

Approved 3/22/2012

Title 4
PUBLIC WAYS AND PROPERTY
CHAPTER 1
STREETS, SIDEWALKS AND PUBLIC WAYS

4-1-1 CONTRACTORS FOR STREET OR SIDEWALK WORK

- A. Bond Required: Any prime contractor(s) and/or subcontractor(s) engaging in the installation, repair or maintenance of street breaks, curb breaks, sidewalks, drainage ditches, swales, culverts and alleys located in the Village street rights of way shall post with the village clerk a performance bond in the penal amount of five thousand dollars (\$5,000.00) before such work shall be permitted. Said performance bond shall be returned to the contractor or subcontractor upon satisfactory completion and acceptance of the work by the superintendent of public works and/or the village engineer.
- B. Permit Fee: A permit fee in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code shall be paid to the village clerk before the work described in subsection A of this section shall be permitted.

4-1-2 EXCAVATIONS AND TUNNELS

- A. Permit And Bond Required: It shall be unlawful to dig in, tunnel under or make any excavation in or under any street, road, roadway or other public way in the Village without a permit therefor, and a license/permit bond shall be required prior to the issuance of such permit, as well as a security deposit, as set forth in this section 4-1-2.
- B. Application; Insurance: Application for such permit shall be made to the village clerk. The superintendent of public works shall be responsible for issuance of excavation permits. No such permit shall be issued unless and until the applicant has filed with the village clerk a ten thousand dollar (\$10,000.00) license/permit bond property liability to indemnify the Village and protect it against any loss or liability resulting from such excavation, or any barricades in connection therewith, or from defective refilling or resurfacing.
- C. Fees: There shall be a minimum permit fee in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code, which includes the first inspection, and an additional fee in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code for each further inspection required.
- D. Completion: Each such excavation or tunnel shall be promptly and properly refilled and the surface restored to its original condition, under the supervision of the superintendent of public works.
- E. Street Opening Security Deposit. The application for an excavation permit shall include the submission of a deposit in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code for each square foot

of opening of excavation within a public street to secure the costs of restoration or repair for any damage caused to the public street or other property.

CHAPTER 2

TREES AND SHRUBS

4-2-1 NUISANCE DECLARED; REMOVAL

- A. Dead, diseased or dying trees are hereby declared to be a nuisance.
- B. Dead, diseased or dying trees shall be removed from the village limits at the owner's expense.

4-2-2 EXPERT'S CONSULTATION

In cases where there is a question as to whether or not a tree is diseased, a tree expert shall be consulted by the owner. If the owner neglects or refuses to do so, a tree expert shall be consulted by the village officials at the owner's expense.

4-2-3 NOTICE TO REMOVE

It shall be the duty of the building commissioner to serve or cause to be served upon the occupant and/or owner of the premises on which dead, diseased or dying trees are allowed to remain in violation of the provisions of this chapter, a notice demanding the removal of such trees within thirty (30) days of the date of such notice.

4-2-4 FAILURE TO COMPLY; VILLAGE ABATEMENT

- A. Right to Enter Property: In the event that the occupant and/or owner do not comply with section [4-2-3](#) of this chapter, the officers of the Village or their agents shall have the right to enter the property and remove or burn dead, diseased or dying trees at the owner's expense.
- B. Lien: Any tree removed by the Village under this chapter shall be paid for by the property owner. Failure to pay the rendered bill for this work shall result in a lien being filed against the property in accordance with the procedures set forth in section 8-1-12H3 or 8-1-12H4 of this code.

CHAPTER 3

SIGHT OBSTRUCTIONS

4-3-1 DEFINITIONS

OWNER: Any person who is legal title holder or occupant in possession or control of land whereupon a sight obstruction exists.

SIGHT OBSTRUCTION: Any vegetation of any type or any structure including, but not limited to, buildings, enclosures, signs or structural supports, which impairs the vision of a pedestrian or any operator of any vehicle so as to create a traffic safety hazard.

VEHICLE: Any motor driven or human powered mode of transportation.

4-3-2 DUTIES OF OWNERS

It shall be the duty of any owner to trim, modify or remove any sight obstruction, which measures thirty inches (30") in height from the ground up, upon notice by the Village.

4-3-3 PROCEDURE UPON NOTICE

- A. The notice required in section [4-3-2](#) of this chapter shall be initiated by the building commissioner after the building commissioner has made a determination that a sight obstruction exists. Said notice shall be served by mailing a copy of the notice to the occupant of the premises or to the owner of the premises if said premises is unoccupied. Said notice shall be by registered mail.
- B. The obstruction shall be trimmed, modified or removed within fifteen (15) days after the postmark of the registered mail notice unless the notice is appealed as provided in subsection C of this section.
- C. A person to whom a notice hereunder is directed shall have the right, within three (3) days of the postmark of the notice, to appeal to the mayor unless otherwise directed by the board of trustees. The mayor shall review the notice within five (5) days and file his decision with the village clerk and serve a copy of the alleged violator by registered mail. Unless the notice is revoked or modified by the mayor, it shall remain in full force and effect. A person to whom a notice is directed shall comply with such notice within ten (10) days after the mailing of the appeal decision.
- D. Failure to comply with the notice within the specified period shall be punishable by a fine in accordance with the general penalty provisions contained in section 1-4-1 of this code. Each day the violation exists beyond the limits set forth herein shall be deemed a separate offense. The Village may, in addition to the above punishment by fine, arrange for the removal of the sight obstruction and the cost of the removal shall act as a lien upon the property. Failure to pay the rendered bill for this work shall result in a lien being filed against the property in accordance with the procedures set forth in section 8-1-12H3 or 8-1-12H4 of this code.

Chapter 4

WATER SERVICE REGULATIONS

4-4-1 PUBLIC AND PRIVATE WATER SUPPLY

- A. Extended Service: Except for such services already provided or otherwise agreed to by the Village, water service will not be extended outside the corporate limits of the Village and such service shall not be provided except upon annexation to the Village or pursuant to an annexation agreement.
- B. Connection Required: Except as provided herein, the owner of any improved property within the Village is required to make connection to the public potable water facilities in accordance with the provisions of this chapter when a public water supply main is located within four hundred fifty feet (450') of the nearest property line of the property regardless of where any improvements or proposed improvements are located on the property. Such connection shall be made within one year of written notice from the public works department that a public water supply main is available. The cost of extending the public supply main to the property, plus any recapture fees, shall be at the sole cost of the owner. At such time as the connection to the public water supply is made, the use of any private water supply is prohibited.
- C. Exceptions: For any existing residential property with an existing private water supply on September 11, 2008, no connection shall be required until such time as:
 - 1. The property is transferred, conveyed or title is otherwise vested in a new owner after September 11, 2008; or
 - 2. Prior to the issuance of a building permit for an addition in excess of one hundred fifty (150) square feet or the addition of a bathroom, regardless of whether new space is added to an existing residence; or
 - 3. If an existing private water supply needs to be replaced or needs to be serviced beyond typical or normal maintenance.
- D. Free Water Service: Free water service shall not be furnished to any person, firm, organization or corporation, for public or private use.
- E. Resale: No water service may be resold. All water services shall have a meter except under special circumstances as determined by the village engineer.
- F. Alternate Connections: Whenever a public water main is not available pursuant to this section, the building service pipe shall be connected to a private water supply complying with the provisions of this chapter.
- G. Compliance: The owner/occupant shall maintain and operate any private water supply system at all times in compliance with the IEPA, Lake County health department and/or the McHenry County health department standards at no expense to the village.
- H. Abandonment And New Water Lines: In the event that the village abandons or proposes to abandon any portion of the public water supply system, it shall give at

least thirty (30) days' notice of its intention to do so to the customers served by that portion of the public water supply system proposed to be abandoned, after which

thirty (30) day period, the Village may shut off water to said abandoned portion of the public water supply system. If the Village installs new water mains to furnish water in any portion of the public water supply system where it has or proposes to abandon older water mains, any property located within four hundred fifty feet (450') of said new mains shall connect to the new mains at the owner's expense.

- I. No Permits Issued Without Connection: Building or development permits shall not be issued to any property within four hundred fifty feet (450') of the nearest property line of the public water supply system without connection to said system.
- J. Requests For Waiver: All properties other than single-family residential as designated by the village zoning ordinance shall be required to connect to the public water supply as provided herein unless a waiver is granted by the village board in its sole discretion.
- K. Violation: Any person, firm, corporation or entity which violates any portion of this section shall be fined in accordance with the general penalty provisions contained in section 1-4-1 of this code and in addition shall be required to comply with this section.

4-4-2 DESCRIPTION OF SERVICE

The Village will exercise reasonable diligence and care in delivering a continuous and sufficient supply of water at proper pressures and volumes. However, shortages and interruptions in delivery may occur due to distribution failures, maintenance shutdowns and conservation practices. The Village will endeavor to see that all water furnished for human consumption meets the requirements of the safe drinking water act.

