 1-2-23
- resignation of appointed officials, 1-2-22
- salaries regulation, 1-2-28
- seal, 1-2-18
- territorial jurisdiction, 1-2-35

governmental unit remote attendance policy, Addendum "A"
management association,
- contribution, 1-5-2
- participation, 1-5-1

mayor,
- appointments by,
  - committees, 1-2-4
  - officers, 1-3-5
  - police chief, 30-2-2
  - treasurer, 1-3-34

Administration, (Continued)
mayor, (Continued)
- bond, 1-2-24
- business license commissioner, 1-3-10
- chief executive officer, 1-3-3
- conduct of officers, 1-3-6
- deciding vote by, 1-3-13
- designation of duties by, 1-3-7
- duties of, 1-3-9
- election of, 1-3-1
- formal occasions, 1-3-8
- general duties of, 1-3-9
- health commissioner, 1-3-12
- local liquor commissioner, 1-3-11
- pro-tem, 1-3-2
- revoking business licenses, 7-1-13.3
- salary of, 1-4-1(A)
- signature required of, 1-3-4
- street closing by, 33-2-5
- term of, 1-3-1
- tie-votes and, 1-3-13
- voting by, 1-3-13

meetings,
- absences from, 1-2-7
- quorum, 1-2-6
- regular, 1-2-2
- special, 1-2-3
- time, 1-2-2

meeting procedures,
- recording closed meetings
  - backup equipment, 1-6-5
  - closed session minutes, 1-6-3
  - maintenance, 1-6-7
  - procedure for destruction, 1-6-8
  - procedure for recording, 1-6-4
  - procedure for review, 1-6-6
  - recording closed sessions, 1-6-1
  - responsibility, 1-6-2
- remote meeting participation,
  - amendment of previous terms, 1-6-13
  - definition of meeting, 1-6-12
  - remote participation policy, 1-6-14
  - statutory authority, 1-6-11

motions,
- precedence, 1-2-11(P)
- record of, 1-2-11(N)
- seconding, 1-2-11(L)
- to adjourn, 1-2-11(Q)
- to amend, 1-2-11(V)
- to defer, 1-2-11(T)
- to refer, 1-2-11(U)
- to substitute, 1-2-11(X)
- to table, 1-2-11(S)

Administration, (Continued)
municipal year, 1-2-30
oath, 1-2-21(I)
officers,
- appointment of, 1-2-21(A)
- conservators of peace, 1-2-21(H)
- fees, 1-2-21(F)
- inspection of books, 1-2-21(E)
- oath, 1-2-21(I)
- report of fees, 1-2-21(F)
- successor delivery of books to, 1-2-21(D)

official records, 1-2-32
ordinances, 1-2-14
- no vote at special meeting, 1-2-16
- reconsideration, 1-2-15

quorum, 1-2-6
request for auxiliary aid(s) and/or service(s), Addendum "B"
rules, board,
- address by non-members, 1-2-13
- agenda, 1-2-12
- business, order of, 1-2-11(A)
- call to order, 1-2-11(G)
- censure, 1-2-11(BB)
- chair, decisions of, 1-2-11(H)
- changes of vote, 1-2-11(O)
- debate, 1-2-11(F)
- division of questions, 1-2-11(M)
- filling of blanks, 1-2-11(W)
- members, duties of, 1-2-11(C)
- motions, (See Title)
- new business, 1-2-11(E)
- presiding officer, 1-2-11(B)
- previous question, 1-2-11(R)
- question of personal privilege, 1-2-11(I)
- reconsideration, 1-2-11(Y)
- "rules of order" adopted, 1-2-11(Z)
- special order of business, 1-2-11(K)
- suspension of rules, 1-2-11(AA)
- visitors, 1-2-11(D)
- voting, 1-2-11(J)

salaries, 1-4-1
seal, 1-2-18
successor,
- books delivered to, 1-2-21(D)

superintendent of public works,
- department employees, 1-3-57
- duties, 1-3-54
- lighting, 1-3-56
- office created, 1-3-53
- property custodian, 1-3-58
- streets, 1-3-55

Administration, (Continued)
treasurer, village,
- accounts by, 1-3-35
- annual report of, 1-3-43
- appointment of, 1-3-34
- appropriations, 1-3-44
- bond of, 1-2-24, 1-3-38
- bookkeeping, 1-3-40
- committee established, 1-3-32
- deposit of funds, 1-3-45
- fee for returned checks, 1-3-46
- finance committee, 1-3-33
- investments by, 1-3-45
- official depositories, 1-3-45(F)
- personal use of funds, 1-3-37
- report delinquent officers, 1-3-42
- special assessments, 1-3-39
- statements by, 1-3-41
- warrant register, 1-3-36
- warrants by, 1-3-35
- year-end report, 1-3-43

trustees, board of,
- censure, 1-2-11(BB)
- committees of, 1-2-4
- compensation, 1-4-1
- composition and general powers, 1-2-1
- meetings of, 1-2-2
- non-attendance by members, 1-2-7
- ordinances of, 1-2-14
- quorum, 1-2-6
- rules of, 1-2-11
- special committees, 1-2-5
- special meetings, 1-2-3

vacancies,
- appointment to fill trustee vacancy, 1-2-52
- by death or disability, 1-2-49
- by other causes, 1-2-50
- by resignation, 1-2-48
- due to election being declared void, 1-2-54
- election of an acting mayor, 1-2-51
- election to fill vacancies with four (4) year terms, 1-2-53
- owing a debt to village, 1-2-55

year,
- fiscal, 1-1-16
- municipal, 1-2-30

Advertising,
on trees, 33-3-5
over streets, 33-2-6

Animals,
cat code,
- collars for, 3-5-7
- definitions, 3-5-1
- destroying property, 3-5-9
- enforcement, 3-5-11
- impounded cats, 3-5-14
- injuring, 3-5-12
- interference with capture, 3-5-18
- license for,
  - information for, 3-5-5
  - required, 3-5-3
  - tags, 3-5-4
- observation procedures, 3-5-13
- public nuisance, 3-5-8
- removal of tags, 3-5-7
- running at large, 3-5-6
- sanitation requirements, 3-5-10
- shelter fees for, 3-5-15
- shelter registration, 3-5-17
- time limit for impounding, 3-5-16
- vaccinations, 3-5-2

dogs and cats,
- as nuisance, 3-2-15
- barking, 3-1-5
- bitch in heat, 3-2-17
- biting, 3-2-11
- collars required, 3-2-2
- confinement in motor vehicles, 3-2-19
- definitions, 3-2-1
- duration of inoculation, 3-2-4
- exhibition of certificate upon request, 3-2-6
- females at large, 3-2-16
- impounding, 3-2-12
- notice to owner, 3-2-9
- pound designated, 3-2-14
- poundmaster, 3-2-10
- redemption of impounded, 3-2-13
- removal of excrement, 3-2-18
- restraint of, 3-2-7
- running at large, 3-2-8
- specifications for tag, 3-2-5
- tags, 3-2-2
- vaccination of, 3-2-3
- vicious animals prohibited, 3-2-20

general regulations,
- animals,
  - cruelty to, 3-1-6
- bitch in heat, 3-2-17
- definitions, 3-1-2
- health hazard, 3-1-8
- housing, 3-1-4
- in village, 3-1-10

Animals, (Cont'd.)
general regulations, (Cont'd.)
- injury to property, 3-1-3
- keeping barking dogs and crying cats, 3-1-5
- keeping of wild, 3-1-7
- limitation of, 3-1-9
- manner of keeping, 3-1-4
- short title, 3-1-1

licenses,
- dog or hobby kennel or cattery permit, 3-6-7

tethering, 3-4-1
vicious and dangerous dogs,
- definitions, 3-3-+1
- injunction, 3-3-5
- inspection of premises, 3-3-7
- leaving premises, 3-3-4
- liability of owner, 3-3-6
- penalties for, 1-1-20
- responsibility of owner, 3-3-3
- unlawful to maintain, 3-3-2

Assembly,
disturbing, 27-2-3
Attorney, Village, 1-3-49, 1-3-50

- B -

Banks, 1-3-45
Begging, 27-2-18
Bonds, 1-2-24
Building Regulations,
International Building Code, 6-2-1
International Residential Code, 6-3-1
permits,
- fees for, 6-1-2
- required, 6-1-1

Building Regulations, (Cont'd.)
residential rental property license,
- administrative appeals, 6-4-13
- changes in ownership, 6-4-8
- definitions, 6-4-2
- enforcement, 6-4-6
- fees, 6-4-9
- notice of violation, 6-4-12
- owner/agent and management company permit application, 6-4-4
- permit required, 6-4-3

Building Regulations, (Cont'd.)
residential rental property license, (Cont'd.)
- permit suspension, 6-4-10
- purpose, 6-4-1
- safety and security, 6-4-11
- tenant/lessee permit application, 6-4-5
- violations, 6-4-7

Business, (Code)
adult use business,
- adult entertainment cabarets – restrictions, 7-6-14
- business records, 7-6-12
- definitions, 7-6-2
- expiration of license, 7-6-8
- fees, 7-6-6
- hours of operation, 7-6-16
- inspection, 7-6-7
- investigation, 7-6-17
- issuance of license, 7-6-4
- license required, 7-6-3
- liquor, 7-6-5
- liquor license, 7-6-13
- purpose, 7-6-1
- revocation, 7-6-10
- suspension, 7-6-9
- transfer of license, 7-6-11
- video viewing booths, restrictions, 7-6-15

administration of,
- appeal of revocation, 7-1-14
- applications for, 7-1-1
- business vehicle sticker, 7-1-16
- change of location, 7-1-8
- commissioner, 1-3-10
- inspections, 7-1-12
- licenses,
  - building and premises, 7-1-7
  - fees for, 7-1-5
  - form of, 7-1-3
  - investigations of, 7-1-4
  - nuisance, 7-1-10
  - person subject to, 7-1-2
  - posting of, 7-1-15
  - revocation of, 7-1-13
  - suspension of, 7-1-13
  - term of, 7-1-6
  - termination of, 7-1-6
- location of, 7-1-9
- refuse disposal, 7-1-10.3
- revocation of, 7-1-13
- storage units, 7-1-17

Business, (Code), (Cont'd.)
administration of, (Cont'd.)
- suspension, revocation,
  counsel, 7-1-13.5
  hearing, 7-1-13.2
  hearing notice, 7-1-13.4
  nuisance, 7-1-13.1
  revocation, 7-1-13.3
- working conditions, 7-1-11
  health requirements, 7-1-11.1
  heat required, 7-1-11.3
  inspection, 7-1-11.4
  sanitation, 7-1-11.2

coin-operated machines,
- application, 7-4-3
- closing hours, 7-4-10
- definitions, 7-4-1
- display of license, 7-4-8
- fees, 7-4-5
- gambling regulations, 7-4-7
- license, 7-4-2
- non-assignability of license, 7-4-6
- prohibited licensees, 7-4-4
- right of entry, 7-4-9

peddlers,
- application, 7-3-3
- definitions, 7-3-2
- farmers excluded, 7-3-11
- fees, 7-3-12
- fraud, 7-3-6
- hours, 7-3-5
- investigation, 7-3-4
- license for, 7-3-1
- nuisance3, 7-3-9
- photographs of, 7-3-7
- police action, 7-3-10
- unwanted, 7-3-8

raffles and poker runs,
- application for poker runs, 7-5-4
- application for raffles, 7-5-3
- conduct, 7-5-7
- definitions for, 7-5-1
- licensee qualifications, 7-5-5
- licenses for,
  issuance of, 7-5-6
  required, 7-5-2
- limited construction, 7-5-10
- manager, bond, 7-5-8
- prize limitations, term, 7-5-11
- records, 7-5-9

solicitors,
- application, 7-2-3
- charitable, 7-2-10
- definitions, 7-2-1

Business, (Code), (Cont'd.)
- license for,
  fees for, 7-2-11
  issuance, 7-2-4
  policy for, 7-2-5
  revocation of, 7-2-4
- public highways, 7-2-10
- registration as, 7-2-2
- time limit, 7-2-9
- uninvited, 7-2-8

- C -

Cable Television,
cable and video customer protection law,
- customer credits, 8-1-4
- customer service and privacy protection law, 8-1-1
- enforcement, 8-1-2
- penalties, 8-1-3

cable/video provider fee,
- applicable principles, 8-2-3
- audits, 8-2-5
- definitions, 8-2-1
- fee imposed, 8-2-2
- late fees/payments, 8-2-6
- no impact on other taxes, 8-2-4

small wireless facilities,
- definitions, 8-3-2
- dispute resolution, 8-3-4
- indemnification, 8-3-5
- insurance, 8-3-6
- purpose and scope, 8-3-1
- regulation, 8-3-3
- severability, 8-3-7

Cat Regulations,
collars for, 3-5-7
definitions, 3-5-1
destroying property, 3-5-9
enforcement, 3-5-11
impounded cats, 3-5-14
injuring, 3-5-12
interference with capture, 3-5-18
license for,
- information for, 3-5-5
- required, 3-5-3
- tags, 3-5-4

observation procedures, 3-5-13
public nuisance, 3-5-8
removal of tags, 3-5-7
running at large, 3-5-6
sanitation requirements, 3-5-10
shelter fees for, 3-5-15
shelter registration, 3-5-17

Cat Regulations, (Cont'd.)
time limit for impounding, 3-5-16
vaccinations, 3-5-2
Cellars,
as nuisance, 25-1-1(K)
Cemeteries,
damaged monuments, 9-1-7
division of lot after interment, 9-1-14
generally, 9-1-1
grave fees, 9-1-12
grave openings, fees, 9-1-13
level gravesites, 9-1-8
maintenance, 9-1-15
monument permits, 9-1-2
monument regulations, 9-1-3
multiple burials in one lot, 9-1-5
planting prohibited, 9-1-9
removal of decorations, 9-1-10
transfer of lots, 9-1-6
trash and garbage, 9-1-16
vaults required, 9-1-11
veteran's markers, 9-1-4
Chief of Police, (See Public Safety)
Civil Emergency,
curfew declared, 30-1-3
declaration of, 30-1-2
definitions, 3-1-1
effectiveness, 30-1-5
mayoral orders for, 30-1-4
notification, 30-1-6
Claims against Village, 1-2-29
Clerk, Village,
bond of, 1-2-24
business licenses, 7-1-1
delivery of licenses, 1-3-19
delivery of papers, 1-3-19
deputy clerk for, 1-3-30
election of, 1-3-16
license report, 1-3-22
licenses issuance, 1-3-21
minutes, 1-3-18
notice to appointed officials, 1-3-28
oaths administered by, 1-3-23
other duties, 1-3-29
outstanding bonds, 1-3-24
payments, 1-3-27
peddler's license, 7-3-3
poker run license, 7-5-4
preparation of commissions, 1-3-20
raffle licenses, 7-5-3
reports by, 1-3-25
seal, in custody of, 1-2-18
successor of, 1-3-26
term of, 1-3-169
Concealed weapons, 27-2-19
Construction of Utility Facilities,
action on permit applications, 33-4-5
annual registration required, 33-4-3
change of ownership, 33-4-12
cleanup and restoration, 33-4-19
construction methods and materials, 33-4-16
definitions, 33-4-2
effect of permit, 33-4-6
enforcement, 33-4-23
general construction standards, 33-4-13
indemnification, 33-4-9
insurance, 33-4-8
location of facilities, 33-4-15
maintenance, 33-4-20
penalties, 33-4-22
permit required, 33-4-4
permit suspension and revocation, 33-4-11
purpose and scope, 33-4-1
removal, relocation, or modification, 33-4-18
revised permit drawings, 33-4-7
security, 33-4-10
traffic control, 33-4-14
variances, 33-4-21
vegetation control, 33-4-17
Contracts, 1-2-27
Culverts in Streets, (See Streets)
application for permit, 33-6-3
backfill cost, 33-6-7
installation cost, 33-6-6
obstruction of drain or storm sewer, 33-6-1
permit for culvert, 33-6-2
termination of permit, 33-6-4
type of culvert, 33-6-5
Curbs and Gutters, 33-5-2
Curfew, 27-2-32

- D -

Definitions, 1-1-16
Disorderly Conduct, 27-4-1
Disturbing peace, 27-2-6
Dogs and Cats,
as nuisance, 3-2-15
barking, 3-1-5
bitch in heat, 3-2-17
collars required, 3-2-2
definitions, 3-2-1
females at large, 3-2-16
impounding, 3-2-12
notice to owner, 3-2-9
poundmaster, 3-2-10
restraint of, 3-2-7

Dogs and Cats, (Cont'd.)
tags, 3-2-2
vaccination of, 3-2-3
Driveways,
breaking curb, bond required, 33-7-5
fee, 33-7-2
grade surface, 33-7-3
permit required, 33-7-1
repair, 33-7-6
specifications, 33-7-4
Drug free workplace,
definitions, 22-8-1
requirements, 22-8-2
Drug/alcohol testing,
applicability, 22-9-4
confidentiality, 22-9-7
consequences, 22-9-8
definitions, 22-9-2
policy, 22-9-1
prohibited actions, 22-9-4
screening and testing, 22-9-6
testing procedure, 22-9-5

- E -

Elections, 20
Emergency Management Agency (EMA),
appropriations and levy of tax, 30-2-13
authority to accept services, gifts, grants or loans, 30-2-14
communications, 30-3-10
compensation, 30-3-19
definitions, 30-3-3
emergency management agency, 30-3-4
emergency management powers of the mayor, 30-3-5
emergency termination or reduction of electrical service, 30-3-21
financing, 30-3-6
immunity, 30-3-11
limitations, 30-3-2
local disaster emergencies, 30-3-7
mutual aid arrangements between political subdivisions, 30-3-9
no private liability, 30-3-17
orders, rules and regulations, 30-3-15
penalty, 30-3-22
personnel oath, 30-3-20
policy and procedures, 30-3-1
professions, trades and occupations, 30-3-12
succession, 30-3-18
testing of disaster warning devices, 30-3-8
Emergency Management Agency (EMA), (Cont'd.)
utilization of existing agency, facilities and personnel, 30-3-16
Employees,
catastrophic injury,
- administrative composition, 12-2-4
- administrative hearing, 12-2-5
- appointment procedure, 12-2-3
- definitions, 12-2-2
- purpose, 12-2-1

definitions, 12-1-1
disability pay, 12-1-12
discharge or suspension of employees, 12-1-3
full and part-time, 12-1-8
funeral leave, 12-1-9
hire, 12-1-2
holidays, 12-1-7
jury duty, 12-1-10
mayor, 12-1-4
on-call compensation, 12-1-3
paid time off days, 12-1-6
uniforms, 12-1-11
vacations, 12-1-5
Equal Employment,
accommodations for disabled, 22-7-6
adoption of codes, 22-7-1
compliance by employees, 22-7-7
contracting with non-complaints, 22-7-3
designated enforcers, 22-7-8
minority hiring, 22-7-5
non-discriminatory practices, 22-7-2
outreach to all, 22-7-4
Ethics, 22-6-1