4-4-3 APPLICATION FOR SERVICE

- A. No person shall make connections to the water facilities of the Village without first applying to the Village and paying all fees.
- B. Existing water service may be transferable upon submission and approval of an application to the Village, and full payment of all outstanding invoices on the water service account.
- C. The application shall fully state all purposes for which water service is requested and be approved by the superintendent of water. Any misrepresentation on the part of the applicant or subsequent user shall be cause to discontinue water service to the premises immediately and result in forfeiture of any tap-on connection fees paid.
- D. No permit for connection or tap will be issued until the applicant:
 - 1. Pays connection fees as prescribed in section [4-4-9](#) of this chapter.
 - 2. Pays the meter assembly and inspection fees prescribed in section [4-4-8](#) of this chapter.
 - 3. Secures a street opening permit if required in conformance with this chapter and [Chapter 1](#) of this title.

4. Agrees to provide the village plumbing inspector a minimum of forty eight (48) hours' notice prior to the start of installing the service tap.
5. Certifies that all materials used for and the method of installing connection or tap will be in conformance with specifications established by the engineer.
6. Agrees to conform to all regulations of the Illinois plumbing code and OSHA safety regulations.
7. Provides the village clerk with proof of liability insurance, in the amount of one million dollars (\$1,000,000.00) issued by an insurance firm licensed to conduct business in the state, to protect and secure the Village from any liability or damages whatsoever for damages and/or injury (including death) to any person or property.

4-4-4 SPECIAL CONTRACTS

Contracts, other than accepted applications for service, are not normally required. However, under the following conditions, a special contract and regulations will be required:

- A. When the construction of special extensions or pretreatment facilities are necessary.
- B. When temporary service is to be supplied.
- C. When standby service or fire service is required.
- D. When interconnections with other utility jurisdictions are involved.

4-4-5 ESTABLISHMENT OF CREDIT

The Village may require an applicant to establish his credit or to pay a cash deposit to secure payment of water bills. Credit will be deemed to have been established if the applicant is the owner of the property being served, or if, during the last twelve (12) consecutive months, the applicant has paid all water bills promptly without disconnection for nonpayment. Credit must be reestablished for customers whose service has been discontinued.

4-4-6 NOTICES

- A. Notices to Customers: From time to time it is necessary for the Village to give notice to its water customers. The type and method of notice shall be as follows:
 1. Statement of services - by U.S. mail to last known address, or telephone.
 2. Failure to comply with regulations, or violation of ordinance provision - by written notification stating nature of violation and regulation violated, sent by certified U.S. mail, or by personal delivery of citation order.
 3. Temporary interruption of service - by U.S. mail, telephone, in person, or by posting notice on the Village's website.

4. Possible contamination or quality change, "boil order" - by newspaper publication, radio or television announcement, telephone, or by posting notice on the Village's website.
 5. Conservation measures - by newspaper publication, radio or television announcement, telephone, or by posting notice on the Village's website.
- B. Customer Contacting Village: From time to time it is necessary for the customer to contact the Village regarding water service. Such contact shall be made as follows:
1. Request for service or discontinuance of service, or complaints - by U.S. mail to the village office, or by telephone or in person at the village office during regular business hours.
 2. To report leaks, interruption of service or other emergency - by telephone or in person at the village office during regular business hours, or at the police station when the village office is closed.

4-4-7 WATER LINES

- A. Construction of Water Lines and Connections: All water lines constructed and all water connections made shall be in accordance with the most recent version of the "Standard Specifications for Water and Sewer Main Construction in Illinois."
- B. Extension Of Water Lines, Rules:
1. The Village shall establish water line sizes and line locations based on engineering standards and the requirements of the appropriate state agencies. Said lines, once established as to location and size, shall be extended to meet the local improvement program and planning goals of the Village.

At such time as the land tract is to be developed, redeveloped, a building permit issued, or a zoning change made effecting a change in the use of water, the owner of such land tract shall provide such extensions as are necessary to the improvement requirements as developed by the Village in conjunction with the area of influence to be serviced by such facilities.
 2. Where such water facilities as set out above are to be extended through intervening property to service property beyond or upstream of the development project, the line size and location shall be established as set forth above.
- C. Water Service Connection: The opening at the water main to and including the curb stop shall be located in a public street, right of way or easement. However, the curb box shall not be located in a sidewalk, driveway or street. The fittings, pipes, valves and appurtenances for the water service shall conform to specifications determined for each connection by the superintendent. The water service connection assembly from the water main, to and including the curb stopcock, shall be the property of and maintained by the water department.
- D. Customer's Water Service System: The customer's service connection from the curb stop to the building shall be the same size and material as the water connection service pipe. The customer's service connection pipe shall be installed

at the customer's expense by an Illinois licensed plumber and be inspected by an Illinois licensed plumber before it is covered.

1. It shall be the responsibility of the customer to maintain the customer's service connection from the curb stop to the building or structure. If the customer fails to properly maintain the connection, the superintendent and his duly authorized employees or agents shall have the authority to enter onto a customer's property to maintain or repair the customer's water service system or shut the water off at the curb stopcock until proper maintenance is completed by the customer. All expenses, including a twenty five percent (25%) administrative surcharge in addition to equipment, labor and material cost used to rectify the unacceptable condition, will be billed to the customer.
 2. When work is performed by the Village on the customer's water system, the Village shall not be held liable for landscape restoration or damage to structures or buildings which may have been associated with the repair.
- E. Separate Service Required: A separate service shall be required where a building contains more than one commercial, industrial or residential user or combination thereof unless otherwise approved by the superintendent.

4-4-8 METERS

- A. Meters Required: All premises using the village water supply must be equipped with an adequate water meter furnished by the Village but paid for by the consumer, provided that such water service may be supplied by the Village at a flat rate of charge until such meter is installed.

During the construction of any building and before any water is installed as is hereby provided, the contractor so constructing such building may be permitted to use the village water supply by making application therefor and paying the flat fee prescribed by the board of trustees.

Before any premises is occupied, a water meter shall be installed therein as herein required, or application be made for such water service at the flat rate of charge until the meter can be installed, or no water shall be furnished such premises.

- B. Type of Meter: All meters and metering configurations shall be approved by the superintendent of water. The American Water Works Association (AWWA) standards for metering devices shall apply as minimum standards.
- C. Reading Meters: The superintendent of water shall read or cause to be read every water meter used in the Village at such times as are necessary so that the bills may be sent out at the proper time.
- D. Testing Meters: Any municipal water meter may be taken out and tested on complaint of the consumer for a fee of one hundred dollars (\$100.00). If such test shows that the meter is not within plus or minus six percent (.6%) of being accurate, it shall be repaired and the one hundred dollar (\$100.00) fee returned to the consumer. No fee shall be required for the first test for each consumer.
- E. Nonfunctioning Meters: In the event that the Village determines that any municipal water meter is not functioning, the Village shall cause a notice thereof to be sent to the consumer. In the event that the consumer fails to repair or replace the meter within ten (10) days of the receipt of such notice, the Village shall be authorized to

bill said consumer an availability charge of three (3) times the rate otherwise applicable for said consumer in lieu of the actual water service gallonage charge in the event that the actual gallonage used by said consumer cannot be accurately ascertained by the Village. Such charge shall be billed for the entire quarter in which the aforesaid notice is issued to the consumer, and shall continue for each quarter thereafter, or portion thereof, that the Village continues water service to the consumer. In addition, the Village may, in its discretion, at any time after notice has been sent to the consumer of the nonfunctioning meter, discontinue service to the consumer, and this action shall be available to the Village in addition to the increase in availability charges as set forth above. In the event that the Village elects to shut off the consumer's service, the notice and hearing requirements as provided by federal law shall apply. In the event that the consumer's meter is not repaired or replaced within ten (10) days after notice to the consumer of the proposed shutoff, or, if the consumer requests a hearing and if said hearing substantiates that the meter is not functioning, the Village will, ten (10) days thereafter, discontinue water services. Services shall not be reinstated until the meter has been repaired or replaced and until all past due bills, including the penalties, are paid including payment in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code, costs for such shutoff of service, and an additional payment in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code to cover the cost of reinstating such service.

4-4-9 CONNECTION FEES AND SERVICE CHARGES

A. Connection Fees:

1. Water Connection: The charges for connection to the water system shall be based upon the nominal diameter of the water pipe in accordance with the schedule set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code.
2. Additional Charges: In addition to the aforementioned charges for water connections, the rates for multi-family, hotel, motel, or dormitory will apply and will be made for each respective service in the amounts set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code.
3. Inflation Adjustment: The foregoing fees shall be increased annually on the anniversary date of the ordinance codified herein by an amount equal to the percentage increase, if any, in the consumer price index-urban (all items) from the date of the ordinance codified herein to such anniversary date.

B. Service Charges: The following charges for water service are hereby established:

1. Availability Charge: The availability charge for water service is in accordance with the schedule set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code.
2. Water Service: Charges in accordance with paragraphs 3 and 4 below. Multiple users with single meter and/or service pay the minimum availability charge for each of the multiple units plus the actual utilities used at the rate set forth below.
3. Users Outside Village: The village is authorized to charge a water service charge to users outside the village limits that is one and one-half (1.5) times the rates for users within the village.

4. Residential and Commercial Users: Residential and commercial users shall pay the service charges in the amount set forth in the annual fee ordinance

schedule contained in section 1-16-3 of this code. A commercial use shall be any use that is not exclusively residential, including, but not limited to, transitory lodging, retail, wholesale, manufacturing and industrial establishments, churches, places of worship and all business and institutional uses. The water superintendent shall determine categorization of residential or commercial users.