- F -

Fair Housing Code,
advertisements, 22-4-8, 22-4-15
advertisements, causing or permitting, 22-4-9
complaints, 22-4-23
construction, 22-4-3
coverage, 22-4-20
definitions, 22-4-4
discrimination in lending, 22-4-18
discriminatory terms, 22-4-5
enforcement, 22-4-25
exemptions, 22-4-11
fines, 22-4-27
hearings by village board, 22-4-24
licensing, 22-4-17
limitations, 22-4-12

Fair Housing Code, **(Cont'd.)**
other violations, 22-4-22
purpose and declaration of policy, 22-4-2
refusals to deal, 22-4-6
refusals to deal in lending, 22-4-19
refusals to offers, 22-4-14
remedies, 22-4-26
representation, 22-4-21
short title, 22-4-1
signs and notices, 22-4-10, 22-4-16
withholding housing, 22-4-7, 22-4-13
Filth, 25-1-1
Firearms, 27-2-20
Fiscal year, 1-1-16
Flood Plain Code,
abrogation and greater restrictions, 14-1-12
base flood elevation, 14-1-3
definitions, 14-1-2
development permit, 14-1-5
disclaimer of liability, 14-1-10
duties of building official, 14-1-4
penalty, 14-1-11
preventing increased flood heights and resulting damages, 14-1-6
protecting buildings, 14-1-7
purpose, 14-1-1
subdivision and other development requirements, 14-1-8
variances, 14-1-9
F.O.P. Contract, 30-4-1, Addendum "A"
Franchises,
electric, 15-2-1, Addendum "B"
gas, 15-1-1, Addendum "A"
Monroe County electric co-op, 15-3-1, Addendum "C"
Freedom of Information Policy,
certain information exempt, 22-3-9
designation, duties and training, 22-3-2
fees, 22-3-6
granting or denial of requests, 22-3-8
notice of denial, 22-3-10
procedures, 22-3-3
public file, 22-3-7
public records available, 22-3-1
request for commercial purposes, 22-3-5
requests to inspect or copy, 22-3-4

- G -

Games in streets, 27-2-21
Garbage Regulations,
accumulation of garbage unlawful, 16-1-9
application for license, 16-1-3
definitions, 16-1-1
Garbage Regulations, **(Cont'd.)**
franchise agreement, 16-2-1
garbage falling from truck, 16-1-8
industry, construction, etc., 16-1-11
license required, 16-1-2
location of yards for equipment, 16-1-10
parked garbage trucks, 16-1-5
revocation of permit, 16-1-12
truck requirement, cleanliness, 16-1-4
truck wastewaters, 16-1-6
windblown garbage unlawful, 16-1-7

- I -

Identity Theft,
policy,
- detecting red flags, 22-1-4
- identification of red flags, 22-1-3
- preventing and mitigating, 22-1-5
- program administration, 22-1-7
- program adoption, 22-1-1
- program purpose and definitions, 22-1-2
- program updates, 22-1-6

use of social security numbers,
- amendment of privacy policy, 22-2-9
- applicability, 22-2-4
- compliance with federal law, 22-2-5
- conflict with stricter laws, 22-2-10
- definitions, 22-2-1
- embedded numbers, 22-2-6
- identity protection requirements, 22-2-7
- penalty, 22-2-8
- prohibited activities, 22-2-2
- public inspection, 22-2-3

Illinois Management Association, 1-5-1
Inoperable Vehicles,
declaration of nuisance, 25-4-2
definitions, 25-4-1
exclusions, 25-4-8
foreclosure of lien, 25-4-7
hearing and appeal, 25-4-4
lien, 25-4-5
notice to owner, 25-4-3
payment, 25-4-6
Intoxicated Driving,
adoption of statutes, 24-8-4
blood tests, 24-8-3
person intoxicated, 24-8-1
person on drugs, 24-8-2

Investment Policy,
authorized and suitable investments, 22-5-8
authorized financial dealers and institutions, 22-5-7
collateralization, 22-5-9
delegation of authority, 22-5-5
diversification, 22-5-11
ethics and conflicts of interest, 22-5-6
internal control, 22-5-13
investment policy adoption, 22-5-17
market to market, 22-5-16
maximum maturities, 22-5-12
objectives, 22-5-4
performance standards, 22-5-14
policy, 22-5-1
prudence, 22-5-3
reporting, 22-5-15
safekeeping and custody, 22-5-10
scope, 22-5-2

- L -

Licenses, Liquor, 21-2-1
Liquor,
definitions, 21-1-1
licenses,
- applications, 21-2-2
- classification/fee/limitation, 21-2-7
- display of, 21-2-11
- dramshop insurance, 21-2-10
- examination of applicant, 21-2-3
- limitation of, 21-2-9
- nature of, 21-2-8
- prohibited licensees, 21-2-4
- record of, 21-2-12
- required, 21-2-1
- requisites for manager, 21-2-5
- term, fee submitted in advance, 21-2-6

regulations,
- BASSET training, 21-3-34
- books and records, available upon reasonable notice and maintained in state records, 21-3-27
- change of location, 21-3-4
- diseased employees, 21-3-14
- disorderly house, 21-3-18
- election days, 21-3-10
- exclusionary provision, 21-3-25
- false identification, 21-3-30
- gambling, 21-3-17
- happy hour restrictions, 21-3-2
- health permit, 21-3-15
- hours, 21-3-1
- identification required, 21-3-22

Liquor, (Cont'd.)
regulations, (Cont'd.)
- inspections, 21-3-26
- liquor in vehicles, underage, 21-3-8
- open liquor, cup-to-go prohibited, 21-3-7
- peddling, 21-3-16
- persons selling liquor, 21-3-20
- posting warning, 21-3-24
- prohibited locations, 21-3-3
- prohibited sales, generally, 21-3-19
- renting hotel rooms for drinking, 21-3-33
- residential drinking, 21-3-32
- restricted residential areas, 21-3-9
- restrictions on licensee, 21-3-28
- sanitary conditions, 21-3-13
- selling false identification, 21-3-29
- stores, selling school supplies, lunches, etc., 21-3-5
- transfer of identification card, 21-3-23
- transporting, etc., in motor vehicles, 21-3-6
- underaged drinking on streets, 21-3-31
- unlawful acts, 21-3-11
- unlawful entertainment, 21-3-12
- unlawful purchase of liquor, 21-3-21

violations and penalties,
- abatement of place used in violation, 21-4-6
- acts of agent or employee, liability, knowledge, 21-4-2
- appeal limitations for subsequent violation, 21-4-13
- appeals from order of local liquor control commissioner, 21-4-11
- complaint by residents, 21-4-9
- misbranding, 21-4-5
- owner of premises permitting violation, 21-4-1
- revocation of license after conviction, 21-4-3
- revocation of license when employee convicted, 21-4-4
- revocation of licenses, 21-4-8
- revocation or suspension of local license, notice and hearing, 21-4-10
- subsequent violations in a year, 21-4-12
- use of premises for one year after revocation, 21-4-7

Litter Code,
aircraft, 27-5-8
construction sites, 27-5-12
definitions of, 27-5-1
handbills, 27-5-10
loading docks, 27-5-13
owner to maintain private premises, 27-5-6

Litter Code, (Cont'd.)
park, 27-5-9
parking lots, 27-5-14
posting notices, 27-5-11
prohibited, 27-5-2
receptacles for, 27-5-4
scattering of, 27-5-3
sidewalks from, 27-5-5
vehicles, 27-5-7

- M -

Mandated Policies,
drug free workplace,
- definitions, 22-8-1
- requirements, 22-8-2

drug/alcohol testing,
- applicability, 22-9-4
- confidentiality of results, 22-9-7
- consequences, 22-9-8
- definitions, 22-9-2
- policy, 22-9-1
- prohibited actions, 22-9-3
- screening and testing, 22-9-6
- testing procedure, 22-9-5

equal employment policy,
- accommodations for disabled, 22-7-6
- adoption of codes, 22-7-1
- compliance by employees, 22-7-7
- contracting with non-complaints, 22-7-3
- designated enforcers, 22-7-8
- minority hiring, 22-7-5
- non-discriminatory practices, 22-7-2
- outreach to all, 22-7-4

ethics code, 22-6-1
fair housing code,
- advertisements, 22-4-8, 22-4-15
- advertisements, causing or permitting, 22-4-9
- complaints, 22-4-23
- construction, 22-4-3
- coverage, 22-4-20
- definitions, 22-4-4
- discrimination in lending, 22-4-18
- discriminatory terms, 22-4-5
- enforcement, 22-4-25
- exemptions, 22-4-11
- fines, 22-4-27
- hearings by village board, 22-4-24
- licensing, 22-4-17
- limitations, 22-4-12
- other violations, 22-4-22
- purpose and declaration of policy, 22-4-2