RATE CODE APPLICATION	
R1	Residential: pipe is 1 inch or smaller; meter reads by 1,000 gallons
C2	Commercial: pipe is 1 ¹ / ₄ inches or smaller; meter reads by 1,000 gallons
C3	Commercial: pipe is 1 ¹ / ₂ inches; meter reads by 1,000 gallons
C4	Commercial: pipe is 2 inches; meter reads by 1,000 gallons
C5	Commercial: pipe is larger than 2 inches; meter reads by 1,000 gallons
C6	Commercial: pipe is 2 inches; meter reads by 10,000 gallons

[Revised 8/10/17]

5. Senior Citizen Discount: Senior citizens sixty five (65) years of age and older shall be entitled to a twenty percent (20%) reduced service charge per quarter after providing the following:

- a. Proof of age;
- b. Proof that he or she resides at the premises for which the discount is being sought; and
- c. Proof that the request for the discount is made by the head of the household or his or her spouse. Application for the reduced service charge shall be made on forms prepared by the Village and made available through the village clerk's office. The senior citizen discount shall take effect for the quarterly payment period following the date on which a senior citizen's application is approved by the Village.

C. Effective Date: The connection fees, availability charge and service rates set forth herein shall be in effect as soon as permitted by law.

D. Discontinued Water Service:

1. Persons wishing to discontinue water service in buildings used seasonally, or for other reasons, shall advise the water department billing clerk forty eight (48) hours prior to termination date and pay a combined fee in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code for each disconnection or reconnection of the service at a specified time. Failure to request disconnection shall result in normal charges being assessed the user for the potable water system. Requested time and dates made for the disconnected/reconnecting water service must fall during normal working hours of the public works department.

2. Any customer wishing to disconnect service to any service shall give notice to the billing clerk on the form furnished by the clerk. Changes for water use incurred since payment of the last bill shall be prorated based on the reading submitted by the Village. All water service at the time of the final meter reading must be paid in full at the time of discontinuing service. Any credit balance in the account shall be refunded to the customer within ninety (90) days of closing the account.
 3. Any customer requesting temporary discontinuance of service to facilitate repair to the customer's service system may be charged at the rate prescribed in subsection F of this section for after hours service calls.
 4. Neither the Village, the superintendent, nor their agents or assigns shall be liable to any customer of the waterworks system for any injury, damage or lost revenue that may result from termination of a customer's water supply, whether such termination was with or without notice.
- E. Restoration Of Service: Water service that has been denied, discontinued or terminated for due cause shall not be restored until the customer has made application as outlined in section [4-4-3](#) of this chapter or corrected or eliminated any adverse conditions or defects to the customer's water system to the satisfaction of the superintendent and paid the reconnection fees.
- F. Service Calls: Holiday and after hour service calls deemed nonemergency by the superintendent may be assessed a charge in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code per hour plus support and equipment fees.
- G. Temporary Water Service: Persons or organizations desiring to use water for building, construction, irrigation, or social events shall make application therefor in writing and file the same in the office of the superintendent on a form prescribed for the purpose. The superintendent or his assigns, shall be responsible for the issuance of "temporary use water permits" upon the following conditions:
1. Meter Charges: The applicant shall be responsible for a deposit of the cost of the meter, backflow prevention devices, and assembly fittings. Upon return of the meter and appurtenances, in good condition, the applicant shall be refunded the deposit less the cost of accumulated water usage. An additional meter rental charge in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code shall be assessed.
 2. Setup And Administrative Fee: A setup and administrative fee in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code as well as a charge in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code per one thousand (1,000) gallons used shall be assessed. The mayor may waive setup administrative fees and/or water usage fees for nonprofit organizations or village sponsored events.
 3. Denial or Suspension of Service: The superintendent may deny or suspend temporary water service during water conservation periods as established in section [4-4-13](#) of this chapter during any other village emergency or for misuse of water.

4-4-10

BILLING AND PAYMENT PROCEDURE

- A. Bills: The water service charges shall be billed on a quarterly basis. Bills for water services shall be sent to the owner(s) or occupant(s) of premises served. The owner of the premises, the occupant thereof, and the user of the service shall be jointly and severally liable to pay for the service on such premises, and the service is furnished to the premises by the Village only on the condition that the owner of the premises, occupant, and user of the service are jointly and severally liable therefor to the Village.

Bills for service, or for services, if more than one dwelling unit is served through a single meter, shall be rendered quarterly, during the month succeeding the period for which the service is billed; provided, however, the Village may elect to bill all consumers using in excess of one hundred thousand (100,000) gallons per quarter on a monthly basis. Consumers billed on a monthly basis may receive bills based on estimated usage, except that every third bill shall be based on an actual meter reading.

The due date for current billing is twenty one (21) days after the billing date. Payment must be received in the village office by due date to avoid late penalty charges. When the twenty first day of any month is on a Sunday or legal holiday, then such bills for service shall be payable no later than the next succeeding business day.

If payment of the entire amount of said bill is not received by the Village on or before the twenty first day after the billing date, then a late payment penalty of ten percent (10%) of the unpaid balance of the bill shall be added thereto and become due and payable.

A second notice shall be mailed within five (5) days after the due date, showing the amount due plus the late penalty.

If payment has not been made within twenty five (25) days after the second notice a reminder letter with a shutoff notice shall be mailed to the consumer thereafter advising the consumer of the Village's intent to shut off their water service, the shutoff procedures, and their right to request a hearing with respect to any disputed service charges or late fees. Unless the hearing committee determines otherwise, the red tag and shutoff procedure shall commence twelve (12) days after the shutoff notice.

- B. Nonpayment of Charges: All delinquent service charges shall be subject to the notice and hearing requirements as provided by federal law.

At any time after rendition of any bill for water services or late fees, a consumer disputing their liability for such charges may request a hearing before the hearing committee. Such request for hearing shall be in writing and delivered to the Village's finance department. The hearing committee shall consist of the Village's finance director and billing clerk. The hearing committee shall set a hearing within five (5) business days of the receipt of the written request therefor. In the event the consumer makes such a hearing request, the consumer's water service shall not be shut off until after such hearing and the hearing committee's decision thereon.

- C. Shutoff Procedures: In the event the water service charges and late fees are not paid within twelve (12) days of the shutoff notice, the red tag and shutoff procedure would begin. After twelve (12) days from the shutoff notice, the premises would be

posted with a "red tag" notice advising the consumer that the water service would be shut off in forty eight (48) hours unless full payment is made. After the shutoff notice, payment must be made at the Village's finance department and only by cash, money order or cashier's check and shall include a fee in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code for drafting, recording and serving the red tag notice, if it has been served at the time of payment. Upon water service shutoff the building department shall post the premises with a notice that the premises is "unfit for human occupancy".

Services shall not be reinstated until all past due bills, including penalties and fees are paid in full. There is a shutoff fee and an additional turn on fee for reinstating service in the amounts set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code.

D. Collection Procedures; Lien Against Premises:

1. Filing Notice: Charges for water shall be a lien on the premises as provided by statute. Whenever a bill for water service remains unpaid twenty one (21) days after it has been rendered, such charges shall be deemed and are hereby declared to be delinquent, and thereafter the Village may file suit against the delinquent owner(s) or tenant(s) to recover the unpaid user service charges as well as any and all court costs and attorney fees incurred by the Village in filing said civil suit. The village clerk shall also file with the recorder of deeds of Lake or McHenry County a statement of lien claim which shall include a fee in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code for drafting, recording and filing of the lien plus the costs of the county recorder of deeds. This statement shall contain the legal description of the premises, stating that such notice of lien has been recorded or will be recorded.

The failure of the village clerk to record such lien, to mail such notice, or the failure of the owner to receive such notice, shall not affect the validity of the lien or the right to foreclose the lien for unpaid water bills as provided in this section.

2. Foreclosure of Lien: Property subject to the lien for unpaid water charges shall be sold for nonpayment of the same, and the proceeds shall be applied to pay for the amount due the Village and the costs and expenses incurred in the foreclosure, including all reasonable attorney fees.

The village attorney or village prosecutor is hereby authorized and directed to institute such proceedings in the name of the Village, in any court having jurisdiction over such matters against any property for which the water bill has remained unpaid twenty one (21) days after it has been rendered.

3. Claim for Money Due: Notwithstanding any other rights for liens, the Village may institute any other appropriate action for the collection of unpaid water charges. The village attorney or village prosecutor is hereby authorized and directed to institute such proceedings in the name of the Village, in any court having jurisdiction over such matters when an outstanding bill or any fine assessed for violation of any portion of this chapter has remained unpaid sixty (60) days after it has been rendered. If the Village files a claim for money due to the Village for outstanding bills or fines assessed under this chapter, the owner or parties interested in the real estate shall be responsible for the amounts due the Village and the cost and expenses incurred by the Village in litigating the claim including all reasonable attorney fees.

4-4-11 GENERAL REQUIREMENTS AND PROHIBITIONS

- A. Fire Service Connections: All connections to the water system which service suppression equipment shall be provided with flow detection devices and central stationing alarms in accordance with village specifications.
- B. Temporary And Bulk Service: All unmetered service provided during construction shall be billed at the temporary service rate established. All bulk service shall be taken from locations to be determined by the superintendent of water and shall be paid for at the bulk service rate established.
- C. Damage to Property: The Village shall not be liable for damage to the customer's property which may be caused by open valves, spigots, faucets or other equipment which may be open when water is turned on or service restored after a temporary shutdown.