Mandated Policies, (Cont'd.)
fair housing code, (Cont'd.)
- refusals to deal, 22-4-6
- refusals to deal in lending, 22-4-19
- refusals to offers, 22-4-14
- remedies, 22-4-26
- representation, 22-4-21
- short title, 22-4-1
- signs and notices, 22-4-10, 22-4-16
- withholding housing, 22-4-7, 22-4-13

freedom of information policy,
- certain information exempt, 22-3-9
- designation, duties and training, 22-3-2
- fees, 22-3-6
- granting or denial, 22-3-8
- notice of denial, 22-3-10
- procedures, 22-3-3
- public file, 22-3-7
- public records available, 22-3-1
- request for commercial purposes, 22-3-5
- requests to inspect or copy, 22-3-4

identity theft,
- policy,
  - detecting red flags, 22-1-4
  - identification of red flags, 22-1-3
  - preventing and mitigating, 22-1-5
  - program administration, 22-1-7
  - program adoption, 22-1-1
  - program purpose, 22-1-2
  - program updates, 22-1-6
- use of social security numbers,
  - amendment of policy, 22-2-9
  - applicability, 22-2-4
  - compliance with federal law, 22-2-5
  - conflict with stricter laws, 22-2-10
  - definitions, 22-2-1
  - embedded numbers, 22-2-6
  - identity protection requirements, 22-2-7
  - penalty, 22-2-8
  - prohibited activities, 22-2-2
  - public inspection, 22-2-3

investment policy**,**
- authorized and suitable investments, 22-5-8
- authorized financial dealers and institutions, 22-5-7
- collateralization, 22-5-9
- delegation of authority, 22-5-5
- diversification, 22-5-11
- ethics and conflicts of interest, 22-5-6
- internal control, 22-5-13
- investment policy adoption, 22-5-17
- market to market, 22-5-16

Mandated Policies, (Cont'd.)
investment policy, (Cont'd.)
- maximum maturities, 22-5-12
- objectives, 22-5-4
- performance standards, 22-5-14
- policy, 22-5-1
- prudence, 22-5-3
- reporting, 22-5-15
- safekeeping and custody, 22-5-10
- scope, 22-5-2

sexual harassment,
- consequences of a violation, 22-10-5
- definition, 22-10-2
- false report, 22-10-6
- procedure for reporting, 22-10-3
- prohibition, 22-10-1
- prohibition on retaliation, 22-10-4

Manufactured Housing,
department of public health, 23-1-4
fees, 23-3-21
general provisions of,
- carbon monoxide detectors, 23-1-11
- definitions, 23-1-1
- department of public health rules, 23-1-4
- fire extinguishers, 23-1-7
- inspection, 23-1-8
- Manufactured Home Park Act, 23-1-2
- Manufactured Home Tiedown Act, 23-1-2
- Manufactured Housing Act, 23-1-3
- National Manufactured Housing Code, 23-1-5
- off-street parking, 23-1-9
- prohibited residential uses, 23-1-10
- skirting, 23-1-6
- smoke and fire detectors, 23-1-12

immobilized manufactured homes,
- concrete pads, 23-2-4
- defined, 23-2-1
- limit of units, 23-2-5
- lot size, 23-2-3
- permit, fee, 23-2-2

inspection, 23-1-8
Manufactured Home Park Act adopted, 23-1-3
manufactured home parks,
- application for, 23-3-11
- design requirements for,
  - application for, 23-3-11
  - fee for, 23-3-21
  - location and, 23-3-12
  - parking as, 23-3-13
  - plan document, 23-3-10

Manufactured Housing, (Cont'd.)
manufactured home parks, (Cont'd.)
- design requirements for, (Cont'd.)
  - roadways, 23-3-13
  - utility connection fee, 23-3-14
- fee to file for, 23-3-21
- initial permit required, 23-3-7
- inspection of, 23-3-5
- local government requirements, 23-3-3
- lot size, 23-3-17
- miscellaneous restrictions, 23-3-18
- parking, 23-3-13
- permits for, 23-3-4
- planning for, 23-3-2
- roadways in, 23-3-13
- violation proceedings, 23-3-6

Manufactured Home Tiedown Act, 23-1-2
off-street parking, 23-1-9
skirting required, 23-1-6

Mayor,
appointment of officers, 1-3-5
business license commissioner, 1-3-10
chief executive officer, 1-3-3
deciding vote, 1-3-13
designation of officers' duties, 1-3-7
election, 1-3-1
formal occasions, 1-3-8
general duties, 1-3-9
health commissioner, 1-3-12
liquor commissioner, 1-3-11
pro-tem, temporary chairman, 1-3-2
signature of, 1-3-4
supervise conduct of officers, 1-3-6

Motor Vehicles,
abandoned,
- collection of unpaid charges, 24-7-11
- definitions, 24-7-1
- disposal of hazardous, 24-7-11
- disposal of unclaimed, 24-7-9
- disposal of unclaimed without notice, 24-7-10
- identifying and tracing vehicles, 24-7-7
- liability, 24-7-15
- notification to law enforcement, 24-7-3
- police record, 24-7-13
- police tows, 24-7-5
- prohibited, 24-7-3
- public sale, 24-7-14
- reclaimed vehicles, expenses, 24-7-8
- record searches, 24-7-6
- removal, towing away, 24-7-4
- violations, 24-7-16

bicycles, 24-2-8

Motor Vehicles, (Cont'd.)
condition of,
- muffler, 24-5-2
- noise,
  squealing, 24-4-7
  stopped vehicle, 24-4-5
  wheels, 24-4-6
  while driving, 24-5-9

drivers,
- fires, scene of, 24-2-2
- penalty, 1-1-20

driving, rules for, 24-4-2
- careless, 24-4-8
- duty to report accident, 24-4-3
- negligent, 24-4-8
- reckless driving, 24-4-8
- rules of the road, 24-4-1
- squealing tires, 24-4-7
- transporting liquor, 24-4-4

equipment of, 24-5-1
- engine brakes, 24-5-4
- muffler, 24-5-2
- sound amplification system, 24-5-3

generally,
- advertising signs, 24-2-6
- animals or bicycles, 24-2-7
- interference with signs and signals, 24-2-5
- obedience to police, 24-2-1
- scene of fire, 24-2-2
- signs and signals, 24-2-3
  advertising, 24-2-6
  interference with, 24-2-5
  one-way, 24-3-2
  posting, 24-3-5
  yield right-of-way, 24-3-4

Handicapped parking zones, Schedule "H"
intoxicated driving,
- adoption of statutes, 24-8-4
- blood tests, 24-8-3
- person intoxicated, 24-8-1
- person on drugs, 24-8-2

limited parking zones, Schedule "F"
load limit streets, Schedule "J"
load limits, 24-6-7
no parking zones, Schedule "D"
non-highway vehicles,
- penalty, 24-9-4
- required permit, 24-9-3
- state statutes applicable, 24-9-2
- unlawful operations, 24-9-1

one-way streets, Schedule "B"

Motor Vehicles, (Continued)
parking, rules,
- load limits, 24-6-7
- motor transport engines, 24-6-5
- parking for sale or repair, 24-6-2
- parking for the handicapped, 24-6-6
- parking tickets, state statutes, 24-6-12
- parking violations, 24-6-9
- prima facie proof, 24-6-10
- private property, 24-6-3
- snow routes, 24-6-11
- stopping, standing or parking prohibited in specified places, 24-6-4
- time limit parking, 24-6-1
- towing cars away, 24-6-8

speed zones, Schedule "D"
stop intersections, Schedule "A"
streets,
- one-way, 24-3-2
- signs, 24-3-5
- stop, 24-3-3
- through, 24-3-1
- yield, 24-3-4

time limit parking, Schedule "K"
yield intersections, Schedule "C"

Moving Buildings,
application for permit, 33-9-2
approval of route, 33-9-16
bond certificate and share, 33-9-8
clearance of site, 33-9-9
control and supervision, 33-9-13
default in performance of conditions, 33-9-15
denial of permit, 33-9-4
estimate of cost and deposit, 33-9-6
inspection fee and permit fee, 33-9-10
investigation, 33-9-3
issuance of permit, 33-9-11
liability insurance, 33-9-7
lights and barricades, 33-9-18
notice required, 33-9-14
obstructing streets, 33-9-17
permit required, 33-9-1
refunding of deposits, 33-9-22
repairs to public property, 33-9-21
safety measures required, 33-9-9
suspension or revocation of permit, 33-9-12
terms and conditions of permit, 33-9-5
trees, plants and shrubs, 33-9-20
wires and structural supports, 33-9-19

- N -

Nuisances,
buildings as nuisance,
- building condition, 25-6-1
- defined, 25-6-4
- duties of attorney, 25-6-7
- liens, 25-6-8
- notification, 25-6-3
- nuisances, 25-6-6
- standards, 25-6-5
- time limit, 25-6-2

derelict vehicles, motorcycle, ATV-UTV, trailers, camper, watercraft,
- declaration of nuisance, 25-5-2
- definitions, 25-5-1
- exclusions, 25-5-5
- hearing and appeal, 25-5-4
- notice to abate, 25-5-3

garbage and debris as,
- accumulation prohibited, 25-3-1
- foreclosure of lien, 25-3-7
- hearing and appeal, 25-3-4
- lien for, 25-3-5
- notice to person, 25-3-2
- payment, 25-3-5
- penalty for, 1-1-20
- service of notice, 25-3-3

generally,
- abatement by village, 25-1-5
- detrimental to health, 25-1-2
- failure to comply, 25-1-6
- foreclosure of lien, 25-1-9
- hearing and appeal, 25-1-4
- lien, 25-1-7
- notice to abate, 25-1-3
- payment, 25-1-8

inoperable vehicle as,
- declaration of nuisance, 25-4-2
- definitions, 25-4-1
- exclusions, 25-4-8
- foreclosure of lien, 25-4-7
- hearing and appeal, 25-4-4
- lien, 25-4-5
- notice to owner, 25-4-3
- payment, 25-4-6

penalty for, 1-1-20
special assessment, 25-7-1
specific,
- accumulation of debris, 25-1-1(X)
- advertising, 25-1-1(H)
- animals as, 3-2-15
- bodies of water, 25-1-1(J)