The customer shall be liable for damage to metering equipment and service connections caused by freezing or excessive heat; however, such liability shall extend only to the cost of repair.

- D. Swimming Pools and Water Tanks: Abnormally large amounts of water for swimming pools or other water storage may not be drawn during conservation restriction, and may not be discharged into the sanitary sewer system at any time.
- E. Control Valves: No person, other than those authorized by the Village, shall operate any curb stop, distribution valve or fire hydrant.
- F. Cross Connection: The Village shall do all things necessary to protect the potability and safety of its water supply, and may require plumbing changes, relief valves, backflow prevention, discontinuance on defect and other devices to provide the desired protection.
- G. Ground Wire Attachment: No ground wire or fault device may be connected to any water system.
- H. Waste: The Village reserves the right to discontinue service to any customer who is negligent or wasteful in the use of water.
- I. Fire Hydrants:
 - 1. All fire hydrants installed in the Village are the property of the Village. No person, other than village employees or members of the appropriate fire protection district in the course of their duties shall tamper with, open or draw water from a village fire hydrant or possess a wrench to open or draw water from a village fire hydrant without the express permission of the superintendent.
 - 2. No person shall obstruct the access to any fire hydrant, sprinkler or valve. Obstructions observed shall be removed by the Village or appropriate fire protection district representatives with the cost of removal assessed to the owner of the premises.
 - 3. Any person(s) tampering with, damaging or defacing a fire hydrant, sprinkler valve, or fire suppression control device shall be charged with a

misdemeanor, plus be liable for restitution for repair or replacement of the damaged equipment.

- J. Access To Equipment: No person shall in any manner obstruct access to any check valve, flow control or measuring device, hydrant, manhole, meter, stopcock, valve or appurtenance necessary to the maintenance, monitoring or operation of the department's or any customer's water service facilities. If, in the judgment of the superintendent an emergency exists whereby the waterworks system is threatened, the superintendent or his designated representative shall have the right to enter the premises of any customer or may immediately, without notice, disconnect water service to that customer's premises.
- K. Damage to Equipment or Property: No person shall break, damage, destroy, disconnect, tamper with or uncover any appurtenance, equipment, property or structure of the water department. No unauthorized person shall repair, replace, remove or operate any appurtenance, equipment or property of the water department. Any person(s) violating this provision shall be subject to a fine in the amount set forth in the annual fee ordinance schedule contained in section 1-163 of this code per violation and, in addition to any fines levied, shall pay the cost of both labor and materials required to restore the equipment to acceptable operating condition.

4-4-12 ACCESS TO PREMISES

Village personnel, upon identification, shall be permitted to enter upon any property for these reasons:

- To suspend service temporarily.
- To discontinue or shut off service.
- To reconnect service.
- To make repairs or improvements.
- To make inspections for compliance with regulations.

Village personnel shall use reasonable diligence in the performance of their entrance duty and shall give advance notice of any temporary service suspension.

4-4-13 WATER CONSERVATION

- A. Purpose: It is the purpose of this section to grant authority to the Village's water department to regulate the use of village water during periods of peak demand in order to conserve the village water and water pressure.
- B. Outside/Outdoor Water Use And Lawn Sprinkling:
 - 1. Prohibition: No person shall use water from the village water system for outside/outdoor use, including, but not limited to, sprinkling of streets, driveways, sidewalks, patios, decks, cars, lawns and plants or for any other recreation nonessential purpose during such periods as may be established by order of the Village's water department.

2. **General Penalty Provision:** The Village shall have the power to shut off or cause to be shut off the water from the premises of any person who violates or refuses to comply with the provisions of this section, in addition to any penalty which may be imposed under this code.

3. **Jurisdiction:** This section applies to all persons and property within the corporate limits of the Village, and to persons and property outside the village limits pursuant to specific authority granted under state statute.

CHAPTER 5

CROSS-CONNECTION CONTROL

4-5-1 BACKFLOW PREVENTION DEVICE REQUIRED

All plumbing installed within the Village shall comply with the Illinois Plumbing Code, as amended from time-to-time. If in accordance with the Illinois Plumbing Code or in the judgment of the superintendent of the water department, an approved backflow prevention device is necessary for the safety of the public water supply system, the superintendent of the water department will 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.

4-5-2 PRIVATE AUXILIARY OR EMERGENCY WATER SUPPLIES

No person, firm or corporation 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 Village's public water supply may enter 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 of the water department and the Illinois Environmental Protection Agency.

4-5-3 CROSS-CONNECTION CONTROL; GENERAL POLICY

- A. Purpose: The purpose of these rules and regulations is:
1. To protect the public water supply system from contamination 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.
 2. 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.
 3. 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.
- B. Application: These rules and regulations shall apply to all premises served by the public potable water supply system of the Village.
- C. Policy: The owner or official custodian shall be responsible for protection of the public water supply system from contamination due to backflow or back-siphoning of contaminants through the customer's water service connection. If, in the judgment of the superintendent of the water department or his authorized

representative, an approved backflow prevention device is necessary for the safety of the public water supply system, the superintendent of the water department 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 subsection [4-5-9D4](#) of this chapter for a period of at least five (5) years. The superintendent of the water department may require the consumer to submit a cross-connection inspection report to the Village's water department 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.

4-5-4 DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of these regulations.

AGENCY: Illinois Environmental Protection Agency.

APPROVED: 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 Standards Institute or certified by the National Sanitation Foundation.

AUXILIARY WATER SYSTEM: 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: The flow 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: 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: 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: Any water system located on the customer's premises. A building plumbing system is considered to be a customer's water system.

CONTAMINATION: Any impairment of the quality of the water by entrance of any substance to a degree which could create a health hazard.

CROSS-CONNECTION: Any physical connection or arrangement between two (2) 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: A cross-connection formed when a water system is physically joined to a source of unknown or unsafe substance.

DOUBLE CHECK VALVE ASSEMBLY: An assembly composed of single, independently acting check valves approved under ASSE Standard 1015. A double check valve assembly must include tight shutoff valves located at each end of the assembly and suitable connections for testing the water tightness of each check valve.

FIXED PROPER AIR GAP: The unobstructed vertical distance through the free atmosphere between the water discharge point and the flood level rim of the receptacle.

HEALTH HAZARD: 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.

INDIRECT CROSS-CONNECTION: A cross-connection through which an unknown substance can be forced, drawn by vacuum or otherwise introduced into a safe potable water system.

INSPECTION: 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, as amended from time to time.

NON-POTABLE WATER: Water not safe for drinking, personal, or culinary use as determined by the requirements of 35 Ill. Adm. Code 604.

PLUMBING: 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 a 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 feet (5') beyond the foundation walls.

POLLUTION: 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: Water which meets the requirements of 35 Ill. Adm. Code 604 for drinking, culinary, and domestic purposes.

POTENTIAL CROSS-CONNECTION: 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): Any fluid or solution which may be chemically, 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 firefighting purposes.

PUBLIC WATER SUPPLY: 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 fifteen (15) service connections or which regularly serve at least twenty five (25) persons at least sixty (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: A device containing a minimum of two (2) independently acting check valves together with an automatically operated pressure differential relief valve located between the two (2) check valves and approved under ASSE Standard 1013. During normal flow and at the cessation of normal flow, the pressure between these two (2) 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 closing shutoff valves located at each end of the device, and each device shall be fitted with properly located test cocks.

SERVICE CONNECTION: The opening, including all fittings and appurtenances, at the water main through which water is supplied to the user.

SURVEY: 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: 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: 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: The owner or official custodian of a public water system.

4-5-5 WATER SYSTEM

- A. The water system shall be considered as made up of two (2) 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 waste system under the control of the Superintendent of Water 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.

4-5-6 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.
 - 1. 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.
 - 2. There shall be no arrangement or connection by which an unsafe substance may enter a supply.

4-5-7 SURVEYS AND INVESTIGATIONS OF SUPERINTENDENT

It shall be the duty of the superintendent of the water department 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 superintendent of the water department shall deem necessary. Records of such surveys shall be maintained and available for review for a period of at least five (5) years.

4-5-8 RIGHT TO ENTER; INSPECTION AT CONNECTION

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 of the Village's water department for the purpose of verifying the presence or absence of cross-connections, and the Water Superintendent 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 of the Village's water department for the purpose of verifying information submitted by the customer regarding the required cross-connection control inspection. On demand the owner, lessees or occupants of any property so served shall furnish to the superintendent of the water department 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 superintendent of the water department, be deemed evidence of the presence of improper connections as provided in this chapter.

4-5-9 SURVEY AND INVESTIGATION

- 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 by the superintendent of the water department, 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 of the water department for the verification of information submitted by the water 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 the public potable water system. All cross connection control or other plumbing inspections must be conducted in accordance with 225 ILCS 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 415 ILCS 5/4.
- 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) Servicing performed and date completed.

4-5-10.1 HERE PROTECTION IS REQUIRED

- A. An approved backflow device shall be installed on all connections to the public water supply as described in the Illinois 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 of Water, actual or potential hazards to the public water supply system exist.
- B. It shall be unlawful to install, remove, or replace any cross-connection control device without first having obtained a permit therefor in accordance with the Island Lake Building Code. Any violation of the paragraph shall be punishable by a fine in the amount of two (2) times the required permit fee.
- C. 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 of the water department 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 systems containing process fluids or waters originating from the public water supply system which are no longer under the sanitary control of the superintendent of the water department.
 - 3. Premises having internal cross-connections that, in the judgment of the superintendent of the water department and/or the cross-connection control device inspector, are not correctable or intricate plumbing arrangements which make it 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 of cross-connections being established or re-established.
- D. 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 of Water 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 beverage 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;
 13. All other commercial or industrial facilities;
 14. Any facility utilizing a heat exchanger;
 15. All underground sprinkler systems.

4-5-11 TYPE OF PROTECTION REQUIRED

- A. The type of protection required under subsections [4-5-10C1](#), C2 and C3 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 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 subsections [4-5-10C4](#) and C5 of these regulations shall be an approved fixed proper air gap separation or an approved reduced pressure principle backflow prevention device.
- 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;
 - 3. Water flows by gravity from a nonpotable 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.

4-5-12 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 specifications.
- 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.

4-5-13 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 bypassed air gaps shall be made within twenty four (24) hours. 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.
 - 2. Reduced pressure principle backflow prevention assemblies shall be tested at the time of installation and at least annually or more frequently if

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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 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.

The customer shall forward a copy of this maintenance log to the superintendent of the water department within fourteen (14) days after its completion.

- 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 subsection [4-5-13A](#).
- F. Backflow prevention devices shall not be bypassed, made inoperative, removed or otherwise made ineffective without specific authorization by the superintendent of the water department.

4-5-14 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 twenty (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 of the water department, at least once a year, the device is operable.

4-5-15 DISCONTINUANCE OF SERVICE

The superintendent of the water department is hereby authorized and directed to discontinue, after reasonable notice to the occupant thereof, the water service to an property wherein any connection in violation 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 in the amount set forth in the

annual fee ordinance schedule contained in section 1-16-3 of this code is paid to the Village. Immediate disconnection with verbal notice can be effected when the superintendent 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 superintendent or the Illinois Environmental Protection Agency, such action is required to prevent actual or potential contamination or pollution of the public water supply. Neither the superintendent of the water department, the department, the Village, or their agents or assigns shall be liable to any customer 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 chapter, whether or not said termination was with or without notice.

4-5-16 CLEANUP COSTS

The consumer responsible for backsiphoned or backpressured 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 cleanup of the potable water supply system.

4-5-17 VIOLATIONS

- A. The superintendent of the water department 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 of water, 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 is a low pressure cutoff 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 of water, and the required reconnection fee is paid. 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 of water utilities/operations.
- C. Neither the village water department, the superintendent of the water department, the Village, or their agents or assigns shall be liable to any customers of the village water department 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 of the water supply was with or without notice.
- D. The consumer responsible for backsiphoned 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 device which has been bypassed, must bear the cost of cleanup of the potable water supply system.
- E. Any person found to be violating any provision of this shall be served with written notice of the violation and providing a reasonable time limit for the satisfactory

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correction thereof. The offender shall, within the fourteen (14) day period of time
stated in such notice, permanently cease all violation.

- F. Any person violating any of the provisions of this chapter, 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 its notice.
- G. Any person who violates any provision of this section shall be fined in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code for each offense. A separate offense shall be deemed to have been committed on each day during which a violation occurs or continues.

CHAPTER 6

BEACH REGULATIONS

4-6-1 DESIGNATED BATHING BEACHES

- A. Dorothy Court Beach: Lot 18 in Owners Re-Subdivision of Block 7 in Island Lake Estates, a Subdivision of part of the East Half of the East Half of Section 20, Township 44 North, Range 9 East of the Third Principal Meridian, according to the Plat thereof recorded August 16, 1938 as Document No. 134125 in Book 9 of Plats, page 11, in McHenry County, Illinois.
- B. Park Drive Beach: Located at the South end of Park Drive between Blocks "G" and "H" in Island Lake Estates in Lake County, a Subdivision of part of the West Half of the West Half of Section 21, Township 44 North, Range 9 East of the Third Principal Meridian, according to the Plat thereof recorded September 19, 1938 as document No. 453966, in Book "Z" of Plats, pages 5, 6 and 7, in Lake County, Illinois.
- C. Bria(e)r Court Beach: In Island Lake Estates, Lake County, Illinois, situated between Lot 31 in Block "P" and Lots 10 and 11 in Block "R" and the southernmost point of Lot 31 in Block "P"; (it being intended that the above described line shall be in the Western terminus of that part of Bria(e)r Court which is hereby conveyed).
- D. South Shore Drive Beach: Lots 14 and 16 (except the Southeasterly 100 feet thereof) and all of Lot 15 in Block "S" in Island Lake Estates in Lake County, a Subdivision of part of the West Half of the West Half of Section 21, Township 44 North, Range 9 East of the Third Principal Meridian, according to the Plat thereof recorded September 19, 1938, as Document No. 453966, in Book "Z" of Plats, pages 5, 6 and 7, in Lake County, Illinois.
- E. Veterans Beach A tract of land in the Northwest Quarter of the Southeast Quarter of Section 20, Township 44 North, Range 9 East of the Third Principal Meridian, described as follows: Commencing at a point in the East line of said Quarter Quarter Section, said point being the Southwest corner of Lot 9 in Block 4 of Island Lake Estates, according to the Plat thereof recorded May 21, 1937 in Book 8 of Plats, page 158, as Document No. 126782, a Subdivision of part of the East Half of the East Half of said Section 20; thence West along the South line of said Lot 9 extended West, 73.23 feet to the center line of State Route 176; thence Northwesterly along the center line of said State Route, 125.95 feet; thence Northeasterly at right angles to the center line of said State Route, 162.4 feet to a point in the East line of said Quarter Quarter Section, 8.5 feet South of the Northwest corner of Lot 5 in Block 4 of Island Lake Estates; thence South along the East line of said Quarter Quarter Section, 191.5 feet to the place of beginning, in McHenry County, Illinois.

4-6-2 BATHING BEACH REGULATIONS

- A. Fishing is prohibited on the beaches.
- B. Swimmers using the beaches must stay within the confines of the buoys marking the swimming area.

- C. The Village board or chief of police may restrict use of bathing beaches when conditions of weather or health warrant or when other activities have been approved.
- D. Fires prohibited on beaches.
- E. The beach regulations set forth in 77 Illinois Administrative Code 820.400(i) as such regulations now exist or may hereafter be amended, are hereby incorporated herein by reference and made a part hereof.

4-6-3 SPECIAL PERMITS

The Village may issue a permit upon good cause shown to persons or groups for the purpose of special events on a first-come, first served basis.

4-6-4 ENFORCEMENT

The police department or any special police or water safety patrol authorized by the Village shall for the purpose of this chapter have full and complete jurisdiction of the beaches for the enforcement of this chapter.

4-6-5 VIOLATION, TICKET, PENALTIES

Any person violating any of the provisions of this chapter shall be fined in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code.

CHAPTER 7

NATURAL AREAS

4-7-1 DESCRIPTION

The following described property is hereby governed by this section:

A. Veterans Park:

Legal Description: A parcel of land located in the West Half of the Northeast Quarter and the West Half of the Southeast Quarter of Section 20, Township 44 North, Range 9 East of the Third Principal Meridian, described as follows: Beginning at the Northwest corner of Cotton Creek Estates, according to the Plat thereof recorded March 15, 1979, as Document No. 762446; thence South 31 degrees, 16 minutes, 00 seconds East, along the Southwest line of said Cotton Creek Estates, a distance of 945.90 feet; thence North 89 degrees, 31 minutes, 23 seconds East, along the Southerly line of said Cotton Creek Estates, a distance of 105.69 feet to the East line of the West Half of the Northeast Quarter of said Section 20; thence South 00 degrees, 04 minutes, 07 seconds East, along said East line of the West Half of the Northeast Quarter, a distance of 134.24 feet; thence North 61 degrees, 01 minutes, 51 seconds West, 51.47 feet; thence South 0 degrees, 04 minutes, 12 seconds East, 220.46 feet; thence South 65 degrees, 25 minutes, 37 seconds East, 49.51 feet to the Northeast corner of said West Half of the Southeast Quarter of Section 20; thence South 0 degrees, 04 minutes, 50 seconds East, along the East line of the said West Half of the Southeast Quarter, a distance of 168.50 feet; thence South 58 degrees, 43 minutes, 59 seconds West, 162.06 feet to the centerline of State Route 176; thence North 31 degrees, 16 minutes, 00 seconds West, along said centerline, 1,487.51 feet; thence North 66 degrees, 07 minutes, 59 seconds East, a distance of 342.79 feet to the place of beginning, in McHenry County, Illinois.

AND ALSO:

A tract of land in the Northwest Quarter of the Southeast Quarter of Section 20, Township 44 North, Range 9 East of the Third Principal Meridian, described as follows: Commencing at a point in the East line of said Quarter Quarter Section, said point being the Southwest corner of Lot 9 in Block 4 of Island Lake Estates, according to the Plat thereof recorded May 21, 1937 in Book 8 of Plats, page 158, as Document No. 126782, a Subdivision of part of the East Half of the East Half of said Section 20; thence West along the South line of said Lot 9 extended West, 73.23 feet to the center line of State Route 176; thence Northwesterly along the center line of said State Route, 125.95 feet; thence Northeasterly at right angles to the center line of said State Route, 162.4 feet to a point in the East line of said Quarter Quarter Section, 8.5 feet South of the Northwest corner of Lot 5 in Block 4 of Island Lake Estates; thence South along the East line of said Quarter Quarter Section, 191.5 feet to the place of beginning, in McHenry County, Illinois.