Nuisances,
specific, (Cont'd.)
- bringing nuisances into village, 25-1-1(T)
- business unwholesome, 25-1-1(N)
- corruption of water, 25-1-1(C)
- dense or offensive smoke, 25-1-1(V)
- discarded materials, 25-1-1(K)
- expectorate, 25-1-1(P)
- filth, 25-1-1(A)
- generally, 25-1-1(FF)
- harassment as, 25-1-1(M)
- highway encroachment, 25-1-1(D)
- junk, 25-1-1(R)
- litter, 25-1-1(Q)
- manufacturing gunpowder, 25-1-1(E)
- noxious odors, 25-1-1(G)
- offensive materials, deposit of, 25-1-1(B)
- offensive liquids, 25-1-1(U)
- powder magazines, 25-1-1(F)
- premises, filthy, 25-1-1(O)
- recycling, 25-1-1(DD)
- regulation and probation, 25-1-1(CC)
- rodents, 25-1-1(S)
- roller skates, 25-1-1(Z)
- scooters, 25-1-1(AA)
- seizure, 25-1-1(BB)
- skateboard, 25-1-1(Y)
- storing debris, 25-1-1(L)
- tires, 25-1-1(W)
- wells unplugged, 25-1-1(I)
- yard waste, 25-1-1(EE)

weeds as,
- defined, 25-2-1
- foreclosure of lien, 25-2-8
- hearing and appeal, 25-2-5
- height, 25-2-2
- lien, 25-2-6
- notice to remove, 25-2-3
- payment of costs for, 25-2-7
- penalties for, 1-1-20
- service of notice, 25-2-4

- O -

Offenses, (Public)
abandoned refrigerators, 27-2-26
admission fees, avoiding, 27-2-7
adult uses,
- adult entertainment facility, 25-11-5
- definitions, 27-11-2
- limitation, 27-11-4
- prohibition, 25-11-3

Offenses, (Public), (Cont'd.)
adult uses, (Cont'd.)
- purpose and additional findings, 25-11-1
against property,
- criminal damage,
  fire equipment, 27-3-6
- criminal damage, (Cont'd.)
  injury to utility wires and poles, 27-3-3
  property, 27-3-2
  public notices, 27-3-5
  skateboards prohibited, 27-3-7
  street signs, 27-3-4
- theft,
  petty, 27-3-1
aid in escape, 27-2-11
aid to an offense, 27-2-15
assemblies,
- disturbing, 27-2-3
assembling at public places, 27-4-4
begging as, 27-2-18
bow and arrows prohibited, 27-2-20
burning trash, 27-9-2
cannabis prohibited,
- business establishments prohibited, 27-17-2
- definitions, 27-17-1
- public nuisance declared, 27-17-3
- violations, 27-17-4
cigarette sales as, 27-2-8
concealed weapons, 27-2-19
criminal code,
- adopted, 27-1-2
- definitions, 27-1-1
criminal damage as,
- fire equipment, 27-3-6
- property, 27-3-2
- public notice, 27-3-5
- street signs, 27-3-4
- utility wires, 27-3-3
curfew violations, 27-2-32
damage to property, 27-3-2
definitions adopted, 27-1-1
depositing of snow and ice restricted, 27-2-30
destruction of public property, 27-2-24
discarded refrigerators, 27-2-26
discharging firearms, 27-2-20
disorderly conduct, 27-4-1
disturbing police officers, 27-2-1
disturbing the peace, 27-2-6
drug paraphernalia,
- definitions, 27-16-1
- exemptions, 27-16-4

Offenses, (Public), (Cont'd.)
drug paraphernalia, (Cont'd.)
- penalty, 27-16-5
- possession of cannabis, 27-16-2
- possession of, 27-16-3
escaping custody, 27-2-12
excavations, 27-4-7
explosives stored, 27-2-22
false pretenses, 27-2-13
false report of theft, 27-2-36
firearms, 27-2-20, 27-4-6
fireworks regulation, 27-18-1
fortune telling, 27-2-25
fraudulently avoiding admission fees, 27-2-7
games in street, 27-2-21
guns, 27-2-20
Halloween, 27-2-27
harassing and obscene communications, 27-2-37
impersonating an officer, 27-2-2
intoxication in public, 27-2-17
litter unlawful,
- aircraft, 27-5-8
- construction sites, 27-5-12
- definitions of, 27-5-1
- handbills, 27-5-10
- loading docks, 27-5-13
- owner to maintain private premises, 27-5-6
- park, 27-5-9
- parking lots, 27-5-14
- posting notices, 27-5-11
- prohibited, 27-5-2
- receptacles for, 27-5-4
- scattering of, 27-5-3
- sidewalks from, 27-5-5
- vehicles, 27-5-7
looting by individuals, 27-2-5
mining of minerals illegal, 27-2-38
minors purchasing cigarettes, 27-2-8
mob action, 27-2-4
noise, 27-2-35
obscenity,
- defined, 27-12-1
- harmful material, 27-12-2
- nudity in public places, 27-12-4
- public indecency, 27-12-5
- tie-in sales, 27-12-3
officer, refusing aid to, 27-4-3
open burning,
- definitions, 27-9-1
- prohibited, 27-9-2
- restrictions, 27-9-3
parental responsibility, 27-7-2

Offenses, (Public), (Cont'd.)
penalties for, 1-1-20
petty theft, 27-3-1
police officer,
- impersonation of, 27-2-2
- obstructing, 27-4-2
- refusing aid to, 27-4-3

posting bills, 27-2-16
premises rented for unlawful purpose, 27-2-14
protective covering or fencing, 27-2-31
refrigerators,
- abandoned, 27-2-26

registered sex offenders,
- definitions, 27-15-1
- other provisions, 27-15-4
- penalty, 27-15-3
- prohibited acts, 27-15-2

renting premises for unlawful purposes, 27-2-14
resisting a police officer, 27-4-2
sale of cigarettes, 27-2-8
sanctity of funerals, 27-2-33
skateboards and toy vehicles,
- agreement for impoundment, 27-10-10
- clinging to vehicles, 27-10-3
- damaging village property, 27-10-8
- definitions, 27-10-1
- in business district, 27-10-7
- on a street, 27-10-2
- on private property, 27-10-5
- on public property, 27-10-6
- ramps, 27-10-9
- yield right-of-way, 27-10-4

smoke free air code,
- background, 27-13-1
- definitions, 27-13-3
- designation of areas, 27-13-9
- exemptions, 27-13-12
- no retaliation, 27-13-10
- penalties, 27-13-13
- prohibition,
  - at public entrances, 27-13-8
  - in enclosed public places, 27-13-4
  - in open air dining areas, 27-13-7
  - in places of employment, 27-13-6
  - in unenclosed public places, 27-13-5
- purpose, 27-13-2
- signs, 27-13-11

smokeless tobacco, 27-2-9
storage of explosives, 27-2-22
synthetic drugs,
- cannabis, 27-14-2
- cocaine, 27-14-1

Offenses, (Public), (Cont'd.)
tampering with public notices, 27-3-5
theft of recyclables, 27-2-28
throwing objects from motor vehicles, 27-2-29
throwing rocks as, 27-2-23
tobacco and electronic smoking devices, 27-2-39
trespass,
- prohibited, 27-6-1
- solicitors, 27-6-2

truancy and curfew code,
- civil liability, 27-8-7
- curfew restrictions, 27-8-2
- definitions, 27-8-1
- enforcement restrictions, 27-8-5
- establishment restrictions, 27-8-4
- penalty, 27-8-6
- truancy restrictions, 27-8-3

unlawful conduct, 27-2-10
upholstered furniture, 27-2-34
weapons,
- concealed, 27-2-19
- discharge of, 27-2-20
- unlawful use, 27-4-5

Open Burning, 27-9-1
Ordinances, 1-2-14

- P -

Park Regulations, 28-1-1
Peace,
disturbing, 27-2-6
Peddlers,
application, 7-3-3
as nuisance, 7-3-9
definitions, 7-3-2
farmers excluded, 7-3-11
fees, 7-3-12
fraud, 7-3-6
hours, 7-3-5
investigation, 7-3-4
license for, 7-3-1
photographs of, 7-3-7
police action, 7-3-10
unwanted, 7-3-8
Penalties,
violation of code, 1-1-20
Permits required,
building, 6-1-1
construction of utility facilities, 33-4-4
culverts, 33-6-2
curb, 33-5-2
driveway, 33-7-1