AND ALSO:

LOTS 1, 2, 3, AND 4 IN COTTON CREEK ESTATES, BEING A SUBDIVISION IN PART OF THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 44 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 15, 1979 AS DOCUMENT NO. 762446 IN MCHENRY COUNTY, ILLINOIS.

B. Greenleaf Woods Park:

Part of the West Half of the Southeast Quarter and also part of the East Half of the Southwest Quarter of Section 21, Township 44 North, Range 9 East of the Third Principal Meridian described as follows: Commencing at the Northeast corner of the said West Half of the Southeast Quarter of Section 21 (said point being also the Northwest corner of Robert Bartlett's Lakeview Woodlands, being a subdivision of part of Sections 21 & 28, Township 44 North, Range 9 East of the Third Principal Meridian, according to the Plat thereof recorded April 3, 1959, as Document: 1025810, in Lake County, Illinois); thence South 0 degrees 56 minutes 24 seconds East, 633.47 feet along the East line of said West Half of the Southeast Quarter (being also the West line of said Robert Bartlett's Lakeview Woodlands); thence South 89 degrees 03 minutes 36 seconds West, 200.96 feet to the point of beginning; thence South 89 degrees 03 minutes 36 seconds West, 139.99 feet; thence North 0 degrees 56 minutes 24 seconds West, 204.36 feet; thence North 42 degrees 25 minutes 28 seconds West, 61.47 feet; thence North 54 degrees 27 minutes 57 seconds West, 57.15 feet; thence North 70 degrees 53 minutes 28 seconds West, 51.80 feet; thence North 86 degrees 36 minutes 28 seconds West, 45.37 feet; thence South 61 degrees 52 minutes 42 seconds West, 49.45 feet; thence South 48 degrees 10 minutes 46 seconds West, 222.26 feet; thence South 63 degrees 34 minutes 18 seconds West, 178.71 feet; thence South 80 degrees 32 minutes 24 seconds West, 183.17 feet; thence North 82 degrees 15 minutes 37 seconds West, 280.00 feet; thence South 55 degrees 45 minutes 47 seconds West, 321.00 feet; thence North 89 degrees 49 minutes 59 seconds East, 304.25 feet; thence North 0 degrees 56 minutes 27 seconds West, 15.00 feet; thence North 89 degrees 03 minutes 33 seconds East, 180.00 feet; thence South 0 degrees, 56 minutes 27 seconds East, 180.00 feet; thence South 89 degrees 03 minutes 33 seconds West, 180.00 feet; thence South 0 degrees 56 minutes 27 seconds East, 220.00 feet; thence North 47 degrees 49 minutes 39 seconds East, 143.00 feet; thence South 87 degrees 56 minutes 05 seconds East, 193.77 feet; thence North 86 degrees 12 minutes 57 seconds East, 58.36 feet; thence North 73 degrees 55 minutes 19 seconds East, 64.63 feet; thence North 64 degrees 42 minutes 30 seconds East, 132.78 feet; thence North 56 degrees 26 minutes 07 seconds East, 156.00 feet; thence North 75 degrees 37 minutes 20 seconds East, 104.00 feet; thence South 86 degrees 51 minutes 43 seconds East, 101.00 feet; thence South 75 degrees 14 minutes 13 seconds East, 103.85 feet; thence North 0 degrees 56 minutes 24 seconds West, 228.00 feet; thence North 89 degrees 03 minutes 36 seconds East, 139.99 feet; thence North 0 degrees 56 minutes 24 seconds West, 30.00 feet to the point of beginning, in Lake County, Illinois.

C. Outlots A and C (Unit 9 Fox River Shores, Phase V, Village of Waterford):

Outlots A & C in Unit 9 Fox River Shores Phase 5, Village of Waterford, being a subdivision of part of Section 19, Township 44 North, Range 9 East of the Third Principal Meridian, according to the Plat thereof, recorded March 6, 1991 as Document #91R 007009 in McHenry County, Illinois.

4-7-2 RESTRICTIONS

The purpose of this chapter is to designate the areas described herein as "natural areas" for the use and enjoyment of the citizens of the Village and to prevent and restrict all uses of a personal nature which benefit the individual rather than the public. Towards that end, the following restrictions shall apply:

- A. There shall be no dredge or fill material placed thereon except by employees or agents of the Village in connection with the construction of a walking trail not to exceed four feet (4') in width.
- B. There shall be no commercial, industrial, agricultural or residential developments or use of the property, or any structure, including but not limited to signs, billboards or other advertising material, fences or any other tangible object whatsoever placed thereon.
- C. There shall be no removal, destruction or alteration whatsoever of any vegetation, including trees and plants, nor mowing, draining, plowing, removal of topsoil, sand, rock, gravel, minerals or any other materials thereon.
- D. There shall be no grazing or keeping of cattle, sheep, horses or other domestic animals thereon.
- E. There shall be no operation of snowmobiles, dune buggies, motorcycles, all-terrain vehicles or any other types of motorized vehicles, except as necessary to permit the Village's agents and employees to construct and maintain a walking trail not to exceed four feet (4') in width.
- F. The parking, standing, or storing of boats or other personal property is strictly prohibited. In addition, no boat or other personal property of any kind shall be allowed to be tied to or in any other way affixed to any of the areas described in this chapter including, but not limited to, when the boat or other personal property may be located in a public waterway.

CHAPTER 8: Reserved

CHAPTER 9

FISHING REGULATIONS

4-9-1 Size, Slot and Daily Creel Regulations

Permitted harvesting of fish from the waters of Island Lake located within the Village of Island Lake shall be limited in accordance with the following written regulations which shall be made available at Village Hall and posted at the Eastway Park Boat Launch.

Size, Slot and Daily Creel Regulations Relating to Harvesting of Fish from the Waters of Island Lake		
The following size, slot and daily creel regulations apply to harvesting fish from the waters of Island Lake within the Village of Island Lake:		
Species	Daily Limit	Size
Northern Pike	1(one)	Minimum 24"
Muskellunge	Catch and Release	Catch and Release
Largemouth Bass	2 (two)	14"-18" Protected slot
Largemouth Bass 14" – 18" Protected Slot	2 (two) fish limit	Only one (1) over 18"
Smallmouth Bass	Catch and Release	Catch and Release
Bluegill	15 (fifteen)	Minimum 7"
Crappie (all types)	10 (ten)	Minimum 9"
Perch	10 ten)	Minimum 8"
Walleye	2 (two)	Minimum 16"
Catfish (All Types)	3 (three	Minimum 15"
Harvesting of carp from Island Lake is encouraged.		

4-9-2 PENALTY

A person found to be in violation of this Chapter shall be subject to the following minimum fines: \$100 for a first offense; \$250 for a second offense; \$750 for a third offense and for each offense thereafter. Enforcement of this Chapter shall be by the Island Lake Police or authorized lake patrol officers.

CHAPTER 10

CONSTRUCTION OF UTILITY FACILITIES IN THE RIGHTS OF WAY

4-10-1 PURPOSE AND SCOPE

- A. Purpose: The purpose of this chapter 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 chapter, 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 runoff 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 Chapter: This chapter 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 chapter 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 chapter.

- 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 chapter 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 Chapters: This chapter supersedes all chapters or parts of 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 chapter, the utility shall comply with the requirements of this chapter 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 chapter and may vary the standards, conditions, and requirements expressed in this chapter 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.

4-10-2 DEFINITIONS

As used in this chapter 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 Illinois Administrative Code section 530.30, unless the context clearly requires otherwise.

ASHTO: American Association of State Highway and Transportation Officials.

ANSI: American National Standards Institute.

ASTM: American Society for Testing and Materials.

APPLICANT: A person applying for a permit under this chapter.

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 USC 522(5).

CABLE SERVICE: That term as defined in 47 USC 522(6).

CABLE SYSTEM: That term as defined in 47 USC 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 nonrecoverable 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.

CODE: The Island Lake village code.

CONDUCTOR: Wire carrying electrical 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 chapter, any work that obstructs the right of way or causes a material adverse effect 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 chapter. For purposes of this chapter, 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 to a highway.

HAZARDOUS MATERIALS: Any substance or material which, due to its quantity, form, concentration, location, or other characteristics, is determined by the village engineer 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: A specific type of right of way used for vehicular traffic including rural or urban roads or streets. "Highway" includes all highway land and improvements, including roadways, ditches and embankments, bridges, drainage structures, signs, guardrails, protective structures and appurtenances necessary or convenient for vehicle traffic.

HIGHWAY CODE: The Illinois Highway Code, 605 ILCS 5/1-101 et seq., as amended from time to time.

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.

ICC: Illinois commerce commission.

IDOT: Illinois department of transportation.

JULIE: The Joint Utility Locating Information for Excavators utility notification program.

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 (2) or more utilities.

MAJOR INTERSECTION: The intersection of two (2) 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 a facility or for the construction of a facility.