Permits required, (Cont'd.)
manufactured home parks, 23-3-4
moving buildings, 33-9-1
sidewalk, 33-5-1
signs, (See "Zoning")
sewer, 38-4-12
wells, 38-3-23
Person,
defined, 1-1-16
Plan Commission,
established, 4-1-1
expenditures, 4-1-9
improvements, 4-1-7
membership, 4-1-2
official map, 4-1-6
powers and duties, 4-1-5
procedure, 4-1-4
purposes, 4-1-8
term of office, 4-1-3
Police Department,
auxiliary police,
- appointment, 30-2-25
- compensation, 30-2-30
- firearms prohibited, 30-2-28
- not members of police department, 30-2-26
- powers and duties, 30-2-27
- training, 30-2-29

generally,
- aiding fire department, 30-2-12
- aiding in escape, 30-2-14
- assisting police officer, 30-2-11
- department established, 30-2-1
- duties,
  chief, 30-2-3
  patrol officers, 30-2-7
  sergeant, 30-2-6
- duties of chief, 30-2-3
- employment of patrolmen, 30-2-4
- failure to perform, 30-2-13
- fees, 30-2-16
- legal processes, 30-2-10
- mutual aid contract, 30-2-8
- office of chief created, 30-2-2
- part time officers, 30-2-20
- rules and regulations, 30-2-17
- salary, 30-2-5
- special policemen, 30-2-9
- stolen property, 30-2-19
- training, 30-2-18
- use of intoxicating liquor, 30-2-15

police code,
- disciplinary measures, 30-2-35
- rules of conduct, 30-2-34

Property,
destroying, 27-2-24
nuisance on, 25-1-1
Public Safety,
civil emergency,
- authority of mayor, 30-1-4
- curfew, 30-1-3
- declaration of emergency, 30-1-2
- definitions, 30-1-1
- effectiveness, 30-1-5
- notification, 30-1-6

emergency management agency,
- appropriations and levy of tax, 30-3-13
- authority to accept, 30-3-14
- communications, 30-3-10
- compensation, 30-3-19
- definitions, 30-3-3
- emergency management agency, 30-3-4
- financing, 30-3-6
- immunity, 30-3-11
- limitations, 30-3-2
- local disaster emergencies, 30-3-7
- mutual aid, 30-3-9
- no private liability, 30-3-17
- orders, rules and regulations, 30-3-15
- penalty, 30-3-22
- personnel oath, 30-3-20
- policy and procedures, 30-3-1
- powers of the mayor, 30-3-5
- professions, trades and occupations, 30-3-12
- succession, 30-3-18
- termination or reduction of electrical service, 30-3-21
- testing of warning devices, 30-3-8
- utilization of existing agency, 30-3-16

police department,
- auxiliary police,
  appointment, 30-2-25
  compensation, 30-2-30
  firearms prohibited, 30-2-28
  not members of police department, 30-2-26
  powers and duties, 30-2-27
  training, 30-2-29
- F.O.P. Contract, 30-4-1, Addendum "A"
- generally,
  aiding fire department, 30-2-12
  aiding in escape, 30-2-14
  assisting police officer, 30-2-11
  department established, 30-2-1
  duties,
    chief, 30-2-3
    patrol officers, 30-2-7

Public Safety, (Cont'd.)
police department, (Cont'd.)
- generally, (Cont'd.
duties, (Cont'd.)
sergeant, 30-2-6
duties of chief, 30-2-3
employment of patrolmen, 30-2-4
failure to perform, 30-2-13
fees, 30-2-16
legal processes, 30-2-10
mutual aid contract, 30-2-8
office of chief created, 30-2-2
part time officers, 30-2-20
rules and regulations, 30-2-17
salary, 30-2-5
special policemen, 30-2-9
stolen property, 30-2-19
training, 30-2-18
use of intoxicating liquor, 30-2-15
- police code,
disciplinary measures, 30-2-35
rules of conduct, 30-2-34

Public Works Superintendent,
duties of, 1-3-54
employees under, 1-3-57
established, 1-3-53
lighting, 1-3-56
property custodian, 1-3-58
streets, 1-3-55

- R -

Raffles and Poker Runs,
application for poker runs, 7-5-4
application for raffles, 7-5-3
conduct, 7-5-7
definitions, 7-5-1
issuance of license, 7-5-6
license required, 7-5-2
licensee qualifications, 7-5-5
limited construction, 7-5-10
manager, bond, 7-5-8
prize limitations, term, 7-5-11
records, 7-5-9

Refrigerators,
discarded, 27-2-26

Religious assembly,
disturbing, 27-2-3

Revised Code,
definitions, 1-1-16
- catchlines, 1-1-17
- list of, 1-1-16
- word construction, 1-1-15
liability of officers, 1-1-23

Revised Code, (Continued)
penalty, 1-1-20
- application of, 1-1-22
- liability of officers, 1-1-23
- license, 1-1-24
- service by certified mail, 1-1-21
saving clause of,
- clerk's certificate, 1-1-12
- court proceedings, 1-1-10
- ordinance repeal, 1-1-8
- public utility ordinances, 1-1-9
- severability of provisions, 1-1-11
title of, 1-1-1
- acceptance, 1-1-2
- amendments, 1-1-3
- code alteration, 1-1-4
- jurisdiction, 1-1-5

- S -

Salaries, 1-4-1
Seal of Village, 1-2-18
Sewer System,
building sewers and connections,
- bond required, 38-4-36
- capacity of sewer, 38-4-32
- classes of permits, 38-4-23
- compliance with regulating authorities, 38-4-22
- connections to sewer mains, 38-4-31
- construction methods, 38-4-27
- cost borne by owner, 38-4-24
- disturbing system unlawful, 38-4-21
- elevation, 38-4-29
- inspection, 38-4-34
- old building sewers, 38-4-26
- plumbing code requirements, 38-4-28
- protection of property, 38-4-35
- public connection, 38-4-30
- public sewer connection, 38-4-38
- separate sewer, exception, 38-4-25
- tap-in supervision and testing, 38-4-33
- unlawful discharges, 38-4-37
definitions, 38-4-1
department,
- duties of the superintendent, 38-1-4
- established, 38-1-1
- committee, 38-1-2
- superintendent, 38-1-3
extension of collecting wastewaters,
- extension permits, 38-4-43
- inspections of construction, 38-4-45
- manholes required, 38-4-46
- materials, 38-4-44
- permit required, authorized personnel, 38-4-42

Sewer System, (Continued)
general,
- access to records, 38-4-81
- accounts, 38-4-79
- appeals, 38-4-82
- building unit defined, 38-4-77
- notice of rates, 38-4-80
- revenues, 38-4-78

groundwater,
- applicability, 38-4-115
- definitions, 38-4-117
- penalties, 38-4-116

industrial cost recovery,
- adjustment of charge,
  due to plant improvement utilizing state grant funds, 38-4-100
  due to strength of volume changes, 38-4-99
- appeal and arbitration, 38-4-109
- charge for, 38-4-94
- clerk responsibility, 38-4-106
- commitment for increased use, 38-4-102
- cost for industrial user, 38-4-93
- cost per capita, 38-4-92
- delinquency and termination, 38-4-97
- determination, 38-4-91
- discontinuance of use, 38-4-110
- disposition of retained amounts, 38-4-104
- investment of retained amounts required, 38-4-105
- length of period, 38-4-95
- monitoring required, 38-4-108
- no charge for unused or unreserved capacity, 38-4-101
- payment to state required, 38-4-103
- payments and billing periods, 38-4-96
- required, 38-4-90
- reserve capacity, 38-4-111
- time of first payment, 38-4-98
- treasurer responsibility, 38-4-107

inspections,
- damage, 38-4-65
- inspection and testing, 38-4-66
- liability of village, 38-4-67
- private property inspections, 38-4-68

penalties,
- continued violations, 38-4-72
- liability to village, 38-45-73
- penalty, 38-45-71

private sewage disposal,
- additional restrictions, 38-4-16
- availability of public sewer, 38-4-14

Sewer System, (Continued)
private sewage disposal, (Cont'd.)
- compliance with state requirements, 38-4-13
- health department approval, 38-4-11
- operation of, 38-4-15
- permit approval, 38-4-12
- private sewage system, 38-4-10
- time constraints for public sewer, 38-4-17

rates and regulations,
- consumer lists, 38-2-3
- contract for utilities services, 38-2-1
- estimated charge, 38-2-5
- insufficient funds, 38-2-2
- liability for charges, 38-2-4
- no free utility service, 38-2-6
- utility deposits, 38-2-7

service charges,
- basis for, 38-4-83
- computation of, 38-4-86
- measurement of flow, 38-4-84
- sewer tap-in fee, 38-4-88
- surcharge rate, 38-4-87
- user charge system, 38-4-85

use of,
- discharge of storm water, 38-4-49
- flow-equalizing facilities, 38-4-55
- harmful effects of certain materials, 38-4-52
- harmful wastes, approval, 38-4-53
- industrial waste testing, 38-4-57
- industrial wastes control manhole, 38-4-56
- interceptors provided, 38-4-54
- measurements and tests, 38-4-58
- regulations of wastes, 38-4-51
- special arrangements, 38-4-59
- storm water, 38-4-50

use required,
- deposit of wastes, 38-4-4
- discontinuance, 38-4-7
- easements, 38-4-8
- private system, unlawful, 38-4-6
- sewage in natural outlet, 38-4-5

Sexual harassment,
consequences of a violation, 22-10-5
definition, 22-10-2
false report, 22-10-6
procedure for reporting, 22-10-3
prohibition, 22-10-1
prohibition on retaliation, 22-10-4

Sidewalks, 33-5-1

Signs,
across streets, 33-2-6
on poles, 33-2-15
Snow Removal,
definitions, 33-8-1
depositing of snow and ice restricted, 33-8-3
mayor's authority, 33-8-4
snow and ice to be removed from sidewalks by private persons, 33-8-2
Solicitors,
application, 7-2-3
charitable, 7-2-10
compliance, 7-2-7
definitions, 7-2-1
license for,
- fees for, 7-2-11
- issuance, 7-2-4
- policy for, 7-2-5
- revocation of, 7-2-4
- uninvited, 7-2-8

notice regulating, 7-2-6
public highways, 7-2-10
registration as, 7-2-2
time limit, 7-2-9
Special Meetings, 1-2-3
Stormwater Control Code,
abbreviations, 32-2-1
appeals, 32-8-2
authority and approvals, 32-3-1
definitions, 32-2-2
disclaimer of liability, 32-11-1
effective date, 32-13-1
general provision and jurisdiction,
- exempted development, 32-4-2
- fees and application review times, 32-4-3
- permit terms, conditions and extensions, 32-4-4
- regulated development, 32-4-1

inspections,
- requirements during construction, 32-9-2
- schedule and report, 32-9-1

operations and maintenance,
- agreements, 32-7-2
- maintenance responsibility, 32-7-1
- plan, 32-7-3

purpose, 32-1-1
scope, 32-1-2
severability, 32-12-1
stormwater management plans,
- contents, 32-6-2
- preparation, 32-6-3
- review and approval, 32-6-1

Stormwater Control Code,
stormwater management standards,
- buffer areas, 32-5-7
- detention facilities, 32-5-4
- floodplain management, 32-5-9
- general requirements, 32-5-1
- non-structural BMPs, 32-5-5
- site runoff controls, 32-5-3
- soil erosion and sedimentation control, 32-5-8
- stormwater conveyance systems, 32-5-6
- water quality and volume controls, 32-5-2
- wetland provisions, 32-5-10

variances, 32-8-1
violation and penalty, 32-10-1
water quality volume control practices design specifications, Appendix "A"
"Waters of the United States", Appendix "B"
Streets,
barbed-wire fences, 33-2-17
building materials in, 33-2-11
burning, 33-2-18
closing, 33-2-5
committee on, 33-1-2
culverts in,
- application for permit, 33-6-3
- backfill cost, 33-6-7
- installation cost, 33-6-6
- obstruction of drain or storm sewer, 33-6-1
- permit, 33-6-2
- termination of permit, 33-6-4
- type, 33-6-5

curbs, 33-5-2
department,
- established, 33-1-1

driveways,
- breaking curb, bond required, 33-7-5
- fee, 33-7-2
- grade surface, 33-7-3
- permit required, 33-7-1
- repair, 33-7-6
- specifications, 33-7-4

encroachments, 33-2-13
filth in, 25-1-1
grass mowing, 33-2-19
gutters, 33-5-2
injury to new pavements, 33-2-16
littering, (See "Offenses")
moving buildings,
- application for permit, 33-9-2
- approval of route, 33-9-16
- bond certificate and share, 33-9-8

Streets, (Cont'd.)
moving buildings, (Cont'd.)
- clearance of site, 33-9-9
- control and supervision, 33-9-13
- default in performance of conditions, 33-9-15
- denial of permit, 33-9-4
- estimate of cost and deposit, 33-9-6
- inspection fee and permit fee, 33-9-10
- investigation, 33-9-3
- issuance of permit, 33-9-11
- liability insurance, 33-9-7
- lights and barricades, 33-9-18
- notice required, 33-9-14
- obstructing streets, 33-9-17
- permit required, 33-9-1
- refunding of deposits, 33-9-22
- repairs to public property, 33-9-21
- suspension or revocation of permit, 33-9-12
- terms and conditions of permit, 33-9-5
- trees, plants and shrubs, 33-9-20
- wires and structural supports, 33-9-19

obstruction, removal of, 33-2-9
open doors, 33-2-2
parade permit, 33-2-21
poles, signs on, 33-2-15
porches, 33-2-20
posters on, 33-2-14
rainwater drains, 33-2-10
sidewalks, 33-5-1
- deposits on, 33-2-8
- merchandise on, 33-2-12
- railings on, 33-2-4
- repairing, 33-2-3
- vehicles crossing, 33-2-7

signs across, 33-2-6
snow removal,
- definitions, 33-8-1
- depositing, 33-8-3
- mayor's authority, 33-8-4
- removal, 33-8-2

stairways on, 33-2-4
storm sewers, 33-5-3
superintendent of public works,
- duties of, 1-3-54
- employees under, 1-3-57
- established, 1-3-53
- lighting, 1-3-56
- property custodian, 1-3-58
- streets, 1-3-55

trees and shrubs,
- advertisements or notices, 33-3-5
- dangerous, 33-3-6

Streets, (Cont'd.)
trees and shrubs, (Cont'd.)
- gas pipes, 33-3-8
- injury, 33-3-4
- planting, 33-3-1
- removal, 33-3-3
- unlawful, 33-3-2
- wires, 33-3-7

undermining, 33-1-1
Subdivisions,
engineering plans,
- approval of design plans,
  - approval, tentative, 34-3-22
  - changes or revisions, 34-3-21
  - checklist, 34-3-20
  - letter of approval, 34-3-23
- minimum standards of improvement,
  - figures, 34-3-7
  - general, 34-3-2
  - public utilities, 34-3-14
  - public utility engineering requirements, 34-3-6
  - reference monuments, 34-3-3
  - sanitary sewers, 34-3-11
  - sidewalks, 34-3-15
  - storm sewers, 34-3-5
  - street improvements, 34-3-4
  - street markers and traffic signs, 34-3-13
  - water system, 34-3-12
- procedures, 34-3-1

final plats,
- approval, 34-4-7
- guarantees, 34-4-8
  - construction time constraints, 34-4-9
  - inspection, 34-4-10
  - release of bond, 34-4-11
- procedure, subdivider, 34-4-1
- requirements,
  - appropriate certificates, 34-4-4
  - by subdivider, 34-4-3

general provisions,
- adoption, 34-1-8
- application, 34-1-5
- interpretation, 34-1-4
- purpose of, 34-1-3
- rules and regulations, 34-1-7
- scope, 34-1-2
- suitability, 34-1-6
- title of, 34-1-1

miscellaneous,
- minor subdivisions, 34-5-2
- penalties, 34-5-4
- recording, 34-5-3

Subdivisions, (Continued)
miscellaneous, (Cont'd.)
- repeal of conflicting regulations, 34-5-6
- validity, 34-5-5
- variations and special exceptions, 34-5-1

preliminary plats,
- approval,
  approval – tentative, 34-2-19
  certificate, 34-2-20
  changes or revisions, 34-2-18
  checklist completed, 34-2-17
- minimum standards of design,
  Blocks, 34-2-12
  drainage, 34-2-9
  easements, 34-2-11
  erosion and sediment control, 34-2-10
  general, 34-2-7
  lots, 34-2-15
  parks and other public areas, 34-2-13
  streets and alleys, 34-2-8
  utilities, 34-2-14
- procedure,
  pre-application conference, 34-2-1
  preliminary plat, 34-2-3
  procedure required, 34-2-2
- requirements, 34-2-5

schedules and bonds,
- "A" Checklist for Preliminary Plat, 34-6-1
- "B" Checklist for Engineering Plans, 34-6-2
- "C" Checklist for Final Plat, 34-6-3
- cash bond, 34-6-5
- surety bond for improvements, 34-6-4

- T -

Taxation,
electric utility tax,
- additional taxes, 36-4-3
- collection, 36-4-4
- credit for overpayment, 36-4-6
- exceptions, 36-4-2
- penalty, 36-4-7
- reports to village, 36-4-5
- tax imposed, 36-4-1

gas,
- business excluded, 36-3-3
- definitions, 36-3-2
- imposed, 36-3-1
- limitation, 36-3-7
- overpayment, 36-3-6
- street use tax, 36-3-4
- tax return, 36-3-5

Taxation, (Cont'd.)
generally,
- audit tax, 36-1-3
- corporate rate, 36-1-1
- F.I.C.A. tax, 36-1-4
- general liability, 36-1-6
- I.M.R.F., 36-1-5
- police tax, 36-1-2
- public parks, 36-1-8
- street and bridge, 36-1-9
- workmen's compensation, 36-1-7

simplified telecommunications tax,
- collection, 36-2-2
- definitions, 36-2-3
- effective date, 36-2-8
- imposed, 36-2-1
- limitation, 36-2-7
- overpayment, 36-2-6
- resale, 36-2-4
- tax return, 36-2-5

taxpayer's rights code,
- abatement, 36-5-12
- appeal, 36-5-9
- application, 36-5-18
- audit procedure, 36-5-8
- certain credits and refunds, 36-5-7
- definitions, 36-5-3
- hearing, 36-5-10
- installment contracts, 36-5-13
- interest and penalties, 36-5-11
- late payment, 36-5-5
- liens, 36-5-17
- notices, 36-5-4
- payment, 36-5-6
- publication of ordinances, 36-5-16
- scope, 36-5-2
- statute of limitations, 36-5-14
- title, 36-5-1
- voluntary disclosure, 36-5-15

Treasurer,
accounts by, 1-3-35
annual report of, 1-3-43
appointment of, 1-3-34
appropriations, 1-3-44
bond of, 1-2-24, 1-3-38
bookkeeping, 1-3-40
committee established, 1-3-32
deposit of funds, 1-3-45
fee for returned checks, 1-3-46
finance committee, 1-3-33
investments by, 1-3-45
official depositories, 1-3-45(F)
personal use of funds, 1-3-37
report delinquent officers, 1-3-42

Treasurer, (Cont'd.)
special assessments, 1-3-39
statements by, 1-3-41
warrant register, 1-3-36
warrants by, 1-3-35
year-end report, 1-3-43
Trees and Shrubs,
advertisements on, 33-3-5
dangerous, 33-3-6
electric wires, 33-3-7
gas pipes, 33-3-8
injuring, 33-3-4
planting in street, 33-3-1
removal, 33-3-3
unlawful, 33-3-2
wires,
- interference, 33-3-7

- U -

Utility Systems,
(See "Sewer Systems")
(See "Water Systems")

- V -

Village Board of Trustees,
censure, 1-2-11(BB)
committees, 1-2-4
compensation, 1-4-1
composition and general powers, 1-2-1
members refusing to attend, 1-2-7
ordinances, 1-2-14
quorum, 1-2-6
regular meetings, 1-2-2
rules of, 1-2-11
special committees, 1-2-5
special meetings, 1-2-3
Village Code,
definitions, 1-1-16
- catchlines, 1-1-17
- list of, 1-1-16
- word construction, 1-1-15

liability of officers, 1-1-23
penalty, 1-1-20
- application of, 1-1-22
- liability of officers, 1-1-23