PERMITTEE: That entity to which a permit has been issued pursuant to sections [4-10-4](#) and [4-10-5](#) of this chapter.

PETROLEUM PRODUCTS PIPELINES: Pipelines carrying crude or refined liquid petroleum products including, but not limited to, gasoline, distillates, propane, butane, or coal slurry.

PRACTICABLE: That which is performable, feasible or possible, rather than that which is simply convenient.

PRESSURE: The internal force acting radially against the walls of a carrier pipe expressed in pounds per square inch gauge (psig).

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 (2) 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 [4-10-10](#) of this chapter.

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.

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 nontraffic 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 USC section 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 CFR section 76.1500 and following), as now or hereafter amended.

TELECOMMUNICATIONS PROVIDER: 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 telecommunications 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 section.

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).

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.

4-10-3 ANNUAL REGISTRATION REQUIRED

Every utility that occupies right of way within the Village shall register on January 1 of each year with the engineer, 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 [4-10-8](#) of this chapter, in the form of a certificate of insurance.

4-10-4 PERMIT REQUIRED; APPLICATIONS AND FEES

- A. Permit Required: No person shall construct (as defined in this chapter) 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 chapter), 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 village engineer and obtaining a permit from the Village therefor, except as otherwise provided in this chapter. 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 chapter 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, e-mail address, and fax numbers;
 - 2. The applicant's name and address, if different than the utility, its telephone and fax numbers, e-mail address, and its interest in the work;
 - 3. The names, addresses and telephone and fax 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 [4-10-8](#) of this chapter;
 8. Evidence of posting of the security fund as required in section [4-10-10](#) of this chapter.
 9. Any request for a variance from one or more provisions of this chapter (see section [4-10-21](#) of this chapter); 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 subsection 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 and other local or state entities with jurisdiction, 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 chapter shall be accompanied by a fee in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code. 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.

4-10-5 ACTION ON PERMIT APPLICATIONS

- A. Village Review of Permit Applications: Completed permit applications, containing all required documentation, shall be examined by the village engineer within a reasonable time after filing. If the application does not conform to the requirements of applicable ordinances, codes, laws, rules, and regulations, the village engineer shall reject such application in writing, stating the reasons therefor. If the village engineer is satisfied that the proposed work conforms to the requirements of this chapter and applicable ordinances, codes, laws, rules, and regulations, the village engineer 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 village engineer, that the construction proposed under the application shall be in full compliance with the requirements of this chapter.
- 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 chapter 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 village engineer shall specify the portion of the right of way upon which the facility may be placed, used and constructed.
 2. In the event that the village engineer 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 chapter.
 3. Upon the provision of such specification by the Village, where a permit is required for work pursuant to section [4-10-4](#) of this chapter 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 subsection 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.

- D. With regard to installation of Small Cell Antennas or Towers to be attached to new or existing utility poles or structures, the provisions of Section 4-10-22 of the Village Code shall also apply and, in the event of any conflict with the provisions of this Section 4-10-5, the provisions in Section 4-10-22 shall control. [\(Added 6/28/2018\)](#)

4-10-6 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 chapter 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 rights of way.
- B. Duration: No permit issued under this chapter 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. Preconstruction Meeting Required: No construction shall begin pursuant to a permit issued under this chapter prior to attendance by the permittee and all major contractors and subcontractors who will perform any work under the permit at a preconstruction meeting. The preconstruction 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.

4-10-7 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 chapter, it shall be treated as a request for variance in accordance with section [4-10-21](#) of this chapter. 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.

4-10-8 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 subsections A1 and A2 of this section.

1. Commercial general liability insurance, including premises-operations, explosion, collapse, and underground hazard (commonly referred to 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, nonowned 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. Workers' 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 President 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 subsection 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 subsection A of this section, or the requirements of subsections 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 subsection 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 rated "A-" or better and of a class size "X" or higher by A.M. Best Company.

4-10-9 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 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 chapter 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 chapter by the Village, its officials, officers, employees, agents or representatives.

4-10-10 SECURITY

- A. Purpose: The permittee shall establish a security fund in a form and in the amount 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 as security for:
 - 1. The faithful performance by the permittee of all the requirements of this chapter;

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 chapter; 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 nonperformance by permittee in violation of this chapter including, without limitation, any damage to public property or restoration work the permittee is required by this chapter 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 chapter 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 subsection 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 Village engineer, 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 a 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 village engineer 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 subsection 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 subsection, 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 nonperformance by the permittee; or
 4. Fails to comply with any provision of this chapter 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 subsection 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 subsection 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 chapter 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 chapter 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.

4-10-11 PERMIT SUSPENSION AND REVOCATION

- A. Village Right to Revoke Permit: The Village may revoke or suspend a permit issued pursuant to this chapter for one or more of the following reasons:
 - 1. Fraudulent, false, misrepresenting, or materially incomplete statements in the permit application;
 - 2. Noncompliance with this chapter;
 - 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 chapter stating the reason or reasons for the revocation or suspension and the alternatives available to permittee under this section.
- 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 subsection.

- 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 subsection A of this section.
- E. **Failure Or Refusal Of The Permittee To Comply:** If the permittee fails to comply with the provisions of subsection 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.

4-10-12 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 applicable laws, ordinances, rules and regulations, including this chapter, 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.

4-10-13 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 section 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 chapter, the village engineer shall determine, in the exercise of sound engineering judgment, which principles apply and such decision shall be final. If requested, the Village engineer shall state which standard or principle will apply to the construction, maintenance, or operation of a facility in the future.

4-10-14 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 applicable federal, state, and local requirements for protection of the public and the utility's workers when performing any work on the 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 [4-10-20](#) of this chapter, 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.

4-10-15 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 subsection.
1. No Interference with Village Facilities: No utility facilities shall be placed in any location if the village engineer 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 feet (2') (0.6 m) 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 feet (4') (1.2 m) 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 foot (1') (0.3 m) 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 feet (8') (2.4 m) 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

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 feet (5') (1.5 m) from the right of way line and any above grounded appurtenance shall be located within one foot (1') (0.3 m) 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. Ninety Degree Crossing Required: Crossing facilities shall cross at or as near to a ninety degree (90°) 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. Admin. Code 305);
 - b. Poles are located within one foot (1') (0.3 m) 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 CFR section 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 Aboveground: Aboveground 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.

4-10-16 CONSTRUCTION METHODS AND MATERIALS

A. Standards and Requirements for Particular Types of Construction Methods:

1. Boring or Jacking:
 - a. Pits and Shoring: Boring or jacking under rights of way shall be accomplished from pits located at a minimum distance specified by the village engineer 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 Inches: Borings over six inches (6") (0.15 m) 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 inch (1") (25 mm).
 - d. Borings with Diameters Six Inches or Less: Borings of six inches (6") 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 designated by the Village to be preserved or protected 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 of 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 ($1/2$) of any intersection may have an open trench at any time unless special permission is obtained from the village engineer.
 - b. Open Trench and Excavated Material: Open trench and windrowed 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 windrowing 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

Village of Island Lake Code, Title 4, Public Ways and Property 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 engineer, 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 engineer.
4. Pavement Cuts: Pavement cuts for facility installation or repair shall be permitted on a highway only if that portion of the highway is closed to traffic. If a variance to the limitation set forth in this subsection A4 is permitted under section [4-10-21](#) of this chapter, the following requirements shall apply:
 - 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 engineer.
 - 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 JULIE 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 foot (1') (0.3 m) of the right of way line. No aboveground 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 sixty (60) psig or less, encasement may be eliminated.
 - e. In the case of gas pipelines or petroleum products pipelines with installations of more than sixty (60) psig, encasement may be eliminated

only if: 1) extra heavy pipe is used that precludes future maintenance or repair and 2) 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 (0.8 m)
Communication, cable or video service lines	18 to 24 inches (0.46 m to 0.6 m, as determined by village)
Gas or petroleum products	30 inches (0.8 m)
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 Illinois administrative code part 305 (formerly general order 160 of the Illinois commerce commission) entitled "rules for construction of electric power and communication 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 guywires are equipped with guy guards for maximum visibility.
- c. Underground Facilities:
 - (1) 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.
 - (2) 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 methods 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.

- (3) Cable shall be grounded in accordance with the national electrical safety code.
 - d. 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 snow drops, 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 snow drops, 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 section 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. Water Lines, Sanitary Sewer Lines, Stormwater 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 foot (1') (305 mm) 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 engineer. With the approval of the engineer, 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 village engineer. 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 engineer when emergency work is required to restore vital utility services.
3. Unless otherwise permitted by the Village, the hours of construction shall be from seven o'clock (7:00) A.M. to seven o'clock (7:00) P.M.

- E. Location of Existing Facilities: Any utility proposing to construct facilities in the Village shall contact JULIE and ascertain the presence and location of existing aboveground and underground facilities within the rights of way to be occupied by its proposed facilities. The Village will make its permit records available to a utility for the purpose of identifying possible facilities. When notified of an excavation or when requested by the Village or by JULIE, 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.

4-10-17 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 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 chapter.

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 subsection, 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 engineer that such spraying is the only practicable method of vegetation control.

4-10-18 REMOVAL, RELOCATION, OR MODIFICATIONS 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 chapter; 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 village engineer 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.

4-10-19 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 village engineer. 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 village engineer for good cause shown.