Village Code, (Cont'd.)
penalty, (Cont'd.)
- license, 1-1-24
- service by certified mail, 1-1-21

saving clause of,
- clerk's certificate, 1-1-12
- court proceedings, 1-1-10
- ordinance repeal, 1-1-8
- public utility ordinances, 1-1-9
- severability of provisions, 1-1-11

- W -

Water Department,
cross-connection (administration),
- approved backflow device, 38-3-31
- contaminations cost and the consumer, 38-3-36
- cross-connection prohibited, exception, 38-3-32
- investigations by superintendent, 38-3-33
- notice to customer, reconnect fee, 38-3-35
- right to enter premises, 38-3-34

cross-connection (control code),
- application, 38-3-42
- backflow prevention devices, 38-3-50
- booster pumps, 38-3-52
- cross-connection prohibited, 38-3-46
- definitions, 38-3-44
- inspection and maintenance, 38-3-51
- purpose, 38-3-41
- responsibility of owner, 38-3-43
- survey and investigations, 38-3-47
- type of protection required, 38-3-49
- violations and penalties, 38-3-53
- water system, 38-3-45
- where protection is required, 38-3-48

department established,
- committee for, 38-1-2
- department established, 38-1-1
- duties of the superintendent, 38-1-4
- superintendent, 38-1-3

extension of mains,
- application, 38-3-61
- contract, 38-3-65
- engineer, 38-3-63
- plat of proposed extension, 38-3-62
- sealed bids, 38-3-64

Water Department, (Continued)
rates,
- access to books, 38-3-73
- accounts, 38-3-72
- appeals, 38-3-75
- building unit defined, 38-3-70
- measurement of flow, 38-3-76
- meter minimums, 38-3-79
- rates, 38-3-78
- requested shut-off, 38-3-80
- revenues, 38-3-71
- review of rates, 38-3-74
- tap-on fees, 38-3-77

regulations,
- abandoned connection, 38-3-24
- allocation of maintenance costs, 38-3-21
- application for taps, 38-3-2
- consumer lists, 38-2-3
- contract for utilities services, 38-2-1
- damage due to interruption of service, liability, 38-3-10
- definitions, 38-3-1
- discontinuing service, dangerous usage, 38-3-12
- easements, 38-3-19
- electric ground wires, 38-3-13
- estimated charge, 38-2-5
- fire hydrants, 38-3-15
- indemnification by village, 38-3-7
- inspection, 38-3-6
- installing and maintaining service lines, 38-3-5
- insufficient funds, 38-2-2
- liability for charges, 38-2-4
- liable for interruption of supply, 38-3-22
- meter damaged, 38-3-9
- no free utility service, 38-2-6
- non-compliance with rules and regulations, 38-3-18
- private property inspections, 38-3-8
- resale, 38-3-11
- rules to become part of contract, 38-3-25
- service to be by meter, 38-3-3
- shortage and purity of supply, 38-3-17
- usage in emergencies, 38-3-16
- use of water on consumer's premises, 38-3-20
- utility deposits, 38-5-7
- water for building or construction purposes, 38-3-14
- water well permits, 38-3-23

- Z -

Zoning Code,
administration and enforcement,
- amendments, 40-10-47
  - action by village board, 40-10-51
  - advisory report, findings of fact, 40-10-50
  - filing, 40-10-48
  - notice to applicant of written protest, 40-10-53
  - public hearing, notice, 40-10-49
  - two-thirds majority vote is required, 40-10-52
- appeals,
  - decision by board of appeals, 40-10-25
  - filing, record transmittal, 40-10-22
  - nature of, 40-10-21
  - public hearing, notice, 40-10-24
  - stay of further proceedings, 40-10-23
- board of appeals,
  - creation and membership, 40-10-13
  - decisions, 40-10-17
  - finality of decisions, 40-10-18
  - jurisdiction, 40-10-14
  - meeting and rules, 40-10-15
  - office of the secretary, 40-10-19
  - quorum, 40-10-16
- building permits,
  - building permits, 40-10-4
    - application for, 40-10-5
    - issuance of, 40-10-6
  - occupancy permits, 40-10-8
    - application for, 40-10-9
    - issuance of, 40-10-10
    - penalties, 40-10-11
  - period of validity, 40-10-7
- general provisions,
  - office created, 10-10-1
  - office of the zoning administrator, 40-10-2
- special uses,
  - advisory report, factors considered, 40-10-40
  - application, 40-10-38
  - decision, findings of fact, 40-10-41
  - nature of, 40-10-37
  - penalties, 40-10-44
  - public hearing, notice, 40-10-39
  - temporary use permits, 40-10-42
  - time limitation, 40-10-43
- variations,
  - application for, 40-10-28
  - authorization, 40-10-27
  - authorized, 40-10-30

Zoning Code, (Cont'd.)
administration and enforcement, (Cont'd.)
- variations, (Cont'd.)
  decision on, 40-10-32
  hearing and notice, 40-10-29
  penalties, 40-10-34
  period of validity, 40-10-33
  standards for, 40-10-31

annexed territory, 40-2-3
area and bulk regulations, Schedule 40-3-6(D)
definitions, 40-2-2
district regulations,
- establishment of zoning districts, 40-3-2
- existing special uses, 40-3-5
- interpretation of district boundaries, 40-3-4
- interpretation of provisions, 40-3-3
- schedule, area and bulk regulations, parking requirements, 40-3-6
- schedule, permitted uses, accessory uses, exceptions and special uses, 40-3-7
- zoning districts, general, 40-3-1

fees,
- amendments, 40-11-3
- special use permits, 40-11-2
- variations, 40-11-1

figures and sketches, 40-2-4
general provisions,
- conformity with regulations required, 40-1-3
- declaration of purpose, 40-1-2
- scope, 40-1-4
- title, 40-1-1

general regulations, supplementary,
- accessory buildings, 40-5-5
- bulk of buildings, 40-5-2
- contiguous parcels, 40-5-13
- corner lots and through lots, 40-5-9
- division of zoning lots, 40-5-4
- frontage requirements, 40-5-10
- general performance standards, 40-5-11
- individual water and sewage systems, 40-5-14
- location of required open space, 40-5-6
- maintenance of yards, courts, and other open spaces, 40-5-3
- maximum height of buildings, exclusions, 40-5-15
- minimum yards, exceptions, 40-5-16

Zoning Code, (Cont'd.)
general regulations, supplementary, (Cont'd.)
- occupancy of temporary structures, 40-5-12
- portable tool shed, 40-5-21
- public utility distribution facilities, exception, 40-5-17
- reduction of lot, limitation on number of principal buildings on lot, 40-5-8
- required yards for existing buildings, 40-5-7
- satellite dish antennas, 40-5-19
- temporary portable sheds, 40-5-20
- uses permitted, 40-5-1

non-conforming uses,
- abandonment or discontinuance, 40-7-3
- change or extension of non-conforming use, 40-7-2
- non-conforming use, 40-7-1
- repairs, maintenance and alteration, 40-7-4
- restoration, 40-7-5

off-street parking and loading regulations,
- access ways, 40-9-3
- location of parking lots, 40-9-1
- number of parking and loading spaces required, 40-9-4
- space requirements, 40-9-2

penalties,
- fine imposed, 40-12-1
- prosecutions, 40-12-2
- separability, 40-12-3

permitted uses, accessory uses, exceptions, and special uses,
- "A" Agricultural, Schedule 40-3-7(D), p. 1
- "B-1" General Business, Schedule 40-3-7(D), p. 8
- "I" Industrial, Schedule 40-3-7(D), p. 10
- "MH-1" Mobile Home, Schedule 40-3-7(D), p. 7
- "MR-1" Multi-Family, Schedule 40-3-7(D), p. 6
- "SR-1" Single Family, Schedule 40-3-7(D), p. 3
- "SR-2" Single Family, Schedule 40-3-7(D), pl. 4
- "SR-3" Single Family, Schedule 40-3-7(D), p. 5

Zoning Code, (Cont'd.)

planned development,
- other planned building developments, 40-6-5
- planned business centers, 40-6-4
- planned building development, general, 40-6-1
- planned mobile home parks, 40-6-3
- planned multi-family residential development, 40-6-1

sign regulations,
- agricultural, residential districts, 40-8-11
- business, industrial districts, 40-8-12
- computation of sign area allowance, 40-8-2
- definition of sign area, 40-8-3
- general prohibition, 40-8-1
- illumination, 40-8-6
- nonconforming signs, 40-8-7
- restrictions, 40-8-8
- signs permitted in any district, 40-8-10
- signs to be non-hazardous, well-maintained, 40-8-5
- special situations, 40-8-4
- strictly prohibited signs, 40-8-9
- temporary signs, 40-8-13

use and bulk regulations,
- churches and houses of formal worship, 40-4-5
- corner lots, obstruction of vision prohibited, 40-4-17
- day care, etc., 40-4-14
- fences, walls and hedges, 40-4-1
- fire walls, 40-4-16
- garages, repair, 40-4-6
- home kitchen operations, 40-4-18
- home occupations, 40-4-2
- lighting controls, 40-4-3
- mobile homes, modular, immobilized, 40-4-8
- nursing homes, 40-4-13
- plant nurseries and greenhouses, 40-4-15
- public buildings, 40-4-10
- public utility stations, exchanges, essential services, 40-4-11
- schools, private and parochial, 40-4-12
- service stations, 40-4-7
- swimming pools, 40-4-4
- travel trailers, 40-4-9