4-10-20 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 flaggers. 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 village engineer 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.

4-10-21 VARIANCES

- A. Request for Variance: A utility requesting a variance from one or more of the provisions of this chapter must do so in writing to the village engineer as a part of the permit application. The request shall identify each provision of this chapter from which a variance is requested and the reasons why a variance should be granted.
- B. Authority for Grant Variances: The village engineer shall decide whether a variance is authorized for each provision of this chapter identified in the variance request on an individual basis.
- C. Conditions for Granting of Variance: The village engineer 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 village engineer may require the utility requesting the variance to meet reasonable standards and conditions that may or may not be expressly contained within this chapter but which carry out the purposes of this chapter.
- E. Right to Appeal: Any utility aggrieved by any order, requirement, decision or determination, including denial of a variance, made by the village engineer under the provisions of this chapter 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.

4-10-22 SMALL CELL ORDINANCE (6/28/2021)

- A. Purpose. The purpose of this Section 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 Illinois Small Wireless Facilities Deployment Act (P.A. 100-0585).

- B. Conflicts with Other Ordinances. This Section supersedes all Sections or parts thereof adopted prior hereto that are in conflict herewith, to the extent of such conflict.
- C. Conflicts with State and Federal Laws. In the event that applicable federal or State laws or regulations conflict with the requirements of this Section, the wireless provider shall comply with the requirements of this Section to the maximum extent possible without violating federal or State laws or regulations.
- D. Definitions. For purposes of this Section 4-10-22, the following definitions shall apply:

ACT: The Illinois Small Wireless Facilities Deployment Act, 50 ILCS 840/1 et seq., as may be subsequently amended.

ANTENNA: communications equipment that transmits or receives electromagnetic radio frequency (RF) radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission (FCC) authorization, for the provision of personal wireless service and any commingled information services. The antenna does not include an unintentional radiator, mobile station or device.

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 or entity that submits an application and the agents, employees and contractors of such person or entity.

APPLICATION: a request submitted by an applicant to the Village for a permit to collocate small wireless facilities at a specified location, 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 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 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 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 6 cubic feet; and (ii) all other wireless equipment attached directly to a utility pole associated with the facility is cumulatively no more than 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: (i) 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.

E. Regulation of Small Wireless Facilities.

1. Permitted Use. Small wireless facilities shall be classified as permitted uses and subject to administrative review, except as provided in paragraph (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.
2. 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:
 - a. 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:

- (1) 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;
 - (2) 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;
 - (3) 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;
 - (4) The equipment type and model numbers for the antennas and all other wireless equipment associated with the small wireless facility;
 - (5) A proposed schedule for the installation and completion of each small wireless facility covered by the application, if approved; and
 - (6) Certification that the collocation complies with the Collocation Requirements and Conditions contained herein, to the best of the applicant's knowledge.
 - (7) 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.
 - (8) Certification by a radio engineer that a new, replacement or modified small wireless facility operates within all applicable FCC standards.
- b. Application Process. The Village shall process applications as follows:

- (1) The first completed application shall have priority over applications received by different applicants for collocation on the same utility pole or wireless support structure.
- (2) 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 90 days after the submission of a completed application.

FCC regulation provides that an application to collocate a small wireless facility using an existing structure shall be granted or denied within 60 days of submission of a completed application. Delays beyond that time limit are available only in exceptional circumstances or with the consent of the applicant.

- (3) An application to collocate a small wireless facility that includes the installation of a new utility pole shall be processed on a nondiscriminatory basis after the submission of a completed application.

FCC regulation provides that an application to collocate a small wireless facility using a new structure shall be granted or denied within 90 days of submission of a completed application. Delays beyond that time limit are available only in exceptional circumstances or with the consent of the applicant.

- (4) The Village shall deny an application which does not meet the requirements of this Section.

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 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 30 days after the applicant resubmits the application or it is deemed approved. Failure to resubmit the revised application within 30 days of denial shall require the applicant 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.

- c. Pole Attachment Agreement. Within 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. The Director of Public Works, or his or her designee, is authorized to execute the Pole Attachment Agreement on behalf of the Village following review and approval by the Village Attorney of any revisions.
- d. Completeness of Application. Within 10 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 10 days after all documents, information and fees specifically enumerated in the Village's permit application form are submitted by the applicant to the Village. FCC regulation allows 10 days for determination of completion, and that 10-day time frame replaces the 30-day period provided in the state Act.

Processing deadlines are tolled from the time the Village sends the notice of incompleteness to the time the applicant provides the missing information.

- e. Tolling. The time period for applications may be further tolled by:
 - (1) An express written agreement by both the applicant and the Village; or
 - (2) A local, State or federal disaster declaration or similar emergency that causes the delay.
- f. 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 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.

- g. Duration of Permits. The duration of a permit shall be for a period of not less than 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 Section.

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.

- h. 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.

F. 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 Section. The wireless provider shall ensure that its employees, agents or contractors 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, including acoustic regulations, and local code provisions or regulations that concern public safety.
6. The wireless provider shall comply with the following design standards and any variations from these design standards may only be granted pursuant to the variance provisions of this Chapter at Section 4-10-21:
 - a. Screening. Whenever any equipment or appurtenances are to be installed at grade, screening must be installed to minimize the visibility of the facility

and shall not be permitted to obstruct sight lines or to create other traffic or safety problems.

- b. **Color and Stealth.** All wireless facilities subject to this Section, including all related equipment and appurtenances, must be a color that blends with the surroundings of the pole, structure tower or infrastructure on which it is mounted. The color must be comprised of nonreflective materials which blend with the materials and colors of the surrounding area and structures. The Applicant shall use good faith efforts to employ reasonable stealth techniques to conceal the appearance of the wireless facilities. Any pole extensions shall not be metallic or wood and shall blend with the color of the pole upon which they are mounted.
 - c. **Wiring and Cabling.** Wires and cables connecting the antenna to the remainder of the facility must be installed in accordance with the National Electrical Code and National Electrical Safety Code adopted by the Village and in force at the time of the installation of the facility. Any wiring must be covered with an appropriate cover. No wiring and cabling serving the facility will be allowed to interfere with any existing uses.
7. **Alternate Placements.** Except as provided in this Collocation Requirements and Conditions Section, a wireless provider shall not be required to collocate 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 200 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 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. 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 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 300 feet of the proposed utility pole or wireless support structures shall control the height limitation for such facility; or
- b. 50 feet above ground level. The 50-foot limit provided by FCC regulation replaces the limit of 45 feet under the Act.

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 the manner provided in this Chapter at Section 4-10-21.
 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. Subject to the variance provisions of this Chapter at Section 4-10-21 and state law, the wireless provider shall comply with applicable spacing requirements of this Section concerning the location of ground-mounted equipment located in the right-of-way.
 12. Undergrounding Regulations. Subject to the variance provisions of this Chapter at Section 4-10-21 and state law, the wireless provider shall comply with the provisions of this Section concerning undergrounding requirements that prohibit the installation of new or the modification of existing utility poles in a right-of-way without prior approval.
 13. Collocation Completion Deadline. Collocation for which a permit is granted shall be completed within 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 60 days after the issuance of the permit for commercial power or backhaul services, and the additional time to complete installation does not exceed 360 days after issuance of the permit. Otherwise, the permit shall be void unless the Village grants an extension in writing to the applicant.
- G. Application Fees. Application fees are imposed as follows:
1. Applicant shall pay an application fee of \$650 for an application to collocate a single small wireless facility on an existing utility pole or wireless support structure, and \$350 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. The fees established by this ordinance are equal to the limit imposed by the Act and represent a reasonable approximation of the Village's objectively reasonable costs. The Village shall regularly review the fees imposed and may adjust the fees by further amendment to this ordinance.
 2. Applicant shall pay an application fee of \$1,000 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, 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 10 days prior to the planned replacement and includes equipment specifications and certifications consistent with the Section titled Application Requirements; or
 - c. the installation, placement, maintenance, operation or replacement of micro wireless facilities suspended on cables that are strung 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.
- H. Exceptions to Applicability. Nothing in this Section 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 park 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 Illinois Public Utilities Act, without the consent of the rail carrier, public commuter rail service, or electric utility. The provisions of this Section 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 Illinois Public Utilities Act. Nothing in this Section 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 Section.
- I. Pre-Existing Agreements. Existing agreements between the Village and wireless providers that relate to the collocation 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 Section.

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 Section 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 of an application submitted two 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.

- J. 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) \$200 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 \$200 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.

- K. Abandonment. A small wireless facility that is not operated for a continuous period of 12 months shall be considered abandoned. The owner of the facility shall remove the small wireless facility within 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 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.

- L. Dispute Resolution.

The Circuit Court of McHenry County 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 \$200 per year per municipal utility pole, with rates to be determined upon final resolution of the dispute.

- M. 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 Section 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.

N. Insurance.

The wireless provider shall carry, at the wireless provider's own cost and expense such insurance as is required by this Chapter at Section 4-10-8.

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.

4-10-23 PENALTIES

Any person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this chapter shall be subject to a fine in accordance with the general penalty provisions contained in section 1-4-1 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 chapter. 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.

4-10-24 ENFORCEMENT

Nothing in this chapter shall be construed as limiting any additional or further remedies that the Village may have for enforcement of this chapter.